



SECRETARY OF THE ARMY
WASHINGTON

05 MAY 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2021-16 (Immediate Actions To Improve the Sexual Harassment/Assault Response and Prevention Program)

1. References.

- a. *Report of the Fort Hood Independent Review Committee*, 6 November 2020
- b. Title 10, U.S. Code, Subtitle A, Part II, Chapter 47 (Uniform Code of Military Justice), Articles 90 and 92
- c. Department of Defense (DoD) Instruction 6400.06 (Domestic Abuse Involving DoD Military and Certain Affiliated Personnel), 21 August 2007, incorporating Change 4, 26 May 2017
- d. Army Regulation (AR) 15–6 (Procedures for Administrative Investigations and Boards of Officers), 1 April 2016
- e. AR 190–45 (Law Enforcement Reporting), 27 September 2016
- f. AR 600–20 (Army Command Policy), 24 July 2020

2. Purpose. This directive implements immediate modifications to the Sexual Harassment/Assault Response and Prevention (SHARP) Program to address select findings and recommendations contained in the Report of the Fort Hood Independent Review Committee (reference 1a).

3. Applicability. The provisions of this directive apply to the Regular Army, Army National Guard/Army National Guard of the United States, and U.S. Army Reserve.

4. Background. The Fort Hood Independent Review Committee provided recommendations to improve the effectiveness of the SHARP Program. Leaders throughout the Army are committed to addressing and implementing the report's recommendations. This directive announces immediate changes to the Army's SHARP Program while a larger effort continues to redesign the program.

5. Policy.

- a. Sexual harassment complaint investigations. Effective immediately, if sufficient

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information exists to permit the initiation of an investigation, commanders will appoint investigating officers (IOs) from outside the subject's assigned brigade-sized element to conduct sexual harassment complaint investigations under AR 600–20, chapter 7.

(1) Sexual harassment complaint investigations will comply with processing timelines established by AR 600–20.

(2) IOs must meet qualifications specified in chapter 2 of AR 15–6.

(3) Exceptions. Exceptions requiring appointment of an IO from the same brigade-sized element as the subject will be approved in writing by the first general officer in command and included as an enclosure to the investigation. This authority may not be delegated. Reasons for exceptions may include, but are not limited to, unit geographic location and type of mission.

b. Military Protective Orders (MPOs). Effective immediately for all sexual harassment and sexual assault complaints, the first O-6 in the subject's chain of command will, as soon as possible, but no later than six hours after determining an MPO is warranted (such as the presence of a threat of physical harm), ensure that the subject's commander issues a DD Form 2873 (Military Protective Order) to the Soldier (subject), submits it to the installation Directorate of Emergency Service or Provost Marshal Office (DES/PMO), and provides a copy to the protected individual (victim).

(1) MPOs are necessary mechanisms to ensure the safety of Soldiers, Family members, and Civilians who report sexual harassment and/or sexual assault. MPOs, implemented through DD Form 2873, constitute a written lawful order issued by a commander that orders a Soldier to avoid contact with those persons identified in the order.

(2) In accordance with reference 1c, MPOs are approved by, "a commanding officer with jurisdiction over the Soldier." Any commanding officer in the subject's chain of command has authority to sign MPOs. Commanders will follow all procedures outlined in reference 1e.

(3) Commanders must educate complainants to ensure they understand the ramifications of an MPO. Commanders will ensure, to the maximum extent practicable, that complainants and subjects avoid contact in accordance with the MPO.

(4) Commanders must inform victims that MPOs may not be enforceable by non-military authorities and advise them of their ability to also seek a civilian protective order (CPO) issued by a judge, magistrate, or other authorized civilian

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official. Commanders should refer victims to Victim Advocates and the installation Office of the Staff Judge Advocate for assistance in obtaining a CPO. Commanders must also inform the subject of the MPO that violation of the MPO is a violation of Articles 90 and/or 92 of the Uniform Code of Military Justice.

(5) Immediately on receipt, the installation DES/PMO will notify the appropriate civilian authorities of the MPO by entering the MPO into the National Crime Information Center (NCIC) Protective Order File. The installation DES/PMO will generate a Law Enforcement Report in the Army Law Enforcement Reporting and Tracking System; MPOs will not be entered into a raw data file. After confirmation that the DES/PMO is not able to enter MPOs in the NCIC system due to State statutes, the PMO/DES will forward the MPO to the United States Army Crime Records Center for entry into NCIC.

c. Disposition and Status Disclosure to Sexual Assault Victims. In addition to the requirement in AR 600–20, paragraph 7–5t, to provide status updates to victims within 72 hours of each recurring Sexual Assault Review Board (SARB), brigade commanders (or brigade-equivalent commanders) will also notify the Soldier complainant within 2 business days of receiving the final outcome of any judicial, non-judicial, or administrative proceedings. This duty is not delegable. This policy does not change the responsibilities requiring Victim Advocates (VAs) and Sexual Assault Response Coordinators (SARCs) to provide information to victims in their care.

6. Proponent. The ASA (M&RA) has oversight responsibility for this policy and will ensure that necessary internal controls are in place to comply with this directive. Within 2 years of the date of this directive, the Provost Marshal General will incorporate the provisions of this directive in reference 1e and the Deputy Chief of Staff, G-1 will incorporate its provisions into reference 1f.

7. Duration. This directive is rescinded on publication of the revised regulations.



John E. Whitley
Acting

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