

**Army Regulation 600–20**

**Personnel—General**

# **Army Command Policy**

**Headquarters  
Department of the Army  
Washington, DC  
18 March 2008**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 600-20  
Army Command Policy

This rapid action revision, dated 18 March 2008--

- o Provides policy guidance for documenting administrative separation packets to positively identify separating Soldier as having been, or not having been, a victim of sexual assault (para 8-5o(26)).
- o Provides policy guidance for Special or General Court-Martial Convening Authority to review all administrative separation actions involving victims of sexual assault (para 8-5o(27)).
- o Introduces a new appendix for collecting and preserving evidence under restricted reporting; specifically evidence collected using a sexual assault forensic exam (app J).
- o Establishes a new appendix for preparing the annual Sexual Assault Prevention and Response Program Assessment (app K).

Effective 18 April 2008


Personnel—General

Army Command Policy

By Order of the Secretary of the Army:

GEORGE W. CASEY, JR.  
*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. The portions affected by this rapid action revision are listed in the summary of change.

**Summary.** This regulation prescribes the policy and responsibility of command, which include the 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. It implements Department of Defense Directives 1300.17, 1325.6, 1342.17 1344.10, 1350.2, 1354.1, 1400.33, and 6495.01 and DOD Instructions 1342.19 and 5120.4.

**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 active duty 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 proscribe 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 DA 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 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 (ATTN: 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 (ATTN: 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.

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\*This regulation supersedes AR 600–20, dated 7 June 2006.

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## 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 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), other prohibited relationships (para 4-15), and homosexual conduct policy (para 4-19).

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

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

(6) Sexual Assault Prevention and Response 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, 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 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 CG, U.S. Army Training and Doctrine Command (TRADOC)*. All Reserve Officer Training Corps cadets and all officer and warrant officer candidates.

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

c. Commanders at all levels will implement and enforce the chain of command and Army command 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 warrant officer 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 Art 137, UCMJ).

(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 is earlier than the date of rank 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**

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

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

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

**Notes:**

- <sup>1</sup> 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.
- <sup>2</sup> Personnel formally selected by DA for participation in the Command Sergeants Major Program.
- <sup>3</sup> All E-9s not formally selected for the Command Sergeants Major Program.
- <sup>4</sup> 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).
- <sup>5</sup> 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
<b>Officers</b>			
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
<b>Cadets</b>			
Cadet	Cadet	—	Midshipman
<b>Enlisted</b>			
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.

## 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 623-105, AR 690-400, and AR 623-205 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 22-101 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 2-8*a*, 2-15, and 2-16.

*b. Command of installations.* Army installations are managed by and funded through the Installation Management Agency (IMA), a field operating agency (FOA) of the Assistant Chief of Staff for Installation Management (ACSIM). IMA's mission and activities are set out in DA General Order No. 4, 22 August 2002. Command authority over installations is shared by commanders of ACOMs and by commanders with Command Selection List (CSL) status.

(1) Leaders with responsibilities for installation management services and operations include the senior mission commander (SMC), the installation commander (IC), and the garrison commander (GC). Each contributes to the delivery of installation management services and to the quality of life on the installation.

(2) The duties of the SMC and IC are not uniform across all installations. Several installations will have the SMC and IC as the same individual and others may have the IC and GC as the same individual. These relationships are defined in the following paragraphs (see fig. 2-1).

(3) The IMA regional director rates the GC.

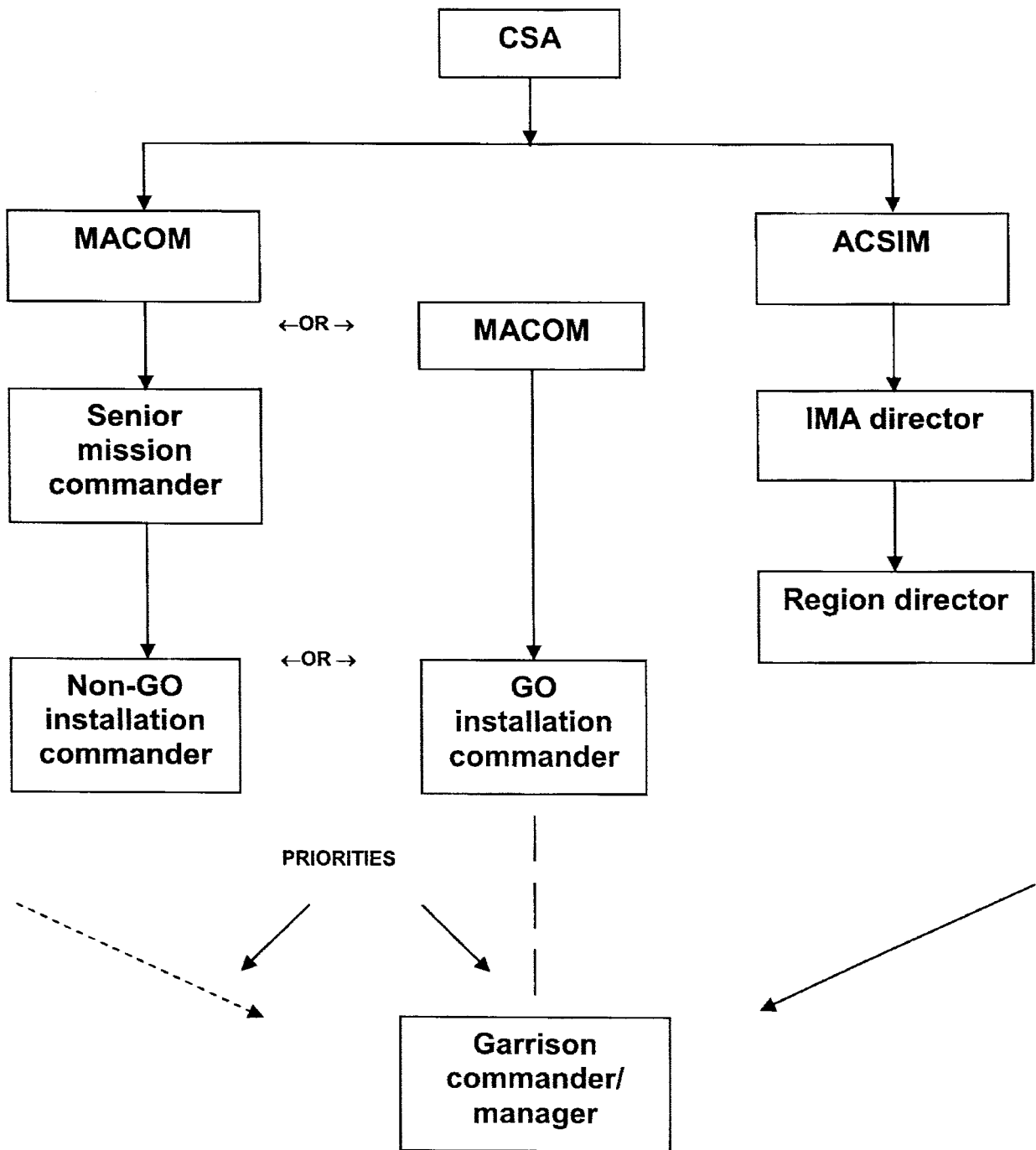


Figure 2-1. Installation command and control

(a) *Senior mission commander.* The SMC is a general officer and designated by senior Army leadership. The SMC is responsible for the primary mission activity on the installations for which he/she is designated as SMC. The SMC provides executive level oversight of installation management services to the mission activities and other customers. The SMC need not reside or work on the installation. The SMC's installation management responsibilities are to—

1. Advocate priority mission needs for BASOPS support both for obtaining resources and executing resources received.
2. Act as the principal customer advocate to the IC and GC.
3. Approve the prioritization for mission support, military construction-Army (MCA), Well-being, and force protection requirements.
4. Provide overall force protection guidance.
5. Senior rate the GC when the IC and GC are the same individual.

(b) *Installation commander.* Senior Army leadership designates the IC. The IC is usually the senior commander residing on the installation or in the surrounding community. The IC is responsible for mission activity services. The IC may be appointed as General Courts-Martial Convening Authority (GCMCA) for the installation and its support area, as may the GC in certain areas. The IC's installation management responsibilities are to—

1. Senior rate the GC.
2. Act as principal customer advocate to the GC.
3. Serve as the senior Army spokesperson to the surrounding community.
4. Determine priority for installation resourcing and services.
5. Provide installation management services that are the responsibility of the senior mission activity.
6. Oversee the implementation of force protection.
7. Determine priorities for training and training support services, mission support, MCA projects, Well-being programs, and force protection.
8. Approve installation-level policies for Soldiers in accordance with respective Army Regulations.
9. Approve the installation master plan.

(c) *Garrison commander.* The GC is a military officer, lieutenant colonel or colonel, selected by the Department of the Army. The GC commands the garrison, is responsible for day-to-day operations to maintain living and working conditions for all personnel on the installation, and is the lead for base support operations management for the senior mission commander. The GC also provides continuity of installation command during mission activity deployments. The GC is rated by the IMA Region Director and senior rated by the next senior commander—either the IC or the SMC. The GC provides installation management services and obtains resources through IMA channels. The GC may be appointed as Summary Courts Martial Convening Authority or the Special Courts-Martial convening authority for the installation and its support area; in some cases, the GC may be appointed as GCMCA. In some cases, the senior IMA official on an installation may be a civilian, the garrison manager. A garrison manager (the civilian equivalent of a garrison commander) has the same responsibility and authority as the military counterpart with the exception of Uniform Code of Military Justice and command authority as defined by para 1-5a, above. In brief, garrison commanders exercise command authority; Garrison managers do not. Garrison commander's responsibilities include—

1. Commanding the U.S. Army garrison.
2. Providing IMA services in accordance with respective common levels of service.
3. Coordinating and integrating the delivery of support activity service.
4. Prioritizing requirements and support operations.

(d) *SMC and IC designated as one individual.* When designated as both the SMC and the IC for an installation, the SMC executes both the senior mission commander responsibilities and the responsibilities of the installation commander listed above.

(e) *IC and GC designated as the same individual.* On some installations the IC and GC will be the same individual. When serving as both the IC and GC, the commander will comply with all respective garrison commander duties as well as the pertinent installation commander duties, listed above.

1. The installation commander is normally the senior commander of the prime mission activity assigned to the installation. In most cases, the installation commander is a general officer. In addition to handling mission functions, the installation commander has operational oversight of real estate, facilities, base support operations, and activities on the installation. Installation commanders communicate installation management priorities not set by Headquarters, Department of Army (HQDA) or IMA, to garrison commanders. In most cases, installation commanders also provide general officer-level guidance for all installation and installation support activities.

2. The garrison commander is responsible for day-to-day management of installations, and executes delivery of real estate, facilities, force protection mission, and base support operations. IMA may designate the garrison commander as the installation commander subject to the restrictions set out in 2-5b(4)(a) and 2-5b(4)(b), below.

3. Senior mission commander is a title invoked in those situations where installations do not have a general officer assigned as installation commander. The senior mission commander is a general officer (GO) with command oversight of one or more non-go installation commanders. The senior mission commander conveys the Army Command (ACOM)/Army Service Component Command (ASCC)/Direct Reporting Unit (DRU) mission priorities to the installation commander, and provides executive oversight and communicates installation management priorities to the installation commander and garrison commander. Senior mission commanders' orders from the General Officer Management Office (GOMO) will specify the installations for which they will serve as SMC.

4. Where a garrison commander is designated as the installation commander, the following guidance applies: Installation commanders will not exercise operational control over tenant organization missions, and relationships and responsibilities of the installation and tenant organizations should be established by support agreements (see FM 100-22).

5. Installation commanders who are junior-in-grade will not exercise any aspect of command over senior officers, except in those instances where such an IC is a GCMCA and, therefore, exercises command authority and gives lawful orders to superiors in fulfilling responsibilities as a convening authority.

6. Garrison commanders dual-hatted as installation commanders report to IMA for traditional base operations support and to the SMC for other priorities.

7. A garrison manager may not be designated as installation commander.

8. See figure 2-1 for installation command and control relationships.

*c. UCMJ authority.* UCMJ authority will be governed by AR 27-10, para 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, continental United States Army (CONUSA), or higher headquarters. An 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/DRU commanders may relieve tactical commanders of installation responsibilities by designating a junior officer, equal or higher in grade to the garrison commander of the permanent station, as installation commander.

(3) Command of installations and units under the Army Medical Department (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.

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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

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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

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(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 CG, U.S. Army Human Resources Command (AHRC) may curtail or extend field grade command tours up to 30 days. ACOM/ASCC/DRU commanders in coordination with the CG, AHRC may curtail or extend field grade command tours for 31 to 60 days. Chief of Staff, Army 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/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/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.

*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 USAR officers, serving on active duty or active duty for training under Title 10, USC, may be assigned as acting commanders of AA training units during annual training. This includes authority under the Uniform Code of Military Justice (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 Component (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.* AGR personnel may be assigned duties (for example, serve as company commanders of Active Army units in USAREC) that:

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

(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 reserve component units; or a member of a reserve component whose reserve component 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 Reserve Component 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 date of rank.

*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/DRUs, armies, corps, installations, divisions, separate brigades, regional support commands (RSC), general officer commands (GOCOM), 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 date of rank 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 date of rank. 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/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 Secretary of the Army 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, warrant 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 and the Chief, National Guard Bureau. Functions of The Surgeon General are assumed by the next senior AMEDD officer. Functions of the National Guard Bureau (NGB) are assumed by the senior officer of the Army National Guard of the United States or the Air National Guard of the United States (ANGUS) on duty in the Bureau. (See Section 10505(d), Title 10, United States Code (10 USC 10505(d))).

*c. Commanders of ACOMs/ASCCs/DRUs.* A commander of a ACOM/ASCC/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/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/DRUs are authorized to assign general officers under their command to positions of command.

(2) Where more than one ACOM/ASCC/DRU is represented on an installation, the line of succession of command may pass from one ACOM/ASCC/DRU to another. The major Army commanders concerned should agree to the terms of such an arrangement by a memorandum of understanding 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 warrant officer, 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, warrant officer, 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 date of rank 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 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 senior commander.

## **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 services, 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 date of rank 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 active duty for training or annual training at a post, the command of that post remains with the officers normally in command. This provision applies regardless of the grade or date of rank 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 (NCA), 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 general court-martial convening authority (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 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 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 DA 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 AMEDD.*

(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 Secretary of the Army; 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. USAR 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 date of rank (AR 600-8-29) to other officers of the same grade assigned to that unit.

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

*f. Warrant officers.* When assigned duties as station, unit, or detachment commander, warrant officers 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 active duty 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 (PEO) 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 senior commander 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 senior commander 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 to first sergeant 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 (see FM 22-100 for an explanation 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 NCO professional development program, and other unit training programs.
- (10) Achieving and maintaining courage, candor, competence, commitment, and compassion.

*b.* 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 Chief of Staff, Army.

(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 command sergeant major administers the unit Noncommissioned Officer's Development Program (NCODP).

(3) *First sergeant.* The position of first sergeant designates the senior NCO at company level. The first sergeant of a separate company or equivalent level organization administers the unit NCODP.

(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 (Article 7, UCMJ, and para 302(b), Rules for Courts-Martial (RCM)) 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), RCM).

(2) NCOs do not have authority to impose nonjudicial punishment on other enlisted Soldiers under the MCM (Article 15, UCMJ). 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 Article 15, UCMJ) 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 active duty, precedence or relative grade will be determined as follows—

a. According to date of rank.

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* 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, the date of rank (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 warrant officer 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, Army National Guard, or USAR, the DOR of the enlistment grade is the date of reenlistment.
        2. Within 24 months of last discharge from the RA, Army National Guard, 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 Active Army 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 active duty 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. She previously served as a sergeant. She reenlists and is promoted immediately to staff sergeant. Her date of rank as a staff sergeant is the date that she was commissioned as a second lieutenant.
      - (4) A former officer or warrant officer 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 credible.
    - (5) Temporary Disability Retired List—
      - (a) On removal from the Temporary Disability Retired List (TDRL)—
        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—
        1. Sergeants and below will be considered for promotion if eligible; and, if promoted, their DOR will be the date of current entry on active duty.
        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 active duty (AD) or active duty for training (ADT).
      - (1) An Army National Guard or USAR Soldier is ordered to extended active duty in the Active Army, to include mobilization, but not including orders to active duty 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 extended active duty (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 Army National Guard or USAR Soldier is ordered to (AGR status, full-time National Guard duty (FTNGD)),

AD for special work (ADSW), 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 date of rank 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 Article 15, UCMJ.)

(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 (Article 15, UCMJ).)

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

(8) The DOR of an Army National Guard/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” (QOL), 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.

### **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 (DCS, G-1).* As the executive agent for Army Well-being, the DCS, G-1 coordinates and integrates the efforts of The Department of Army 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 (WB GOSC) is responsible to the Secretary of the Army, through the Chief of Staff, Army, for providing strategic oversight of the Well-being process from a holistic perspective and identifying required policy changes for Army Staff development and Secretary of the Army approval necessary to achieve the Army's Well-being end state.

*c. Well-Being Council of Colonels.* The Well-Being Council of Colonels (WB COC) is responsible for reviewing Well-being initiatives, issues, and recommendations for submission to the WB 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 (WBAP) describes the functional architecture and represents the strategic plan for each of the individual Well-being functions. The WBAP is linked directly to the Well-being status report and the Army campaign plan.

(3) The Well-Being Status Report (WBSR) 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 WBSR delineates the standards for measuring components of the individual Well-being functions. The ultimate output of the WBSR 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 (SRS).

(4) The Well-Being Resource Crosswalk (WBRC) captures programming and budgeting information for all forms of Army funding that contribute to Well-being (for example, appropriated, non-appropriated, 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 (WBSCP) 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 Secretary of the Army (SA) and Chief of Staff, Army (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 (VCSA)—

(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 General Officer Steering Committee.

(3) Advises the SA and CSA on recommendations from the Well-Being General Officer Steering Committee.

*c.* The Deputy Chief of Staff, 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 WB GOSC.

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

(3) Coordinating the agenda for and conducting meetings of the WB GOSC.

(4) Providing staff and administrative support to the WB 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 (PPBE).

*d.* Heads of other HQDA Staff agencies (and FOAs as appropriate) are responsible for Armywide policies, plans and initiatives within their areas of proponentcy. The Deputy Chief of Staff, G-1 and the WB 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 courtesies**

*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 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 articles 37, and 98, UCMJ, and AR 27-10 regarding the proper exercise of authority by commanders).

#### **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 Articles 15, 121, 123a, 133, or 134, Uniform Code of Military Justice. 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.* Reserve Component (RC) members, not serving on active duty, 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 active duty, 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 active duty 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 annual training (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 Army National Guard 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 Secretary of the Army 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**

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. 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 equal opportunity 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 subparagraph *b*, 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 equal opportunity policy. Commanders will advise Soldiers that extremist organizations' goals are inconsistent with Army goals, beliefs, and values concerning equal opportunity.

(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 warrant officers 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 Army National Guard) 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 Army National Guard 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 warrant officer). 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 active duty (other than annual training), on full-time National Guard duty (other than annual training), or serving as a dual status military technician.

*(d)* Personal relationships between members of the Regular Army and members of the National Guard or Army Reserve when the relationship primarily exists due to civilian association and the Reserve component member is not on active duty (other than annual training), on full-time National Guard duty (other than annual training), 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 one 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 (IET) 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 Delayed Entry Program (DEP), or members of the Delayed Training Program (DTP) 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 DTP 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. Fraternization**

Violations of paragraphs 4–14*b*, 4–14*c*, and 4–15 may be punished under Article 92, UCMJ, 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, AR 140–158, 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. Homosexual conduct policy**

The DCS, G-1 is responsible for the U.S. Army Homosexual Conduct Policy.

*a. General.*

(1) This policy implements Section 654, Title 10, United States Code (10 USC 654). The Department of Defense has stated that the suitability of persons to serve in the Army is based on their conduct and their ability to meet required standards of duty performance and discipline.

(2) Definitions are as follows:

*(a) Bisexual.* A person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in both homosexual and heterosexual acts.

*(b) Homosexual.* A person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts as further described in paragraph (3), below.

*(c) Sexual orientation.* An abstract sexual preference for persons of a particular sex, as distinct from a propensity or intent to engage in sexual acts.

(3) Homosexual conduct. "Homosexual conduct" is a homosexual act, a statement by a Soldier that demonstrates a propensity or intent to engage in homosexual acts, the solicitation of another to engage in homosexual act or acts, or a homosexual marriage or attempted marriage.

*(a)* A "homosexual act" means any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires and any bodily contact (for example, hand-holding, slow dancing, or kissing) that a reasonable person would understand to demonstrate a propensity or intent to engage in such bodily contact.

*(b)* A "statement by a person that he or she is a homosexual or bisexual or words to that effect" means language or behavior that a reasonable person would believe intends to convey the statement that a person engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. This may include statements such as "I am a homosexual," "I am gay," "I am a lesbian," "I have a homosexual orientation," and the like.

*(c)* A "homosexual marriage or attempted marriage" is when a person has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the person involved).

*b. Accession policy.* A person's sexual orientation is considered a personal and private matter and is not a bar to entry or continued service unless manifested by homosexual conduct in a manner described in paragraph *a*(3). Applicants for enlistment, appointment, or induction into the Army will not be asked or required to reveal whether they are heterosexual, homosexual, or bisexual. Applicants also will not be required to reveal whether they have engaged in homosexual conduct unless independent evidence is received indicating that the applicant engaged in such conduct or unless the applicant volunteers a statement that he or she is a homosexual or bisexual or words to that effect. Homosexual conduct is grounds for barring entry into the Army, except as provided in AR 601-210. Applicants will be informed of the laws and regulations governing sexual conduct in the armed services, including homosexual conduct as defined in *a*(3). AR 601-210 governs the Army accession policy.

*c. Separation policy.* Homosexual conduct is grounds for separation from the Army under the terms set forth in paragraph *a*(3). AR 600-8-24, AR 635-200, AR 135-175, and AR 135-178 govern Army separation policies.

*d. Guidelines for command-directed fact-finding inquiries into homosexual conduct.*

(1) *Responsibilities.*

*(a)* Only a Soldier's commander is authorized to initiate fact-finding inquiries involving homosexual conduct. A commander may initiate a fact-finding inquiry only when he or she has received credible information that there is a basis for discharge. Commanders are accountable for ensuring that inquiries are conducted properly and that no abuse of authority occurs.

*(b)* A fact-finding inquiry may be conducted by the commander personally or by a person he or she appoints. It may consist of an examination of the information reported or a more extensive investigation as necessary.

*(c)* The inquiry should gather all credible information that directly relates to the grounds for possible separation. Inquiries will be limited to the actual circumstances directly relevant to the specific allegations.

*(d)* If a commander has credible evidence of possible criminal conduct, he or she will follow the procedures outlined in AR 27-10 and AR 195-2.

*(e)* These guidelines do not apply to activities of the Criminal Investigation Division (CID) and other DOD law enforcement organizations that are governed by AR 195-2.

(2) *Basis for conducting inquiries.*

(a) A commander will initiate an inquiry only if he or she has credible information that there is a basis for discharge. Credible information exists when the information, considering its source and the surrounding circumstances, supports a reasonable belief that a Soldier has engaged in homosexual conduct. It requires a determination based on articulable facts, not just a belief or suspicion.

(b) A basis for discharge exists if—

1. The Soldier has engaged in a homosexual act.

2. The Soldier has said that he or she is a homosexual or bisexual, or made some other statement that indicates a propensity or intent to engage in homosexual acts, or

3. The Soldier has married or attempted to marry a person of the same sex.

(3) *Credible information.* Credible information does not exist, for example, when—

(a) The individual is suspected of engaging in homosexual conduct, but there is no credible information, as described, that supports the suspicion.

(b) The only information is the opinion of others that a Soldier is a homosexual.

(c) The inquiry would be based on rumor, suspicion, or capricious claims concerning a Soldier's sexual orientation.

(d) The only information known is an associational activity, such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals, or marching in a gay rights rally in civilian clothes. Such activity, in and of itself, does not provide the evidence of homosexual conduct.

(4) *Credible information.* Credible information exists, for example, when—

(a) A reliable person states that he or she observed or heard a Soldier engaging in homosexual acts or saying that he or she is a homosexual or bisexual or is married to a member of the same sex.

(b) A reliable person states that he or she heard, observed, or discovered a Soldier make a spoken or written statement that a reasonable person would believe was intended to convey the fact that he or she engages in, attempts to engage in, or has the propensity or intent to engage in homosexual acts.

(c) A reliable person states that he or she observed behavior that amounts to a nonverbal statement by a Soldier that he or she is a homosexual or bisexual (that is, behavior that a reasonable person would believe intended to convey the statement that the Soldier engages in, attempts to engage in, or has the propensity or intent to engage in homosexual acts).

(5) *Procedures.*

(a) Informal fact-finding inquiries and administrative separation procedures are the preferred method of addressing homosexual conduct. This does not prevent disciplinary action or trial by courts-martial when appropriate.

(b) Commanders will exercise sound discretion regarding when credible information exists. They will examine the information and decide whether an inquiry is warranted or whether no action should be taken.

(c) Commanders or appointed inquiry officers will not ask, and Soldiers will not be required to reveal whether a Soldier is a heterosexual, homosexual, or bisexual. However, upon receipt of credible information of homosexual conduct, (as described in a(3)) commanders or appointed inquiry officials may ask Soldiers if they engaged in such conduct. The Soldier should first be advised of the DOD policy on homosexual conduct (and rights under Article 31(b), UCMJ, if applicable). Should the Soldier choose not to discuss the matter further, the commander should consider other available information. Nothing in this provision precludes questioning a Soldier about any information provided by the Soldier in the course of the fact-finding inquiry or any related proceedings; nor does it provide the Soldier with any basis for challenging the validity of any proceeding or the use of any evidence, including a statement by the Soldier in any proceeding.

(d) At any given point in the inquiry, the commander or appointed inquiry official must be able to clearly and specifically explain which grounds for separation he or she is attempting to verify and how the information being collected relates to those specific separation grounds.

(e) A statement by a Soldier that he or she is a homosexual or bisexual creates a rebuttable presumption that the Soldier engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The Soldier will be given the opportunity to present evidence demonstrating that he or she does not engage in, attempt to engage in, or has a propensity or intent to engage in homosexual acts.

(f) The Soldier bears the burden of proving, by a preponderance of evidence, that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in, homosexual acts.

(6) *Legal effect.* The procedures set forth in this paragraph create no substantive or procedural rights.

*e. Investigation policy.* Investigations or inquiries will not be initiated solely to determine whether a member is a heterosexual, homosexual, or bisexual. There must be credible information that a basis for disciplinary action or discharge exists. The information that constitutes the basis of the investigation must be deemed credible by the criminal investigation organization commander as well as the Soldier's commander in most cases. In most cases of homosexual admission, no investigation is required. However, in instances where the commander feels that the admission may not be credible, an inquiry may be appropriate. The initiation of any substantial investigation into whether an admission of homosexuality was made for the purpose of seeking separation from the Army and/or whether recoupment of financial

benefits is warranted must be approved at the Army secretariat level. A “substantial investigation” is defined as one that extends beyond questioning the member, individuals suggested by the member for interview, and the member’s immediate supervisory chain of command. The Secretary of the Army has designated the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(M&RA)) as the approval authority for initiation of substantial investigations. Requests for approval will be forwarded through command channels to the ASA(M&RA). No further action will be taken, including processing the Soldier for discharge, until either permission for initiating the investigation is denied or permission is granted and the investigation is concluded. AR 195–2 and AR 15–6 provide guidance on the investigation of sexual misconduct.

*f. Security.* Individuals will not be asked or required to reveal on personnel security questionnaires whether they are heterosexual, homosexual, or bisexual. An individual’s sexual conduct, whether homosexual or heterosexual, is a legitimate security concern only if it could make an individual vulnerable to exploitation or coercion, or indicate a lack of trustworthiness, reliability, or good judgment that is required of anyone with access to classified information. AR 380–67 provides additional guidance.

*g. Training.*

(1) All officers and enlisted personnel of the Active Army and Reserve Components will receive briefings upon entry and periodically thereafter with a detailed explanation of regulations governing sexual conduct by members of the Armed Forces. Briefings will include policies on homosexual conduct and applicable laws in accordance with 10 USC 654 and Article 137, UCMJ.

(2) The Army uses the DOD Homosexual Conduct Policy Training Plan as a guide in training commanders and personnel involved in recruiting, accession processing, criminal investigations, and administrative separations. The training plan includes detailed hypothetical situations that illustrate how military personnel should approach specific, concrete scenarios under the new DOD policy on homosexual conduct.

#### **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 or remedial physical training.

(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 Article 92 of the UCMJ (Failure to obey a lawful general order or regulation). Other applicable UCMJ articles include Article 80 (Attempts), Article 81 (Conspiracy), Article 93 (Cruelty and maltreatment), Article 124 (Maiming), Article

128 (Assault), Article 133 (Conduct unbecoming an officer and a gentleman), and Article 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, Joint Ethics Regulation.
- 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 (CFC/AER) periods in order to minimize competition with CFC/AER (DODD 5035.1, para 3-6).

#### **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 Article 92 of the UCMJ (Failure to obey a lawful general order or regulation), Article 133 (Conduct unbecoming an officer and a gentleman), and Article 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 TDY.* 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 temporary duty location while on official travel (for example, when a traveler spends a weekend or authorized leave at a temporary duty 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 Article 15, UCMJ. 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), Assistant Chief of Staff for Installation Management (ACSIM). Delegation of authority is authorized.

(b) For the U.S. Army Reserve, unless otherwise stated, the commander is the commander of the appropriate Army Reserve Command (U.S. Army Reserve Command, 7th ARCOM, 9th RRC, USACAPOC, AHRC–St. Louis). 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 table of distribution and allowances 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 active Army 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 Delayed Entry Program 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 in accordance with AR 135-215. 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 active duty 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 active duty may request release from active duty, submit requests for unqualified resignation, or be processed for elimination under the provisions of AR 600-8-24. Reserve Component (RC) officers not on active duty may submit requests for unqualified resignation or be processed for involuntary separation in accordance with AR 135-175. Enlisted Soldiers on active duty 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 active duty. 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 table of distribution and allowances 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 permanent change of station orders in accordance with AR 614–6. 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 non-deployable total under the code LA in accordance with AR 220–1, chapter 4, paragraph 10, subparagraph E (PSPER non-available report).

(2) Active Army will report qualifying convictions using assignment consideration code (ASCO) 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 Army National Guard Directorate (NG–ARH–S) will report for Army National Guard. The Army Reserve Command will report for U.S. Army Reserve. Biannual reports will be made (15 January) and (15 July) to HQDA (DAPE–MPE). The 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 Secretary of the Army 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 active duty, 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 active duty 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 active duty 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 active duty 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.armyg1.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 active duty 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 general court-martial convening authority) 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 active duty 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 active duty 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 active duty 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 active duty, as determined by the Secretary of the Army.
  - (6) The separation and retirement requirements above, do not apply if the member declines to serve in the prohibited office; if the Secretary of the Army determines that the member should not be released from active duty based on the needs of the Army; or if the member is—
    - (a) Obligated to fulfill an active duty 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 active duty 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 active duty 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 active duty.
  - (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 active duty or active duty for training 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 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, Article 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, MCM.

*d. Refusal to submit to medical care other than care described in paragraph 5-4c.*

(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 medical treatment facility 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, the Surgeon General (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 medical treatment facility 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 medical treatment facility 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 affect Active Army (AA), Army National Guard, and USAR single parents 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 temporary duty (TDY), or otherwise not available due to military requirements. Army National Guard and USAR Soldiers are subject to those policies and regulations, and will implement plans during any period of absence for annual training, regularly scheduled unit training assemblies, emergency mobilization and deployment, or other type of active duty. Emergency-essential civilians who meet the criteria set forth in paragraph 5-5a 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 the means 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.

(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 active duty 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)).

(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 5841 are available on the 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 Active or Reserve Component 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 member(s) incapable of self-care regardless of age.

(3) A Soldier who is divorced (not remarried) and who has liberal or extended visitation rights by court decree that would allow 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 member(s) incapable of self-care regardless of age.

c. Soldiers must arrange for the care of their Family members so as 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 USAR and Army National Guard of the United States (ARNGUS) Soldiers.

(3) AR 135–91 for Army National Guard 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 USAR and officers serving on active duty or on active duty for training (ADT) for a period in excess of 90 days.

(2) AR 135–175 for ARNGUS and USAR Soldiers, except for officers serving on active duty or on ADT for a period in excess of 90 days.

(3) NGR 635–101 for Army National Guard Soldiers.

*f.* Pregnant Soldiers (who meet the criteria established in para 5–5*b*(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 Army National Guard and USAR, 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 active duty.

(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.

(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 the 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 as commander 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 consecutive days at a time, and the Soldier has not remarried.
- (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.
- h. Individual Ready Reserve (IRR), Individual Mobilization Augmentee (IMA), Standby Reserve, Category I and II retirees, and Inactive National Guard personnel who meet the criteria outlined in paragraph 5-5b(1) through (5) are required to maintain valid Family Care Plans to ensure their availability for active duty during a mobilization. Therefore—

(1) CG, AHRC will establish specific procedures for counseling, submission, validation, and recertification of Family Care Plans for USAR personnel and category I/II retirees.

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

(2) 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, child(ren)'s ID cards, or application for same).

(3) 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 (DODDS) 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, continental United States (CONUS) and outside the continental United States (OCONUS):

(1) DA Form 5304 will be used for counseling Soldiers who fall into categories outlined in paragraph 5-5b as soon as possible upon arrival at the unit of assignment, and it will be initialed and signed—

(a) During unit inprocessing, after any event requiring completion of a Family Care Plan, or at pre-deployment processing (PDP).

(b) By pregnant Soldiers not later than 90 days prior to the expected date of birth of the child.

(c) By single parents 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) DA Form 5305 will be—

(a) Completed and approved within 30 days for AA Soldiers and 60 days for Army National Guard 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 single parent and dual-military couples with Family members 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 (MPRJ) 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 (NEO) 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. NEO 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 member 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 Active Army (AA) Soldiers.
2. AR 135-178 for Army National Guard of the United States (ARNGUS) and U.S. National Guard Soldiers.
3. AR 135-91 for Army National Guard 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 ARNGUS and USAR Soldiers.
3. NGR 635-101 for Army National Guard Soldiers.

(f) ARNGUS and USAR Soldiers performing duty on an active duty status (AT, ADT, ADSW, 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 permanent change of station (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 MPRJ 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 USAR commanders must ensure Family Care Plan files are transferred to Joint Forces Headquarters (JFHQ)/Regional Support Command (RSC)/General Officer Command (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 CDC 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

(EFMP) (see AR 608–75 for more information). 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 document 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).

*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.* AA commanders will continue to use the Family Care Counseling Report (SIDPERS AAC–C43) until such time as SIDPERS 3 comes on line.

*q.* Maximum feasible testing of the validity and durability of Family Care Plans will be accomplished (for example, during exercises, alerts, PDP, mobilization, deployment, annual training, and other unit activities) to ensure information in a Soldier's DA Form 5305 is correct, up-to-date, and workable. Family Care Plans found to be invalid during the above testing will be revised/recertified within 30 days of the finding. For Army National Guard and USAR 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) Commanding General, U.S. Army Recruiting Command (for initial enlisted and AMEDD officer accessions).
- (2) Commanding General, U.S. Army Training and Doctrine Command (TRADOC) (for all Reserve Officer Training Corps cadets, warrant officer 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, United States Military Academy (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 Commanding General, 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 5–6a.

*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 medical treatment facility 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 The Surgeon General (TSG), who will approve or disapprove the medical board proceedings and return them to the medical treatment facility commander.

7. TSG will provide a copy of this determination to HQDA, ODSC, 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 medical treatment facility refers the matter to the Soldier's special court-martial convening authority for action as that authority deems appropriate.

9. In emergency situations the medical treatment facility 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/ASCC/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 (PT) 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 permanent change of station or temporary duty 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 5–6g(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/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 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 warrant officers who request separation for reasons of religious accommodation will follow the application for release from active duty as prescribed in AR 600-8-24 (for other than Regular Army (OTRA)), or apply for an unqualified resignation as outlined in AR 600-8-24 (for Regular Army (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 Uniform Code of Military Justice while requests and appeals are being processed. Soldiers are obligated to adhere to orders and standards set by their immediate commanders.

*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 Article 138, UCMJ, 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 *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 active duty should be referred to the servicing staff judge advocate 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 equal opportunity 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 *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 nongovernment 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 (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 (TAF) consists of Soldiers (Active Army, Army National Guard, 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 (CHAMPUS), TRICARE) 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), Child and Youth Services (CYS), and Morale, Welfare, and Recreation (MWR) 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, newsletters, telephone trees, and other volunteer programs and activities.

### *b. Responsibilities.*

(1) The Assistant Chief of Staff for Installation Management (ACSIM) will establish policy and ensure coordination and integration of the TAFP through the U.S. Army Community and Family Support Center (USACFSC). 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 Army National Guard and U.S. Army Reserve to ensure interaction and synchronization among Active Army and Reserve components concerning Family assistance and readiness issues.
- (2) Heads of other HQDA Staff agencies (and FOA, 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 National Guard Bureau 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 Program Manager will—
1. Provide policy, guidance, technical assistance, and consultation to support the development and implementation of the TAFP within the Army National Guard.
  2. Identify, design, and provide Army National Guard 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 Family Program Manager 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) ACOM/ASCC/DRU commanders will provide an environment that encourages an effective Family program. At a minimum, ACOM/ASCC/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) USARC/CONUSA/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 Family Readiness Group (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, Family Readiness Groups, 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 Defense Enrollment Eligibility Reporting System (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 DOD Directive 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 equal opportunity complaints. Should Soldiers be threatened with such an act, or should an act of reprisal occur, they must report these 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 IG Hotline phone number is 1(800) 424–9098 or DSN 664–8799; the DOD IG Hotline e-mail address is hotline@dodig.osd.mil—either may be used to report threats or acts of reprisal. Personnel calling from outside the continental United States 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 Deputy Chief of Staff, G–1, is the sole proponent for Human Relations Readiness Training (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.* 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 HR 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.

## Chapter 6 The Equal Opportunity Program in the Army

### 6-1. Purpose

The Equal Opportunity (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 Deputy Chief of Staff, 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 Headquarters, Department of the Army (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 Active Army and the U.S. Army Reserve (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 Defense Equal Opportunity Management Institute (DEOMI) with the conduct of the Senior Executive Diversity Awareness Training (SEDAT) Seminar.

b. Chief, National Guard Bureau (CNGB), and Chief, U.S. Army Reserve (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 Army National Guard and Reserve personnel to attend the DEOMI.

(4) Develop information management and reporting requirements to determine the progress made toward EO Action Plan goals.

(5) Establish EO training for units and professional military education courses consistent with HQDA policy and command needs.

c. Commanding General, U.S. Army Forces Command (CG, FORSCOM) will—

(1) Supervise and evaluate the unit EO training program conducted by the numbered armies in the continental United States (CONUS).

(2) Coordinate, on a continuing basis with the Office of the Chief, Army Reserve (OCAR), to conduct EO seminars for USAR general officers assigned to Army Reserve commands/general officer commands (ARCs/GOCOMs) and for key military and civilian staff assigned to those commands.

(3) Assess and evaluate USAR EO programs.

d. The Commanding General, U.S. Army Training and Doctrine Command (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 professional military education 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 (ASST) 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 (SSI) as the proponent for EO training.

e. Commanders of Army Commands (ACOMs) will—

- (1) Monitor the execution of the EO Program in all commands, installations, agencies, and activities (to include Army Reserve and Army National Guard 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 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 EO representatives (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 EO Action Plans. (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 EO representative courses and facilitation courses as needed to ensure each company and battalion commander has trained EO representatives to assist them in executing their EO responsibilities and to facilitate small group discussions (to include RC units when activated).
- g. Commanding General, Human Resources Command will—*
- (1) Maintain statistical data concerning racial/ethnic designation category (REDCAT) and gender for the management of personnel systems and EO Action Plan initiatives.
  - (2) Determine the need for training seats at DEOMI for the Annual Structure Manning and Decision Review (SMDR) for the program objective memorandum (POM) years.
  - (3) Designate program personnel, in coordination with HQDA, to attend DEOMI.
  - (4) Control DEOMI military student training allocations for the Army.
  - (5) Assign active duty 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 EO 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 para 6–4, ACOM/ASCC/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, 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 7–2*b*.

- (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) Company level commanders will conduct a unit climate assessment within 90 days (180 days for Army Reserve) of assuming command and annually thereafter. Administration of the Command Climate Survey must be a part of the assessment for battery/company commanders. These assessments must also include a facilitated small group discussion (like the consideration of others methodology) of topics recommended under Chapter 6–15, Training. Information on conducting this assessment may be found in appendix E. Commanders should supplement any survey efforts with individual and group interviews, the analysis of unit records and statistical information (awards, promotions, reenlistment, incidents of misconduct resulting in punishment under the UCMJ, and with complaint reports. This assessment will provide a baseline for the commanders to develop action plans and implement program initiatives.
- (14) Provide timely feedback (30 days active/60 days Army Reserve) 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 (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 PM/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 first sergeant, detachment NCOIC, platoon sergeant, and so forth while serving as an EOA is highly discouraged.
- (23) Submit Quarterly Narrative and Statistical Report (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/sr. 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/sr. 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/sr. 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 EO action plans 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 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 IG, staff judge advocate (SJA), public affairs officer (PAO), 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 (FAPAC) Meritorious Service Award, National IMAGE Meritorious Service Award, League of United Latin American Citizens (LULAC) Meritorious Service Award, and so forth).

(20) Conduct and participate in Pre-Command Course briefings on EO to new company through brigade level commanders, first sergeants, and command sergeants major.

(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. EO advisors will—

(1) Understand and articulate Department of Defense (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, prevention of sexual harassment, 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 EO action plans and affirmative actions, EO, unlawful discrimination, the consideration of others methodology and the prevention of sexual harassment.

(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 staff assistance visits 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 EO Action Plan and other initiatives being done to improve or maintain the command climate.

(24) Assist commanders in the development of realistic EO Action Plans and monitor progress of plans.

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**Table 6–1**  
**Special commemorations/ethnic observances timetable**

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**Month:** January

**Dates:** 3d Monday

**Observance:** Martin Luther King, Jr. Birthday

**Authority/comment:** Public Law 98–144, Nov. 83 (Federal holiday)

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**Table 6-1**  
**Special commemorations/ethnic observances timetable—Continued**

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**Month:** February

**Dates:** 1-28/29

**Observance:** African-American/Black History Month

**Authority/comment:** First Presidential Proclamation, Feb. 76

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**Month:** March

**Dates:** 1-31

**Observance:** Women's History Month

**Authority/comment:** Public Law 100-9, Mar. 87

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**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

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**Month:** May

**Dates:** 1-31

**Observance:** Asian Pacific Heritage Month

**Authority/comment:** First Presidential Proclamation, May 91

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**Month:** August

**Dates:** 26

**Observance:** Women's Equality Day

**Authority/comment:** First Presidential Proclamation, Aug. 73

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**Month:** September/October

**Dates:** 15 Sep.-15 Oct.

**Observance:** National Hispanic Heritage Month

**Authority/comment:** Public Law 100-402, Aug. 88

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**Month:** November

**Dates:** 1-30

**Observance:** National Native American Indian Heritage Month

**Authority/comment:** Public Law 102-188, Mar. 92

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l. EO representatives' (EORs) 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 Qualifying 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 (TSP) published by the EO Proponency Office, Soldier Support Institute. Army Reserve can use the 40-hour TSP. 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 EO advisor, 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/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, EO Action Plan, 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.* ACOMs/ASCCs/DRUs will nominate the most outstanding EOA of their respective commands. Nominations will be forwarded with recommendations to HQDA, EO, ATTN: DAPE-HR-HF, 1700 N. Moore St, Rosslyn, VA 22209.

*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 command sergeant major 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 Secretary of the Army.

(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 noncommissioned officers (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 (SSI) 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 (BSBs) are authorized one enlisted EOA (SFC). Large installations (more than 10,000) and area support groups (ASGs) 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 region (to include all activated RC units in accordance with AR 27-10, appendix E). Senior mission/installation commanders will establish memoranda of agreement 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 U.S. Army Reserve 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.* EOAs assigned on the unit's table of distribution and allowances (TDA) should be attached to a specified unit (as described above) for duty, administration, and UCMJ, because they support that specific commander.

*c. The EO Program and the Equal Employment Opportunity (EEO) Program relationship.* The EO program for military personnel and the 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 EO Action Plans, some aspects of training, and coordination of administrative support.

## **6-6. PM/EOA 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 Defense EO Management Institute (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 NCOES or officer professional development course.
- (8) Have a GT 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 active duty officer in the grade of LTC or above, except as noted in paragraph 6-4a(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 (MEL) 4 credit for Command and General Staff College.
- (12) In addition to requirements (1) through (11), above, active duty 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 (TABE) 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.
  - (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 one-year OCONUS tour will be assigned the additional one 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. Reserve Component EOAs will obtain school quotas through the Army Training Requirements and Resource System (ATRRS) for course attendance in either the 15-week resident course or the two-phase Reserve Component (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, United States Army Reserve 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 (EPMD), 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 first sergeant position. In the latter case, the EOA must serve one year in the EOA position.

(b) The EOA's commander has notified AHRC in writing, through the ACOM/ASCC/DRU, that the EOA is being reassigned as a 1SG or SGM/CSM.

(c) 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 (CSL).

*e. Relieved from EO 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 EOA SQI.* The EO SQI or ASI may be withdrawn from the EOA only if approved by HQDA for active Army or the Chief, Army Reserve 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 EO Management Institute**

*a. Attendance.*

(1) Officer and enlisted personnel selected for PM/EOA duty will attend the EO Advisor Course (EOAC).

(2) Reserve Component full time support (FTS) EO personnel filling an authorized, full-time EO specialist position will attend the EOAC at DEOMI. Troop program unit (TPU) Soldiers performing EO duties will attend the two-phase EOA Reserve Component Course.

*b. Resident courses.* The DEOMI curriculum currently consists of the 15-week EO Advisor Course (EOAC). The EOAC is designated to train personnel for assignment as full-time EOA/PMs.

*c. Certification.* Upon successful completion of the 15-week EOAC and the resident/non-resident RC EOAC, 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 active duty officers and NCOs for training and duty as EOAs; the CNGB and CAR program Army National Guard and U.S. Army Reserve Soldiers for EOA duty; CG, AHRC controls DEOMI training seats for active duty; Chief, Army Reserve controls DEOMI training seats for Army Reserve personnel; CNGB controls training seats for Army National Guard for the DEOMI Reserve Component Course. Commands will use the following procedures to acquire these allocations:

(1) Commanders desiring to send officers and NCOs on temporary duty (TDY) to DEOMI and then return to their units as EOAs will send their requests through their ACOMs/ASCCs/DRUs. ACOMs/ASCCs/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) Reserve Component personnel must have an ATRRS 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 Army National Guard or Army Reserve Command (MUSARC) 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 (AFDCB). 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 EO 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 EO 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 NCOER or a “No” in Part IV–Performance Evaluation Professionalism, A. Army Values, 5. Respect, on the OER. 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. EO Action Plans**

EO Action Plans (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. 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.

*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 Army Regulation 690–12, Equal Employment Opportunity and Affirmative Action.

## **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 Equal Opportunity Handbook, that may assist commanders in developing required training. Active Army and Reserve components commanders of TOE/MTOE/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 quarterly training brief (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/prevention of sexual harassment 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 Prevention of Sexual Harassment 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, command sergeant major, sergeant major, first sergeant, 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 (AWC) and Pre-Command Course (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.

(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 Deputy Chief of Staff, 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/DRUs will submit a Quarterly Narrative and Statistical Report (QNSR) on EO progress to HQDA NLT 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/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 (MSC) data.* Listing of all MSCs with breakout of total number of brigades, battalions, and companies (MSC ACOM/ASCC/DRU will be included). Also reflects number of EOAs required, authorized, and on hand.

d. *PM and EOA 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 EO report.* Who conducted command inspection programs (CIP)/staff assistance visits (SAV), numbers of training sessions conducted, and number of commanders and ISGs who attended commander's courses.

f. *Unit assessment (UA) report.* Listing of UAs conducted for the quarter by MSC or unit level to include the tool (MEOCS, TDAS, 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 EO Program at DEOMI**

a. *Allocations.* Civilian allocations for the DEOMI will be controlled by the CG, AHRC. The CNGB, CG FORSCOM, and the Chief, Army Reserve 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/DRU. If approved, the ACOM/ASCC/DRU will request a training seat from AHRC (AHRC-OPA-E), Alexandria, VA 22332-0400. If all training seats are filled, the request will be considered for a later class if the ACOM/ASCC/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 DEOMI.* 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.* ACOMs/ASCCs/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. EO 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, ODSC, 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.* 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 (MWR) officer, PAO, 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 garrison commander.

## **Chapter 7 Prevention of Sexual Harassment**

### **7–1. Overview**

The prevention of sexual harassment 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 prevention of sexual harassment.

## 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 prevention of sexual harassment. 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 staff judge advocate 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 prevention of sexual harassment 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, or
  - (2) Submission to, or rejection of, such conduct by a person is used as a basis for career or employment decisions affecting that person, or
  - (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 e-mail.
- 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 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 follow:

*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, noncommissioned officers 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 noncommissioned officers, warrant officers, 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.

*e.* Leaders may enlist the service of their brigade or higher level EOA or TC 26-6, Commander's Equal Opportunity Handbook, to help prepare and conduct Prevention of Sexual Harassment (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 Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response 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 Uniform Code of Military Justice (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 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, and other installation response agencies.

(3) Unit victim advocates (UVA) are Soldiers who are trained to provide limited victim advocacy as a collateral duty.

*b.* In a deployed environment, there are two echelons of victim advocates:

(1) Deployable sexual assault response coordinators (SARC) are Soldiers trained and responsible for coordinating the Sexual Assault Prevention and Response 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) Unit victim advocates (UVA) 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 Uniform Code of Military Justice that do not meet the above definition of sexual assault, or the definition of sexual harassment as promulgated in DOD Directive 1350.2, Department of Defense 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.

*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 sexual assault response coordinator (SARC), victim advocate, 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 victim advocate. Upon notification of a reported sexual assault, the SARC will immediately notify a victim advocate. 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 G-1 will—

(1) Be responsible for Armywide policies, doctrine, plans, and initiatives pertaining to the Sexual Assault Prevention and Response Program.

(2) Be responsible for the overall implementation, evaluation, and assessment of the Sexual Assault Prevention and Response Program.

(3) Provide oversight for the coordination of Sexual Assault Prevention and Response Program training requirements with the Commander, Training and Doctrine Command (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 prevention of sexual harassment (POSH) training).

(5) Establish selection criteria, in coordination with the Assistant Chief of Staff for Installation Management (ACSIM), through the Community and Family Support Center (CFSC), for staffing of installation sexual assault response coordinators.

(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 Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response Program.

(3) Coordinate Sexual Assault Prevention and Response Program training requirements with the Commander, Training and Doctrine Command (TRADOC), for all Soldiers throughout the Army’s institutional training base.

(a) Coordinate training requirements with the Assistant Chief of Staff for Installation Management (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 sexual assault response coordinators (SARCs), victim advocates, deployable SARCs, and unit victim advocates (UVAs).

- (b) Coordinate training requirements with the Commander, TRADOC, OTJAG, 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 Sexual Assault Prevention and Response Program.
- (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 appendix I).
- (5) Support the submission of sexual assault data into SADMS.
- d. *United States Army Criminal Investigation Command*. The Commander, United States 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 appendix 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 (USACIL) 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 appendix 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, memoranda of understanding/memoranda of agreement (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 Sexual Assault Data Management System (SADMS), in accordance with HIPAA.
  - (11) Be responsible for overall evaluation and assessment of victim support services provided by medical treatment facilities (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 (UMT) in sensitivity to sexual assault victims, dynamics of sexual assault, and basic community information and referral (see appendix I).
  - (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 Staff Judge Advocate or those personnel under the supervisory authority of the installation staff judge advocate 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 (VWL) Program and immediately refer the victim to the VWL 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 (NGB), and Chief, U.S. Army Reserve (OCAR).* The NGB and OCAR will—
- (1) Develop, implement, and monitor Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response 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 professional military education 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 (CG, TRADOC).* The CG, TRADOC, will—
- (1) Develop training for prevention of and response to sexual assault in close coordination with HQDA, Army 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, professional military education (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 sexual assault prevention and response 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 sexual assault prevention and response training conducted in TRADOC service schools and training centers.
- k. Commanders of major Army commands.* ACOM/ASCC/DRU commanders will—
- (1) Ensure sexual assault prevention and response 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 Sexual Assault Prevention and Response Program in all commands, agencies, and activities (including Army Reserve and Army National Guard units when activated) under their jurisdiction.
  - (4) Designate a Sexual Assault Prevention and Response Program proponent to oversee the ACOM/ASCC/DRU program, reporting, assessments, statistics, trend analyses, and so forth and to coordinate staff proponents.
  - (5) Provide personnel and other resources to implement the Sexual Assault Prevention and Response Program.
  - (6) Ensure two UVAs are appointed at Battalion level and equivalent units.
  - (7) Ensure deployable SARCs 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 sexual assault prevention and response training (for example, risk factors of sexual assault, use of the buddy system) is integrated into predeployment and post-deployment briefings.
  - (11) Monitor required sexual assault prevention and response training at units.
  - (12) Inspect and assess sexual assault prevention and response 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 Assistant Chief of Staff for Installation Management (ACSIM), through the Installation Management Agency (IMA) and Community and Family Support Center (CFSC), will—
- (1) Design, implement, and manage the SARC and victim advocacy program.
  - (2) Develop and implement training for SARCs and victim advocates (see appendix I).
  - (3) Establish and publish an integrated resource directory for the Sexual Assault Prevention and Response 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, victim advocate, and staff judge advocate).

- (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 SARC, deployable SARC, installation victim advocates, and UVAs.
- (6) Develop installation SARC, deployable SARC, installation victim advocate, and UVA training guides that contain protocols and procedures that include appropriate levels of assistance.
- (7) Provide sexual assault prevention and response education training to company and higher-level commanders within 45 days of assuming their respective leadership roles.
- (8) Provide commanders with information to manage Sexual Assault Prevention and Response Programs.
- (9) Support the submission of sexual assault data from installation SARC, deployable SARC, victim advocates 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).* 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 SARC 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 (MI) units, Corps of Engineers elements, and so forth.
  - (3) Coordinate with the Family Advocacy Program manager 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 sexual assault prevention and response. 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 Family Advocacy Program manager and the Public Affairs Office, conduct media campaigns to ensure Soldiers are aware of the Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response 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 memoranda of understanding (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 active duty 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 (COPS) 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 staff judge advocate 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 Sexual Assault Prevention and Response Program training is conducted annually and documented on unit training schedules.
    - (15) Publish contact information of SARCs, installation victim advocates, 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 Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response 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 (Victim/Witness Assistance), 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 Reserve Component 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 General Court-Martial Convening Authority, review all administrative separation actions involving victims of sexual assault identified in paragraph 8-5o(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 staff judge advocate 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 (PTSD). 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 staff judge advocate.

(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 staff judge advocate.

(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 U.S. Army Criminal Investigation Command (CID) 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.” MPOs 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, Leaves and Passes, 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 Sexual Assault Prevention and Response 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 (SARCs).* The installation SARC is a DA or contract civilian employee who works for the Family advocacy program manager (FAPM) and reports directly to the installation commander for matters concerning incidents of sexual assault. SARCs will—

(1) Serve as the designated program manager of victim support services who coordinates and oversees local implementation and execution of the Sexual Assault Prevention and Response Program.

(2) Ensure overall local management of sexual assault awareness, prevention, training, and victim advocacy.

(3) Oversee installation victim advocates and unit victim advocates 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 installation victim advocates 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, MPs, 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 SARC, a roster of those UVAs and deployable SARC, status of their training, and rotation dates (that is, PCS and ETS).
  - (12) Publish a monthly on-call roster for all Victim advocates 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, victim advocate, and UVA).
  - (16) Receive annual training on sexual assault subjects (for example, crisis intervention and response to sexual assault) focused on enhancing the installation's Sexual Assault Prevention and Response Program.
  - (17) Ensure that SARB participants receive appropriate case management training consistent with DOD requirements.
  - (18) Assist commanders in meeting annual sexual assault prevention and response training requirements, including newcomer and orientation briefings.
  - (19) Train UVAs and deployable SARC, ensuring training is conducted using military and civilian subject matter experts and material as appropriate. Deployable SARC 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, MP/CID) and reported in SADMS.
  - (21) Collect, record, and maintain data and statistics as directed by the Director, Sexual Assault Prevention and Response Program. Ensure that all sexual assault information (for example, program information, disposition status of cases) is reported to the Director, Sexual Assault Prevention and Response 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 SARC.* 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. 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 program manager of victim support services who coordinates and oversees implementation and execution of the Sexual Assault Prevention and Response 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 Unit Victim Advocates 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, MPs 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 SARCs, 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, MP/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 installation victim advocates (IVAs) are 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 Family Advocacy Program Manager (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 Unit Victim Advocate, 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 Unit Victim Advocates 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 unit victim advocate (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). 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 victim advocate (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 victim advocate support outside of CID units.

(10) UVAs assigned to military police units and Department of Defense police assigned to the installation provost marshals office will not be detailed to perform victim advocate support outside of military police units.

## **8-6. Deployable SARC and UVA 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 Sexual Assault Prevention and Response 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 Sexual Assault Prevention and Response Program. This includes professional military education (PME) training, unit level training, predeployment training, and responder training.

- a. *Professional military education.* PME training is progressive and sequential and includes the following areas:
  - (1) Initial entry training.
  - (2) Pre-commissioning/basic officer leadership instruction-I (BOLC I) to include ROTC and Junior ROTC.
  - (3) BOLC II, Warrant Officer Basic Course, Primary Leadership Development Course.
  - (4) Captain's Career Course (CCC), Warrant Officer Advanced Course (WOAC), and Basic Non-commissioned Officer Course BNCOC).

- (5) General officer training, Army War College (AWC), Pre-command Course (PCC), Warrant Officer Senior Course (WOSC), Sergeants Major Course (SMC), and First Sergeant Course (1SG).

- (6) Drill sergeant and recruiter training.
- b. *Unit level training.* All Soldiers will attend and participate in unit level Sexual Assault Prevention and Response 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, command sergeant major, sergeant major, first sergeant, 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 Sexual Assault Prevention and Response 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. EO advisor/program manager.
- 8. Sexual Assault Response Coordinator (SARC).\*
- 9. Installation or unit victim advocate.\*

- c. *Predeployment training.* Predeployment training will incorporate information on sexual assault prevention and response. 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/MP, SJA, and chaplains.

*d. Post-deployment training.* Commanders will ensure service members receive sexual assault prevention and response 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 is 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 appendix I for minimum baseline training standards):

- (1) Healthcare (responsible agency MEDCOM).
- (2) Law enforcement and criminal investigators (responsible agency TRADOC).
- (3) Judge advocate general (JAG) officers (responsible agency OTJAG).
- (4) Chaplains (responsible agency OCCH).
- (5) SARCs (responsible agency ACSIM/CFSC).
- (6) Installation and unit victim advocates (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 [www.au.af.mil/au/awc/awcgate/awc-law.htm](http://www.au.af.mil/au/awc/awcgate/awc-law.htm).

#### AR 15-6

Procedures for Investigating Officers and Boards of Officers. (Cited in paras 2-17*b*, 6-3, C-1.)

#### AR 27-10

Military Justice. (Cited in paras 2-5, 2-18, 2-20, 4-6, 4-7, 4-19, 5-8, 6-5, 8-5, C-6.)

#### AR 40-562

Immunization and Chemoprophylaxis. (Cited in paras 5-4, 5-6.)

#### AR 195-5

Evidence Procedures. (Cited in para J-8.)

#### AR 600-8-24

Officer Transfers and Discharges. (Cited in paras 4-19*c*, 4-23*d*, 5-5*e*, 5-6*h*, 8-5*o*.)

#### AR 623-105

Officer Evaluation Reporting System. (Cited in paras 2-3, 2-17, 4-18, 4-23, and 6-11.)

#### AR 623-205

Noncommissioned Officer Evaluation Reporting System. (Cited in paras 2-3, 2-17, 4-18, 4-23, 6-11.)

#### AR 670-1

Wear and Appearance of Army Uniforms and Insignia. (Cited in paras 3-2*a*, 5-6.)

#### DOD 5500.7-R

Joint Ethics Regulation. (Cited in paras 4-9*c*, 4-11, 4-15, 4-17, 4-18*c*, 4-21.)

#### DODD 6490.1

Mental Health Evaluation of Member of the Armed Forces. (Cited in para 5-4*b*.)

#### DODD 7050.6

Military Whistleblower Protection. (Cited in paras 5-8*a*, 5-12.)

#### DODI 1000.15

Private Organizations on DOD Installations. (Cited in para 4-11.)

#### DA Pam 600-26

The Department of the Army Affirmative Action Plan. (Cited in para 6-14.)

#### Manual for Courts-Martial

2005 edition (Cited in paras 2-5*h*, 2-14*b*, 2-18, 2-20, 3-2, 3-4, 4-6, 4-7, 5-4.)

### 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](http://www.au.af.mil/au/awc/awcgate/ucmj.htm); and National Guard regulations are available at <http://www.ngbpdn.ngb.army.mil/pubfiles>.

#### AR 1-20

Legislative Liaison

**AR 5-5**

Army Studies and Analyses

**AR 10-5**

Organization and Functions, Headquarters, Department of the Army

**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 Offices 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 135-215**

Officer Periods of Service on Active Duty

**AR 140-10**

Army Reserve: Assignments, Attachments, Details and Transfers

**AR 140–111**

U.S. Army Reserve Reenlistment Program

**AR 140–158**

Enlisted Personnel Classification, Promotion, and Reduction

**AR 165–1**

Chaplain Activities in the United States Army

**AR 190–24/OPNAVINST 1620.2A/AFI 31–213/MCO 1620.2C/COMDTINST 1620.1D**

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 195–1**

Army Criminal Investigation Program

**AR 195–2**

Criminal Investigation Activities

**AR 195–5**

Evidence Procedures

**AR 210–7**

Commercial Solicitation on Army Installations

**AR 210–50**

Housing Management

**AR 215–1**

Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities

**AR 220–1**

Unit Status Reporting

**AR 335–15**

Management Information Control System

**AR 340–21**

The Army Privacy Program

**AR 350–1**

Army Training and Education

**AR 350–100**

Officer Active Duty Service Obligation

**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**

The Department of the Army Personnel Security Program

**AR 600-3**

The Army Personnel Proponent System

**AR 600-8-2**

Suspension of Favorable Personnel Action (Flags)

**AR 600-8-8**

The Total Army Sponsorship Program

**AR 600-8-10**

Leaves and Passes

**AR 600-8-11**

Reassignment

**AR 600-8-14**

Identification Cards, Tags, and Badges

**AR 600-8-19**

Enlisted Promotions and Reductions

**AR 600-8-29**

Officer Promotions

**AR 600-8-104/AFI 36-3026(I)**

Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel

**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**

Regular Army and Army Reserve Enlistment Program

**AR 601-280**

Army Retention Program

**AR 608-10**

Child Development Services

**AR 608-75**

Exceptional Family Member Program

**AR 614-6**

Permanent Change of Station Policy

**AR 614-30**

Overseas Service

**AR 614-100**

Officer Assignment Policies, Details, and Transfers

**AR 614-200**

Selection of Enlisted Soldiers for Training and Assignment

**AR 621-1**

Training of Military Personnel at Civilian Institutions

**AR 623-3**

Academic Evaluation Reporting System

**AR 635-40**

Physical Evaluation for Retention, Retirement, or Separation

**AR 635-200**

Active Duty Enlisted Administrative Separations

**AR 680-29**

Military Personnel-Organization and Type of Transaction Codes

**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

**DAGO 2002-04**

Assistant Chief of Staff for Installation Management (ACSIM)

**DA Pam 350-20**

Unit EO Training Guide

**DA Pam 600-3**

Commissioned Officer 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

**FM 7–22.7**

The Army Noncommissioned Officer Guide

**FM 22–101**

Leadership Counseling

**FM 100–1**

The Army Ethic

**FM 100–22**

Installation Management

**CTA 50–900**

Clothing and Individual Equipment

**CTA 50–909**

Field and Garrison Furnishings and Equipment

**DOD 6025.18–R**

DOD Health Information Privacy Regulation

**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**

National Guard Military Discrimination Complaint System (Available at <http://www.ngbpdc.ngb.army.mil/pubfiles/36/3631I.pdf>.)

**NG Reg 635–101**

Efficiency and Physical Fitness Boards (Available at <http://www.ngbpdc.ngb.army.mil/pubfiles/635/635101.pdf>.)

**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.)

**Uniform Code of Military Justice**

Article 7, Apprehension; Article 15, Commanding officer's non-judicial punishment; Article 27, Detail of trial counsel and defense; Article 31, Compulsory self-incrimination prohibited; Article 37, Unlawful influencing the action of the court; Article 81, Conspiracy; Article 82 Solicitation; Article 92, Failure to obey order or regulation; Article 93, Cruelty and maltreatment; Article 98, Noncompliance with procedural rules; Article 116, Riot or breach of peace; Article 117, Provoking speeches or gestures; Article 121, Larceny and wrongful appropriation; Article 123, Forgery; Article 124, Maiming; Article 128, Assault; Article 133, Conduct unbecoming an officer and a gentleman; Article 134, General article; Article 13,7 Articles to be explained; Article 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 chapter 18**

Military Support for Civilian Law Enforcement Agencies

**10 USC 580(a)**

Enhanced authority for selective early discharges.

**10 USC 637**

Selection of regular officers for continuation on active duty.

**10 USC 654**

Policy concerning homosexuality in the armed forces.

**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.

**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**

Vice Chief 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**

Insurrection

**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.

**42 USC 2000e**

Title VII of the Civil Rights Act of 1964

**Section III**

**Prescribed Forms**

Except where otherwise indicated below, the following forms are available as follows: DA Forms are available on the Army Electronic Library (AEL) CD-ROM (EM 0001) and the APD Web site ([www.apd.army.mil](http://www.apd.army.mil)); DD Forms are available from the OSD Web site ([www.dior.whs.mil/icdhome/formshtm](http://www.dior.whs.mil/icdhome/formshtm)); Standard Forms (SF) are available from the GSA Web site ([www.gsa.gov](http://www.gsa.gov)).

**DA Form 2910**

Victim Reporting Preference Statement. (Prescribed in para J-3.)

**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 para D–1.)

**DA Form 7279–1**

Equal Opportunity Complaint Resolution Assessment. (Prescribed in para D–10.)

**Section IV****Referenced 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

**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 active duty 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 active duty 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**

Reserve Component Soldiers on active duty 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 Congressional Findings**

### **C-1. Constitutional powers of Congress**

Section 8 of Article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a navy, and make rules for the Government and regulation of the land and naval forces.

### **C-2. No constitutional right to serve**

There is no constitutional right to serve in the Armed Forces.

### **C-3. Congress establishes qualifications for Armed Forces' service and conditions**

Pursuant to the powers conferred by section 8 of Article I of the Constitution of the United States, it lies within the discretion of the Congress to establish qualifications for and conditions of service in the Armed Forces.

### **C-4. Primary purpose of the Armed Forces**

The primary purpose of the Armed Forces is to prepare for and to prevail in combat should the need arise.

### **C-5. Requirement for extraordinary sacrifices**

The conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

### **C-6. Characteristics of successful military units**

Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

### **C-7. Unit cohesion**

One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness for the individual unit members.

### **C-8. Fundamental difference between military and civilian life**

Military life is fundamentally different from civilian life in that—

- a.* The extraordinary responsibility of the Armed Forces, the unique conditions of military service, and the critical role of unit cohesion require that the military community, while subject to civilian control, exist in a specialized society.
- b.* The military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

### **C-9. Armed Forces' standards of conduct**

The standards of conduct for members of the Armed Forces regulate a member's life 24 hours each day beginning at the moment the member enters the military status and not ending until the person is discharged or otherwise separated from the Armed Forces.

### **C-10. When standards of conduct apply**

Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the Armed Forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.



### **C-11. The necessity of pervasive application of standards of conduct**

The pervasive application of the standards of conduct is necessary because members of the Armed Forces must be ready at all times for worldwide deployment to a combat environment.

### **C-12. Spartan living conditions**

The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the Armed Forces in actual combat routinely make it necessary for members of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

### **C-13. Prohibition against homosexual conduct long-standing**

The prohibition against homosexual conduct is a long-standing element of military law that continues to be necessary in the unique circumstances of military service.

### **C-14. Support of morale and discipline**

The Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk to the Armed Forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

### **C-15. Homosexual acts risk to standards of morale and discipline**

The presence in the Armed Forces of person's who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

## **Appendix D**

### **EO/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 U.S. Code 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 (MFR). The MFR 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 (CHRRS).

(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 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 (IGARS), 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 senior commander 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 Army National Guard Soldiers on active duty will make every attempt to resolve the complaint prior to the completion of the Soldiers' active duty tour. If necessary, the Army National Guard Soldiers will remain on active duty 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 (IO) a copy of orders assigning him or her as the IO officer and the initiated DA Form 7279, which identifies the complainant and lists the allegations to be investigated. The IO will review AR 15-6 and AR 600-20 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 staff judge advocate 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. EOA assistance.* The investigating officer (the commander or appointed investigating officer) will meet with the unit's EO advisor 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 Article 31, UCMJ. Investigating officers should consult with their servicing judge advocate or legal advisor before giving Article 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 Article 31, UCMJ; Military Rules of Evidence 304 and 305, Manual for Courts-Martial).

*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 EO advisor.
- (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 EO advisor.

#### **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 senior commander 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) *UCMJ*. 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, Article 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 Reserve components) 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 memoranda of understanding 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 Reserve components) 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 Reserve components) to refer the appeal to the next higher unit commander (or installation commander for those tenant units with Memoranda of Understanding that designate an appellate authority).

c. The commander to which the appeal is made has 14 calendar days (or three MUTA 4 periods for Reserve components) 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 memorandums of understanding or support that delegate Uniform Code of Military Justice authority to a local commander. Decisions at this level are final.

#### **D-10. Follow-up assessment**

The EO advisor (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 Reserve components) 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 (EO 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 Reserve components). 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 (ARIMS).

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 Staff Judge Advocate; 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 Army National Guard 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 active duty personnel. Active and reserve Army commanders, upon receiving a complaint from members of the Individual Ready Reserve (IRR) or Individual Mobilization Augmentee (IMA), from Soldiers performing active duty for special work or temporary tour of active duty, or from any reservist who is not a member of a troop program unit, will make every attempt to resolve the complaint prior to the completion of the Soldier's active duty tour.

(1) *Timelines.* Should the complaint be filed but not resolved prior to the Soldier's release from active duty (REFRAD), the timelines will be modified. The active Army or Reserve Component 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 REFRAD.* In the event the complaint is filed after the active duty 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 active duty 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 active duty 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 active duty 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 active duty. An ARNG Soldier may file a complaint with the State Equal Employment Manager (SEEM) based upon unlawful discrimination that occurred while the Soldier was on active duty. The complaint must be 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 Equal Opportunity 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–11*d*.

## **Appendix E Command Climate Survey**

### **E–1. Requirement**

Company commanders (company-level equivalents) will administer the Command Climate within 90 days (Active Army) or 180 days (Army National Guard, U.S. Army Reserve) of assuming command and annually thereafter. At their discretion company commanders may administer the survey more often and may also use additional survey instruments to assess the unit climate. The survey is voluntary for commanders above company level.

### **E–2. Confidential results**

Because this survey is first administered shortly after a change of command, the results should not be seen as a reflection upon the new commander but simply as a starting point for improving the unit’s command climate. Results are intended for the company commander’s use and are not reported up the chain of command. Feedback should be provided in a timely manner to individuals who completed the survey.

### **E–3. Compliance**

After the company commander has administered and analyzed the Command Climate Survey and has developed action plans, the brigade EO advisor (EOA), will note completion in the brigade Quarterly Narrative Statistical Report (QNSR). Completion of the Command Climate Survey is an item that is checked under the Command Inspection Program.

### **E–4. Role of the EO advisor (EOA)**

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. Obtaining the Command Climate Survey**

The Command Climate Survey (CCS) can be found on the US Army Research Institute for the Behavioral Sciences Web site-[www.hqda.army.mil/ari/surveys](http://www.hqda.army.mil/ari/surveys). The actual survey is available in two formats:

*a. Automated.* This is a Windows-based version of the Command Climate Survey. It permits administration and data collection on disks, single or multiple computers, and/or a Local Area Network (LAN). The program compiles and analyzes the results and produces bar charts and reports that can be printed or displayed.

*b. "Paper & Pencil."* This version is available for those who want to review the questions and/or conduct the survey without automation. There is no data compilation or analysis tool with this option. It is available in three formats; MS Word, EXE (self-extracting zipped file) and PDF. You can save the file, open it, and print a copy. For more information contact US Army Research Institute for the Behavioral and Social Sciences, 2511 Jefferson Davis Highway, Arlington, VA 22202-3926 (USPS only), Phone (703) 602-7877, DSN 332-7877, e-mail: [ARI\\_APSO@hqda.army.mil](mailto:ARI_APSO@hqda.army.mil).

## **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. When a race/ethnic or gender group consists of fewer than five members, do not split results for that group. For example, if a unit has only four females, do not separate the results for females or for males. If there are only four African Americans in the unit, consider combining the results for all nonwhites and compare the results for racial or ethnic minorities versus the majority. The computerized version of the Command Climate Survey automatically suppresses results for groups with fewer than five individuals.

# **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 Sexual Assault Prevention and Response 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 sexual assault response coordinator (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 (ASAP) 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 sexual assault prevention and response 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 sexual assault prevention and response training needs of your agency by monitoring each alleged sexual assault incident. Identify training requirements to the SARB.
  - (5) Conduct ongoing reviews of memoranda of agreement with other Services and civilian agencies regarding sexual assault prevention and response 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, victim advocate, chaplain) to immediately join the victim.
- f.* Notify the Sexual Assault Response Coordinator (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 (VWAP) (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.
    - (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 victim advocate 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 Sexual Assault Response Coordinator (SARC), a victim advocate, 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 installation victim advocate or unit victim advocate.

(4) The assigned victim advocate will provide the victim accurate information on the process to include the process of restricted vice unrestricted reporting.

(5) The SARC or victim advocate 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 Department of Defense 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 Victim Advocate. 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 Health Insurance Portability and Accountability Act (HIPAA).

*b.* In cases where a victim elects restricted reporting, the SARC, assigned Victim Advocate (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 victim advocate 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 Uniform Code of Military Justice, 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, victim advocates, 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, victim advocates, 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 Uniform Code of Military Justice, 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 Department of Defense (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 (SARC),
- b.* Victim advocates (VA).
- 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. 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 (SARC).* The Sexual Assault Response Coordinator (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 victim advocates when in the performance of their duties as a victim advocate. 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 (VA).* All victim advocates will receive initial and periodic refresher training on the following essential tasks:

- (1) Sexual assault response policies.
  - (a)* Department of Defense (DOD).
  - (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, 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. 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 sexual assault forensic examinations 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 victim advocates (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 (MCIO) 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 victim advocates (VAs)/sexual assault response coordinators (SARCs).
  - (a) VA/SARC roles, responsibilities, and limitations.
  - (b) Victim services and support programs.
- f. *Judge advocates (JA)*. 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 military rules of evidence (MREs).
    - (b) Victim rights.
      - 1. Familiarity with Victim/Witness Assistance Program (VWAP).
      - 2. VWAP 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 VWAP.
  - (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 sexual assault forensic examination (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 sexual assault response coordinator (SARC) be notified of all incidents of reported sexual assault. The SARC, in turn, will assign a victim advocate (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) (VRPS).

(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 (SANE) 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 Reserve Components will pursue through coordination or formal agreements a SAFE option for victims with supporting installation medical treatment facilities, civilian facilities, or local SANE 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 report 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 (PM).

(2) The PM will be trained and capable of collecting and preserving evidence, to assume custody of the evidence, using established chain of custody procedures.

(3) Memoranda of agreement (MOA) and understanding (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 PM.

(4) The RRCN and general description of the potential evidence will be entered into a log to be maintained by the PM.

(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 PM 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 PM 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 PM 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 Army Criminal Investigation Command), who will then assume custody of the potential evidence maintained by the RRCN from the PM 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 Program Manager, 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. 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) (ASA (M&RA)) 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 Sexual Assault Data Management System (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.* Assistant Chief of Staff, Installation Management (ACSIM)/Commanding General, Installation Management Command (IMCOM) will—

(1) Enforce the submission of sexual assault data by installation SARCs using the Defense Case Record Management System (DCRMS), or the DCS, G-1 Interim Reporting Solution until DCRMS is fielded.

(2) Include the Army SAPR Program in the Army Community Service (ACS) Accreditation Program in accordance with AR 608-1.

(3) Submit an annual report (no later than (NLT) 1 Dec, for the previous fiscal year) to the DCS, G-1 SAPR program manager. 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 sexual assault response coordinator (DSARC), installation victim advocate (IVA), and unit victim advocate (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 Sexual Assault Review Boards (SARB).

*c.* Office of the Surgeon General/Commanding General, Medical Command (OTSG/CG MEDCOM) 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 program manager. 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 medical treatment facilities (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 (OTJAG) 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 program manager. 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. Office of the Chief of Chaplains (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 program manager. 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 program manager. 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 (USACIDC) will—
- (1) Provide the reports listed below to the DCS, G-1 SAPR program manager until formally relieved of this responsibility by the SAPR program manager 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 (CENTCOM) Sexual Assault Report (NLT the 7th of each month).
    - (b) Quarterly Army Sexual Assault Report (NLT 7 Jan, 7 Apr, 7 Jul, and 7 Oct).
    - (c) Annual Army Sexual Assault Report (NLT 7 Jan).
  - (2) Conduct periodic evaluations of investigative services related to sexual assault cases under the Army SAPR Program.
  - (3) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR program manager. 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 (DNA) evidence in sexual assault cases by the US Army Criminal Investigation Laboratory (USACIL); 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. Chief, National Guard Bureau (NGB), and Chief, U.S. Army Reserve (OCAR) will—
- (1) Enforce the submission of sexual assault data by installation SARCs using the Defense Case Record Management System (DCRMS), or the DCS, G-1 Interim Reporting Solution until DCRMS is fielded.
- (2) Include Army SAPR Program as part of the Command Inspection program and conduct periodic evaluation of SAPR program implementation and compliance.
- (3) Submit an annual report (NLT 1 Dec for the previous fiscal year) to the DCS, G-1 SAPR program manager. 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, DSARC, 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 Sexual Assault Review Boards (SARB).
- j. Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC) will—
- (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 program manager.
- k. Army Headquarters (Army Commands (ACOMs), Army Service Component Commands (ASCCs), Direct Reporting Units (DRUs)) will—
- (1) Enforce the submission of sexual assault data by command SARCs and/or DSARCs (as required for deployed or geographically dispersed units not supported by an installation) using the Defense Case Record Management System (DCRMS), or the DCS, G-1 Interim Reporting Solution until DCRMS is fielded.
- (2) Include Army SAPR Program as part of the Command Inspection program 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 program manager. 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 program managers and subordinate command SARCs, DSARCs, 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 (SSMP) and the Human Relations (HR) Update surveys.
    - (2) Provide reports to the DCS, G-1 SAPR program manager that includes analyses of the sexual assault specific findings from the SSMP and other surveys, studies, or research.
  - m.* The superintendent, United States Military Academy (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 program manager.

## **Glossary**

### **Section I Abbreviations**

**AA**

Active Army

**AAP**

Affirmative Action Plan

**ACOM**

Army Command

**ACS**

Army Community Services

**ACSIM**

Army Chief of Staff for Installation Management

**AD**

active duty

**ADL**

Active Duty List

**ADSW**

active duty for special work

**ADT**

active duty for training

**AER**

Army Emergency Relief

**AFDCB**

Armed Forces Disciplinary Control Board

**AGR**

Active Guard Reserve

**AHRC**

U.S. Army Human Resources Command

**AMEDD**

Army Medical Department

**ANCOC**

Advanced Noncommissioned Officers Course

**ANSR**

Annual Narrative and Statistical Report

**ARC**

Army Reserve Command

**ASCC**

Army Service Component Command

**ASA (M&RA)**

Assistant Secretary of the Army (Manpower and Reserve Affairs)



**ASI**

additional skill identifier

**AT**

annual training

**ATRRS**

Army Training Requirement and Resources System

**AWC**

Army War College

**BASOPS**

base operations

**BCT**

basic combat training

**BNCOC**

Basic Noncommissioned Officers Course

**CAR**

Chief, Army Reserve

**CDS**

Child Development Services

**CENTCOM**

Central Command

**CFC**

Combined Federal Campaign

**CGSC**

Command and General Staff College

**CHAMPUS**

Civilian Health and Medical Program of the Uniformed Services

**CID**

Criminal Investigation Division

**CNGB**

Chief, National Guard Bureau

**CONUS**

continental United States

**CONUSA**

continental United States armies

**DA**

Department of the Army

**DCS, G-1**

Deputy Chief of Staff, G-1

**DCRMS**

Defense Case Record Management System

**DEERS**

Defense Enrollment Eligibility Reporting System

**DEOMI**

Defense Equal Opportunity Management Institute

**DEP**

Delayed Entry Program

**DNA**

deoxyribonucleic acid

**DOD**

Department of Defense

**DODI**

Department of Defense Instruction

**DODDS**

Department of Defense Dependent Schools

**DOPMA**

Defense Officer Personnel Management Act

**DOR**

Date of rank

**DP**

Direction of the President

**DRU**

Direct Reporting Unit

**DSARC**

deployable sexual assault response coordinator

**EAD**

extended active duty

**EEO**

Equal Employment Opportunity

**EFMP**

Exceptional Family Member Program

**EO**

Equal Opportunity

**EOA**

EO advisor

**EOAP**

EO Action Plans

**EOL**

EO Leader

**EOPM**

EO Program Manager

**FAPM**

Family advocate program manager

**EO**

EO representative

**EORC**

EO Representative Course

**EOSA**

EO staff advisor

**FCP**

Family Care Plan

**FOA**

field operating agency

**FPC**

Family Program Coordinator

**FORSCOM**

Forces Command

**FSG**

Family support group

**FTNGD**

full time National Guard duty

**GOCOM**

General Officer Command

**GT**

general technical

**HCP**

health care provider

**HR**

human relations

**HQDA**

Headquarters, Department of the Army

**IADT**

initial active duty for training

**IET**

initial entry training

**IG**

Inspector General

**IGAR**

Inspector General Action Request

**IMA**

individual mobilization augmentee/individual mobilization augmentation

**IMCOM**

U.S. Army Installation Management Command

**IRR**

Individual Ready Reserve

**IVA**

installation victim advocate

**JAGC**

Judge Advocate General's Corps

**JER**

Joint Ethics Regulation

**JFHQ**

Joint Forces Headquarters

**MEDCOM**

U.S. Army Medical Command

**MCM**

Manual for Courts-Martial

**MEOCS**

Military Equal Opportunity Climate Survey

**MOA**

memorandum of agreement

**MOS**

military occupational specialty

**MOS-ENLD**

military occupational specialty-enlisted

**MOU**

memorandum of understanding

**MPRJ**

Military Personnel Records Jacket

**MRE**

meals-ready-to-eat

**MTF**

medical treatment facility

**MUTA**

multiple unit training assembly

**MWR**

Morale, Welfare and Recreation

**NCO**

noncommissioned officer

**NCODP**

Noncommissioned Officer Professional Development Program

**NEO**

noncombatant evacuation operation

**NGB**

National Guard Bureau

**NGB CMSA**

National Guard Bureau Complaints Management and Support Activity

**NGR**

National Guard Regulation

**OAC**

Officer Advanced Course

**OBC**

Officer Basic Course

**OCAR**

Office of the Chief, Army Reserve

**OCCH**

Office of the Chief of Chaplains

**OCONUS**

outside continental United States

**OCS**

Officer Candidate School

**ODCS, G-1**

Office of the Deputy Chief of Staff, G-1

**OMB**

Office of Management and Budget

**OPMG**

Office of the Provost Marshal General

**ORB**

officer records brief

**OTIG**

Office of the Inspector 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

**PDP**

predeployment processing

**PEBD**

pay entry basic date

**PEO**

Program Executive Officer

**PLDC**

Primary Leadership Development Course

**PM**

provost marshal

**POI**

program(s) of instruction

**POSH**

prevention of sexual harassment

**PSC**

Personnel Service Center

**RA**

Regular Army

**RC**

Reserve Component

**RCM**

Rules for Courts-Martial

**RCS**

Reports Control Symbol

**REDCAT**

race and ethnic designation category

**REFRAD**

release from active duty

**ROTC**

Reserve Officer's Training Corps

**RRC**

Regional Readiness Command

**RRCN**

restricted reporting control number

**SADMS**

Sexual Assault Data Management System

**SAFE**

sexual assault forensic examination

**SANE**

sexual assault nurse examiner

**SAPR**

sexual assault prevention and response

**SARC**

sexual assault response coordinator

**SEEM**

State Equal Employment Manager

**SIDPERS**

Standard Installation/Division Personnel System

**SJA**

staff judge advocate

**SMC**

Sergeants Major Course

**SQI**

special qualification identifier

**SSC**

Senior Service College

**SSI**

specialty skill identifier

**SSMP**

sample survey of military personnel

**TABE-II**

Test of Adult Basic Education (Level II)

**TAF**

total Army Family

**TAFP**

Total Army Family Program

**TDA**

tables of distribution and allowances

**TDAS**

Training Diagnostic Assessment System

**TDRL**

Temporary Disability Retired List

**TDY**

temporary duty

**TJAG**

The Judge Advocate General

**TOE**

table(s) of organization and equipment

**TPU**

troop program unit

**TRADOC**

U.S. Army training and Doctrine Command

**TSG**

The Surgeon General

**TSP**

troop support packages

**TTAD**

temporary tour of active duty

**UCMJ**

Uniform Code of Military Justice

**USACIDC**

United States Army Criminal Investigation Command

**USACIL**

U.S. Army Criminal Investigation Laboratory

**UIC**

unit identification code

**USAR**

U.S. Army Reserve

**USARC**

U.S. Army Reserve Command

**USASMA**

United States Army Sergeants Major Academy

**USC**

United States Code

**USMA**

United States Military Academy

**UVA**

unit victim advocate

**VA**

victim advocate

**VRPS**

Victim Reporting Preference Statement

**WO**

warrant officer

**WOBC**

Warrant Officer Basic Course

**WOCS**

Warrant Officer Candidate School

**WOSSC**

Warrant Officer Senior Staff Course



## **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 Regular Army Soldiers on active duty; Army National Guard of the United States and Army Reserve Soldiers on active duty (except as excluded below); Army National Guard 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; annual training 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 full-time National Guard duty.

#### **Active status**

The status of a member of a Reserve component not in the inactive Army National Guard, 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 Reserve Component of the Army, all of whose members are members of the Army National Guard.

#### **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.

#### **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.

#### **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 noncommissioned officers serving in full-time equal opportunity positions, at brigade (or equivalent) level, or higher. In addition to military EOAs, DA civilian employees may be officially assigned to military equal opportunity 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 Army National Guard or USAR to the Active Army.

**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.

**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 victim advocate (IVA)**

The installation victim advocates (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 Family Advocacy Program manager (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 Uniform Code of Military Justice that do not meet the definition of sexual assault, or the definition of sexual harassment as promulgated in DOD Directive 1350.2, Department of Defense 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 active duty 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 date of rank is earlier than the date of rank 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 sexual assault response coordinator (SARC), victim advocate, 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.

**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.

**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 victim advocate. Upon notification of a reported sexual assault, the SARC will immediately notify a victim advocate. 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.)

**Section III**

**Special Abbreviations and Terms**

**Affirmative Action**

Methods used to achieve the objectives of the Equal Opportunity 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.

**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.

**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.

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