

Sexual Assault Prevention and Response Training for Commanders and Leaders

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- Retaliation
 - What it is
 - How to prevent it
- Publicize how to report
- Encourage reporting
- Increased eligibility for Restricted Report
- Questions

- Retaliation is defined as:
 - (1) Any person subject to the UCMJ who wrongfully takes or threatens to take an adverse personnel action, or wrongfully withholds or threatens to withhold a favorable personnel action with the intent to discourage or retaliate against any person for reporting or planning to report a criminal offense, or making, or planning to make a protected communication*; or
 - (2) Acts of cruelty, oppression or maltreatment committed against a victim, an alleged victim or another member of the Army by peers or other persons, because the individual reported a criminal offense or was believed to have reported a criminal offense.
- Retaliatory behaviors include: Reprisal, Ostracism, and Maltreatment

*This could include victims, bystanders who intervened, or witnesses who report or make a protected communication.

Reprisal (CoC Action)

- Withholding of favorable actions; or imposing negative personnel actions
- For making, preparing to make, or being perceived as making or preparing to make a protected communication.
- Can be reported to the SARC, Command, or State IG, LTC Petersen
- This type of retaliation should be investigated by the Inspector General.

Ostracism (Peers)

- Excluding from social acceptance, privilege, or friendship
- For making, preparing to make, or being perceived as making or preparing to make a protected communication.
- Can be reported to the SARC, Command, or State IG, LTC Petersen
- This type of retaliation should be investigated by the victim's chain of command.

Cruelty/ Maltreatment

- Cruel / oppressive acts (Physical or Psychological)
 - By superior (Article 93)
 - or peers (AR 600-20)
- Inherently criminal activity (ie, assault, property damage, stalking) will be investigated and addressed by Local Law Enforcement/CID .
- For making, preparing to make, or being perceived as making or preparing to make a protected communication.
- Can be reported to the SARC, Command, or Local Law Enforcement/CID .

- DA Civilians are eligible to make an Unrestricted Report by signing a DD Form 2910 and have the same retaliation reporting capability as any other victim who has signed a DD Form 2910.
- Retaliation pursuant to a report of sexual harassment through EEO will be addressed by EEO/Labor Management and Employee Relations (LMER).
- Whistleblower actions will be reported to State IG.
- Commanders will seek guidance from SJA/EEO regarding retaliation for Civilians.

1. What is an *adverse Personnel Action (PA)* that could be taken or threatened to be taken towards a complainant?
 - Counseling that is punitive, supports separation, or adverse evaluation (**addressed as a threat to take an action**)
 - Letter of reprimand (**in the official file**), caution, or censure
 - Adverse evaluation report (**unfavorable effect on a Soldier's career**)
 - Removal from position, promotion, school, or command list
 - Bar to continued service
 - Referral for mental health evaluation
2. What is a *favorable PA* that could be withheld or threatened to be withheld towards a complainant?
 - Evaluation
 - Promotion recommendation
 - Award
 - Training
 - Attendance at a school
 - Assignment

This is not a comprehensive list!!

Examples:

- **Ostracism:** exclusion from social acceptance, activities or interactions with intent to interfere with the due administration of justice
- **Maltreatment:** blaming; insulting or bullying; assault; physical or psychological force or threat; abusive or unjustified treatment that results in physical or mental harm.



TRIGGER

WARNING

EXPLICIT CONTENT

SPC Smith reports that her platoon sergeant sexually assaulted her. The other Soldiers in her company do not believe that the platoon sergeant would ever do something like this. The Soldiers begin to discuss rumors they have heard about the facts of the case – that SPC Smith was drunk at the unit party and performed oral sex on another Soldier in full view of everyone there.

SPC Smith's roommate tells other Soldiers that SPC Smith has a different man in her bed every weekend and enjoys rough sex. Soldiers post comments on the unit Facebook page expressing their support for the platoon sergeant. SPC Smith receives several anonymous messages that she should drop her report if she wants the rumors to stop on social media

SPC Smith reports to the commander that Soldiers are discussing rumors about her case and are posting favorable comments for the platoon sergeant on Facebook. She feels she is being retaliated against because she reported a sexual assault.

Best Course of Action: Chain of command takes action on this report. This type of retaliation could be ostracism and should be investigated by the victim's chain of command.

Additional Resources: SJA for assistance.

➤ **Are there any retaliatory behaviors?**

➤ **What are they?**

PFC Jones reports that his platoon sergeant sexually assaulted him. The team leader pulls PFC Jones from his daily duties and assigns him to multiple details. PFC Jones complains to the team leader that he likes his job and has always been told he was doing well. The team leader explains that “as he recovers from his trauma and because he has so many appointments with his lawyers and behavioral health, he wants to take some of the pressure off of him.”

PFC Jones reports to the SARC that his team leader has removed him from his daily duties and assigned him to multiple details. PFC Jones tells the SARC that he likes his job and has always been told he was doing well.

- **Do you see any retaliatory behaviors?**
- **What are they?**

Best Course of Action: Command refers SPC Smith to the local IG. This type of retaliation could be reprisal and should be investigated by the Inspector General.

Additional Courses of Action: State IG and SJA for assistance.

SPC Doe reports that their platoon sergeant sexually assaulted them. Shortly after they made the report, they were assigned as the Staff Duty runner after having pulled that duty only two weeks prior. As time goes on, they notice that they are on the Staff Duty roster every weekend.

SPC Doe approaches the Operations SGT about this, who states that “everyone has to do their duty” and refuses to discuss it further.

SPC Doe reports to VA that they are pulling Staff Duty every weekend when normally they are only assigned staff duty every 3 or 4 weeks. SPC Doe feels they are being retaliated against for reporting a sexual assault.

- **Are there any retaliatory behaviors?**
- **What are they?**

Best Course of Action: Chain of command takes action on this report. This type of retaliation could be maltreatment and should be investigated by the victim’s chain of command.

Additional Resources: SJA for assistance.

Leader Responsibilities Regarding Retaliation

- Leaders must take immediate action when made aware of possible retaliation.
- Be clear and up front that retaliation will not be tolerated
- Have honest discussions with subordinates about how gossip, rumors and “picking sides” undermines reporting, prevention, response and ultimately, the readiness of the unit
- Establish and enforce procedures to protect witnesses and bystanders who intervene to prevent or report sexual assault or sexual harassment, from retaliation, reprisal, ostracism, intimidation, or maltreatment. IAW AR 600-20
- Immediately notify Local Law Enforcement/CID whenever the victim of a sexual assault, witnesses, or bystander who intervenes is threatened, assaulted, or suffers property damage. IAW AR 600-20
- The importance of the role of ALL supervisors in protecting victims: That ALL supervisors in the victim’s chain of command, officer and enlisted, are required when they become aware of retaliation, reprisal, ostracism, or maltreatment, to take appropriate measures to protect the victim from retaliation, reprisal, coercion, ostracism, and maltreatment in Unrestricted Reports. (DoDI 6495.02, change 4, 11 Sept 2020)

- Establish and enforce procedures to protect SARCs, and SHARP VAs from retaliation, reprisal, ostracism, intimidation, or maltreatment related to the execution of their duties and responsibilities. Unit commanders and/or supervisors will not interfere with or otherwise attempt to negatively influence SHARP professionals in the performance of their duties.
- Establish procedures to require commanders to protect witnesses and bystanders who intervene to prevent sexual assaults or who report sexual assaults, from retaliation, reprisal, ostracism, or maltreatment.
- Acts of retaliation may require that an HRRT be stood up.
- AR 600-20, Chapter 7-11 requires commanders take actions that prevent retaliation

| Leadership Requirements Model | |
|---|---|
| <p>Attributes What an Army Leader is:</p> <p>A Leader of character</p> <ul style="list-style-type: none"> • Army Values • Empathy • Warrior Ethos <p>A Leader with presence</p> <ul style="list-style-type: none"> • Military Bearing • Physically Fit • Composed, Confident • Resilient <p>A Leader with intellectual capacity</p> <ul style="list-style-type: none"> • Mental Agility • Sound Judgement • Innovation • Interpersonal Tact • Domain Knowledge | <p>Core Leader Competencies What an Army Leader does:</p> <p>Leads</p> <ul style="list-style-type: none"> • Leads Others • Extends Influence Beyond The Chain of Command • Leads By Example • Communicates <p>Develops</p> <ul style="list-style-type: none"> • Creates A Positive Environment • Prepares Self • Develops Others <p>Achieves</p> <ul style="list-style-type: none"> • Gets Results |

- Engaged Leadership
- Leader Led SHARP training
- Build Trust between Soldiers and Leaders
- Actions speak louder than words
- Taking leadership actions with empathy
- Build a culture of connectedness

TRIGGER

WARNING

EXPLICIT CONTENT

PFC Johnson reported that he was sexually assaulted by a fellow platoon member, SPC James. During the investigation, many platoon members were interviewed by Local Law Enforcement and now rumors are running rampant throughout the platoon. There are very clear lines being drawn that has resulted in two camps within the platoon. One camp supports PFC Johnson and the other defends SPC James. It is starting to effect productivity, readiness, and has derailed unit cohesion.

What actions can you take as a leader to mitigate this situation?

What could you do as a leader to ensure this does not happen in the future?

- Senior Commanders must publicize, by all means available, how to report a sexual assault, and how to seek assistance for a sexual assault, including associated reports of retaliation at their locations. This includes publicizing the availability of resources outside of the victim's immediate chain of command.
- DoD Safe helpline
- SARCs and VAs inside or outside of their respective chains of command



SHARP
SEXUAL HARASSMENT/ASSAULT
RESPONSE AND PREVENTION

REPORTING OPTIONS FOR ADULT VICTIMS OF SEXUAL ASSAULT

There are two reporting options for victims of sexual assault: Restricted and Unrestricted. The major difference between these reporting options is that an Unrestricted Report will trigger an official investigation, include command involvement, and allow requests for an expedited transfer and/or military protective order, whereas a Restricted Report will not. Your SARC or VA can explain your options.

RESTRICTED
REPORT

Filing a Restricted Report allows you to **confidentially** disclose a sexual assault to a SARC or VA **without** notifying your command or law enforcement.

When you file a Restricted Report, you are eligible for:

- Medical treatment
- Sexual Assault Forensic Exam
- Counseling
- Chaplain Services
- Special Victim Counsel
- Legal Advocacy
- Victim Advocacy

You may change a Restricted Report to an Unrestricted Report at any time.

NEW UPDATE

A victim can file a Restricted Report even if...

1. The sexual assault has been inadvertently or previously disclosed to command by the victim, suspect, or third party;
2. The matter has been reported to law enforcement, to include the U.S. Army Criminal Investigation Division, by anyone other than the victim; or
3. An investigation is initiated, in progress, or closed.

Victims may elect to make a Restricted Report of sexual assault at any time, EXCEPT in cases where the victim:

- Personally reported the incident to law enforcement (including CID); or
- Previously filed an Unrestricted Report with a signed DD Form 2910 (the Victim Reporting Preference Statement) for the same sexual assault

UNRESTRICTED
REPORT

Filing an Unrestricted Report allows for an official investigation, command notification, and reporting to law enforcement. You can make an Unrestricted Report to a SARC, VA, law enforcement official, a commander, or health care personnel.

When you file an Unrestricted Report you are eligible for:

- Medical Treatment
- Sexual Assault Forensic Exam
- Counseling
- Chaplain Services
- Special Victim Counsel
- Legal Advocacy
- Victim Advocacy
- Command Support/Intervention
- Official Investigation

An Unrestricted Report also allows you to request protective and support measures like an Expedited Transfer or Military Protective Order. An Unrestricted Report cannot be changed to a Restricted Report.

Recognizing and reporting retaliation for an Unrestricted Report of sexual assault:

Retaliation may consist of the following acts:

- Reprisal
- Ostracism
- Maltreatment, including cruelty and oppression

Report Retaliation to the following:

- Brigade SARC
- Installation IG
- DoD IG Hotline: 800.424.9098
- DoD Safe Helpline: 877.995.5247

For more information on retaliation reporting options visit <https://www.safehelpline.org/experiencing-retaliation-after-sexual-assault>

THIS IS OUR ARMY.

@ArmyResilience  
www.armyresilience.army.mil

- Victims are now eligible to complete a DD Form 2910 electing a Restricted Report of sexual assault in all cases EXCEPT:
 - Where the victim directly reported the sexual assault to Law Enforcement.
 - Or when the victim previously filed an Unrestricted Report with a signed DD Form 2910 for the same sexual assault.
 - This change refers to a victim's eligibility to file a DD Form 2910, electing a restricted report.

- Commanders statutory obligation to report a sexual assault that they are made aware of has not changed!!! They **MUST** still inform CID/Law Enforcement, SARC, and SJA once made aware.

- If the Soldier files a Restricted Report, Commanders will:
 - Not ask the SARC or SHARP VA any details about the Restricted Report.
 - Not seek to speak to the victim about the reported sexual assault.
- Victim may elect to decline participation in the investigation (540K Declination Letter) and should seek the advice of a Special Victims Counsel (SVC).
- If the victim fills out a DD Form 2910 electing a restricted reporting option, any services requested or provided will remain confidential and not be disclosed to law enforcement or command.

- Civilians are eligible to file Unrestricted Reports with a DD Form 2910 and receive SHARP Services.
 - Services of a SARC and VA:
 - ✓ Crisis Intervention
 - ✓ Safety Assessment
 - ✓ Safety Planning
 - ✓ Accompaniment to Appointments and Interviews
 - ✓ Case Management
- Civilians can also report sexual harassment directly to the Commander IAW 10 USC 1561.
- Sexual Harassment will be addressed by EEO/Labor Management and Employee Relations (LMER).

When a Commander is made aware of a sexual assault they must:

- Notify Local Law Enforcement/CID
- Notify SARC and VA
- Notify Legal
- Notify victim that they still have the option to file a Restricted Report
- Submit an 8 Day Report (formerly Sexual Assault Incident Response Oversight (SAIRO) report) (BN commander)
- As a reminder, at every CMG meeting, the CMG Chair will ask the CMG members if the victim, victim's family members, witnesses, bystanders (who intervened), SARCs and SAPR VAs, responders, or other parties to the incident have experienced any incidents of retaliation, reprisal, ostracism, or maltreatment. (DoDI 6495.02, change 4, 11 Sept 2020)



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DoD Safe Helpline: How it Works

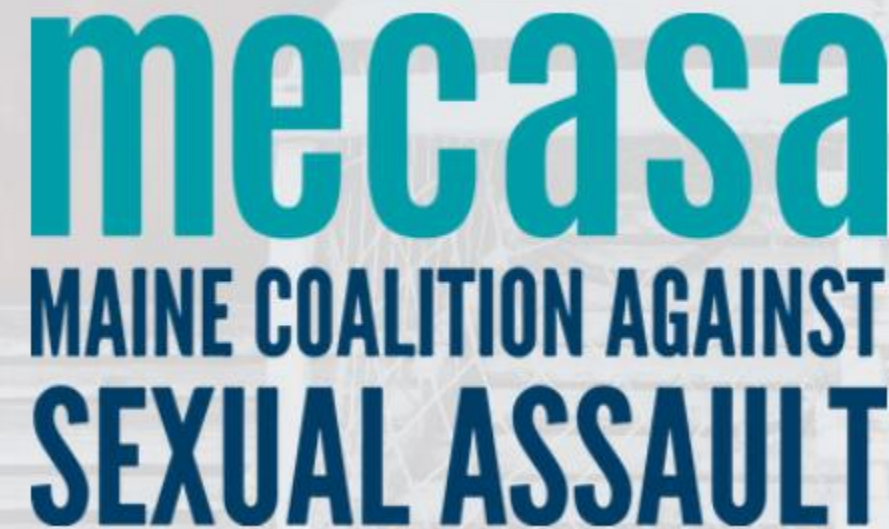
All Safe Helpline services are: anonymous, confidential, and tailored to support members of the DoD community and their loved ones affected by sexual assault.



Maine National Guard

Sexual Assault 24/7 Response Line

207-620-6335



mecasa
MAINE COALITION AGAINST
SEXUAL ASSAULT

Sexual Assault Helpline:

1-800-871-7741

free | private | 24/7

QUESTIONS?

- Use slide deck provided to train all leaders (squad leader and above, including civilian supervisors) NLT 30 September 2022

- References:
 - DODI 6495.02, Vol 1, Sexual Assault Prevention and Response: Program Procedures dated 10 November 2021
 - AR 600-20, Army Command Policy dated 24 July 2020
 - ADP 6-22, C1, Army Leadership and the Profession dated 25 November 2019
 - HQDA EXORD, 110-22 Sexual Assault Prevention and Response dated 16 February 2022