**Key References:**

ALARACT: 188/2014 HQDA EXORD 193-14 Screening of Sexual Harassment/ Assault Response and Prevention Program Personnel and Others in Identified Positions of Significant Trust.

AR 27-10 Military Justice

AR 195-2 Criminal Investigation Activities

AR 350-1 Army Training and Leader Development

AR 600-20 Army Command Policy

AR 614-200 Enlisted Assignments and Utilization Management

AR 690-600 Expedited Equal Employment Opportunity Discrimination Complaints

Army Directive 2014-20 Prohibition of Retaliation Against Soldiers for Reporting a Criminal Offense

Army Directive 2015-16 Command Engagement to Prevent Retaliation

DoDD 1030.01 Victim and Witness Assistance

DoDD 1350.2, Change 2, Department of Defense Military Equal Opportunity (MEO) Program

DoDD 6495.01, Change 3, Sexual Assault Prevention and Response (SAPR) Program

DoDD 7050.06 Military Whistleblower Protection

DoDI 1020.03 Harassment Prevention and Response in the Armed Forces

DoDI 6495.02, Change 3, Sexual Assault Prevention and Response (SAPR) Program Procedures

DoDI 6495.03 Defense Sexual Assault Advocate Certification Program (D-SAACP)

Manual for Courts-Martial, 2019 Edition, ART 120 (g)(8)

# Key Terms and Definitions:

**Anonymous Complaints** - Actions taken regarding anonymous complaints will depend upon the extent of information provided by complainants. If an anonymous complaint contains sufficient information to permit the initiation of an investigation, the investigation will be initiated by the commanding officer or supervisor in accordance with this instruction and any Service-specific guidance. If an anonymous complaint does not contain sufficient information to permit the initiation of an investigation, the information should be documented in a Memorandum for Record (MFR) and maintained on file in accordance with (IAW) disposition instructions and the central point of contact responsible for processing harassment complaints. The MFR should contain the following information, if available:

1. Date and time the information was received;

2. A detailed description of the facts and circumstances included in the complaint;

3. Date and time the complaint was resolved and by whom; and

4. Any other pertinent information. [DoDI 1020.03, paragraph 4.6]

**Confidential Communication** - Oral, written, or electronic communications of personally identifiable information (PII) concerning a sexual assault victim and the sexual assault incident provided by the victim to the SARC, SAPR VA, or healthcare personnel in a Restricted Report. This confidential communication includes the victim’s SAFE Kit and its information. [DoDD 6495.01, Glossary, Definitions]

**Consent -** (A) The term “consent” means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance does not constitute consent. Submission resulting from the use of force, threat of force, or placing another person in fear also does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent.

(B) A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely to cause death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or in fear or under the circumstances described in subparagraph (B) or (C) of subsection (b)(1).

(C) All the surrounding circumstances are to be considered in determining whether a person gave consent.

 [Article 120(g) (8), Uniform Code of Military Justice]

**Crisis Intervention -** Emergency non-clinical care aimed at assisting victims in alleviating potential negative consequences by providing safety assessments and connecting victims to needed resources. Either the SARC or SAPR VA will intervene as quickly as possible to assess the victim’s safety, determine the needs of victims, and connect them to appropriate referrals, as needed. [DoDD 6495.01, Glossary, Definitions]

**Defense Sexual Assault Incident Database (DSAID) -** A DoD database that captures uniform data provided by the Military Services and maintains all sexual assault data collected by the Military Services. This database shall be a centralized, case-level database for the uniform collection of data regarding incidence of sexual assaults involving persons covered by this Directive and Reference (c). DSAID will include information when available, or when not limited by Restricted Reporting, or otherwise prohibited by law, about the nature of the assault, the victim, the offender, and the disposition of reports associated with the assault. DSAID shall be available to the SAPRO and the DoD to develop and implement congressional reporting requirements. Unless authorized by law, or needed for internal DoD review or analysis, disclosure of data stored in DSAID will only be granted when disclosure is ordered by a military, Federal, or State judge or other officials or entities as required by a law or applicable U.S. international agreement. This term and its definition are proposed for inclusion in the next edition of Joint Publication 1-02 (Reference (r)). [DoDD 6495.01, Glossary, Definitions]

**Emergency -** A situation that requires immediate intervention to prevent the loss of life, limb, sight, or body tissue to prevent undue suffering. Regardless of appearance, a sexual assault victim needs immediate medical intervention to prevent loss of life or undue suffering resulting from physical injuries internal or external, sexually transmitted infections, pregnancy, or psychological distress. Sexual assault victims shall be given priority as emergency cases regardless of evidence of physical injury. [DoDD 6495.01, Glossary, Definitions]

**Emergency Care -** Emergency medical care includes physical and emergency psychological medical services and a SAFE consistent with Reference (i). [DoDD 6495.01, Glossary, Definitions]

**Formal Complaint – of sexual harassment** requires use of DA Form 7279 (Equal Opportunity Complaint Form), and complainants must swear to the accuracy of their allegations. The process contains specific timelines, and commands are required to include specific documentation. All formal sexual harassment complaints are reportable to higher headquarters. [AR 600-20, Appendix C]

**Gender-responsive care** - Care that acknowledges and is sensitive to gender differences and gender-specific issues. [DoDD 6495.01, Glossary, Definitions]

**Healthcare Personnel -** Persons assisting or otherwise supporting healthcare providers in providing healthcare services (e.g., administrative personnel assigned to a military medical treatment facility, or mental healthcare personnel). Healthcare personnel also includes all healthcare providers. [DoDI 6495.02, Glossary, Definitions]

**Hostile Environment -** A hostile environment occurs when Soldiers or Civilians are subjected to offensive, un- wanted 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). [AR 600-20, paragraph 7-6b]

**Informal Complaint -** of sexual harassment involve less severe or egregious incidents that can be resolved by the individual, with the help of another, and/or by the commander or other authority. Typically, these involve something a complainant believes can be resolved through discussion, problem identification, counseling, and/or clarification of the issues. Initiating an informal complaint does not require the complainant to submit anything in writing and is not subject to timelines. These cases are typically not required to be reported to higher headquarters, but aggregate data are sometimes reported to major commands. While those involved try to promote confidentiality throughout, it is not guaranteed or promised.  [[http://www.sexualassault.army.mil/faqs.cfm,](http://www.sexualassault.army.mil/faqs.cfm) and AR 600-20, Appendix C]

**Non-Identifiable Personal Information -** Non-identifiable personal information includes those facts and circumstances surrounding the sexual assault incident or that information about the individual that enables the identity of the individual to remain anonymous. In contrast, personal identifying information is information belonging to the victim and alleged assailant of a sexual assault that would disclose or have a tendency to disclose the person’s identity. [DoDD 6495.01, Glossary, Definitions]

**Online Misconduct –** The use of electronic communication to inflict harm. Examples include, but are not limited to: harassment, bullying, hazing, stalking, discrimination, retaliation, or any other types of misconduct that undermine dignity and respect. [ALARACT 058-2018, paragraph 3.B]

**Ostracism -** Consists of:

(1) with a nexus to military service, wrongfully excluding a military member from social acceptance or membership in or association with a group of which such military member was a part or a reasonable person would conclude wanted to be a part with the intent to do any of the following:

(a) inflict emotional distress on the military member (“emotional distress" means a highly unpleasant mental reaction, such as anguish, grief, fright. humiliation, or fury);

(b) discourage reporting of a criminal offense or sexual harassment; or

(c) otherwise discourage the due administration of justice concerning a criminal offense or sexual harassment; and

(2) because the perpetrator knew or believed that:

(a) the member reported or was planning to report a criminal offense or sexual harassment;

(b) the member was a victim or alleged victim of a criminal offense or sexual harassment;

(c) the member was reported by another as being the victim of a criminal offense or sexual harassment;

(d) the member intervened to prevent or attempt to prevent a criminal offense or sexual harassment from occurring; or

(e) the member cooperated in an investigation or the member has served or will or may serve as a witness or otherwise cooperate in the future in a criminal, disciplinary, or administrative proceeding or investigation involving a criminal offense or sexual harassment.

**Personal Identifiable Information (PII) -** Includes the person’s name, other particularly identifying descriptions (e.g., physical characteristics or identity by position, rank, or organization), or other information about the person or the facts and circumstances involved that could reasonably be understood to identify the person (e.g., a female in a particular squadron or barracks when there is only one female assigned). [DoDD 6495.01, Glossary, Definitions]

**Qualifying Conviction -** A State or Federal conviction, or a finding of guilty in a juvenile adjudication, for a felony crime of sexual assault and any general or special court-martial conviction for a UCMJ offense, which otherwise meets the elements of a crime of sexual assault, even though not classified as a felony or misdemeanor within the UCMJ. In addition, any offense that requires registration as a sex offender is a qualifying conviction. [DoDD 6495.01, Glossary, Definitions]

**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. [AR 600-20, paragraph 7-6a]

**Reprisal -** This term is defined for DoD purposes by DoDD 7050.06 (April 17, 2015) or subsequent editions of that issuance. That issuance defines reprisal as "Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing to make, or being perceived as making or preparing to make a protected communication.

**Restricted Reporting -** Reporting option that allows sexual assault victims to confidentially disclose the assault to specified individuals (i.e., SARC, SAPR VA, or health care personnel), and receive medical treatment, including emergency care, counseling, and assignment of a SARC and SAPR VA, without triggering an investigation. The victim’s report provided to healthcare personnel (including the information acquired from a SAFE Kit), SARCs, or SAPR VAs will NOT be reported to law enforcement or to the command to initiate the official investigative process unless the victim consents or an established EXCEPTION applies. The Restricted Reporting Program applies to Service members and their military dependents 18 years of age and older.

Additional persons who may be entitled to Restricted Reporting are NG and Reserve members. Army civilians and contractors, at this time, are only eligible to file an Unrestricted Report. Only a SARC, SAPR VA, or healthcare personnel may receive a Restricted Report, previously referred to as Confidential Reporting. [DoDI 6495.02, Glossary, Definitions]

**Restriction -** This term is defined for DoD purposes by DoDD 7050.06 (April 17, 2015) or subsequent editions of that issuance. That issuance defines restriction as: "Preventing or attempting to prevent a current Service member from making or preparing to make a lawful communication to a member of Congress or an IG."

**Retaliation -** IN GENERAL- Any person subject to this chapter who, with the intent to retaliate against any person for reporting or planning to report a criminal offense, or making or planning to make a protected communication, or with the intent to discourage any person from reporting a criminal offense or making or planning to make a protected communication-

(1) wrongfully takes or threatens to take an adverse personnel action against any person: or

(2) wrongfully withholds or threatens to withhold a favorable personnel action with respect to any person; shall be punished as a court-martial may direct.

**Sexual Assault Forensic Exam (SAFE) Kit -** The medical and forensic examination of a sexual assault victim under circumstances and controlled procedures to ensure the physical examination process and the collection, handling, analysis, testing, and safekeeping of any bodily specimens and evidence meet the requirements necessary for use as evidence in criminal proceedings. The victim’s SAFE Kit is treated as a confidential communication when conducted as part of a Restricted Report. This term and its definition are proposed for inclusion in the next edition of Reference (r). [DoDD 6495.01, Glossary, Definitions]

**Sexual Assault Response Coordinator (SARC) -** The single point of contact at an installation or within a geographic area who oversees sexual assault awareness, prevention, and response training; coordinates medical treatment, including emergency care, for victims of sexual assault; and tracks the services provided to a victim of sexual assault from the initial report through final disposition and resolution. This term and its definition are proposed for inclusion in the next edition of Reference (r). [DoDD 6495.01, Glossary, Definitions]

**Senior Commander -** An officer, usually in the grade of O-6 or higher, who is the commander of a military installation or comparable unit and has been designated by the Military Service concerned to oversee the SAPR Program. [DoDD 6495.01, Glossary, Definitions]

**Sexual Assault -**

Any person subject to this chapter who—

(1) Commits a sexual act upon another person by—

 (A) Threatening or placing that other person in fear;

 (B) Making a fraudulent representation that the sexual act serves a professional purpose; or

 (C) Inducing a belief by any artifice, pretense, or concealment that the person is another person;

(2) Commits a sexual act upon another person—

 (A) Without the consent of the other person; or

 (B) When the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring;

(3) Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to—

 (A) Impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or

 (B) A mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person; is guilty of sexual assault and shall be punished as a court-martial may direct.

IAW UCMJ (2019), Part IV Punitive Articles, 60. Article 120 – Rape and Sexual Assault Generally, page IV- 84

**Sexual Contact** -- Touching, or causing another person to touch, either directly or through the clothing, the vulva, penis, scrotum, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object. [Military Justice Act (MJA) of 2016]

**Sexual Harassment -** Sexual harassment is

(1) Conduct that:

(A) involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when-

(i) submission to such conduct is made either explicitly or implicitly a term or condition of a person’s job, pay, or career;

(ii) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(iii) 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; and

(B) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

(2) Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the Armed Forces or a civilian employee of the Department of Defense.

(3) Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the Armed Forces or civilian employee of the Department of Defense. [USC Title 10, Section 1561]

**Social Media -** Social media are web-based tools, websites, applications, and media that connect users and allow them to engage in dialogue, share information, collaborate, and interact.

**Unrestricted Reporting -** A Soldier who is sexually assaulted and desires medical treatment, counseling and an official investigation of his or her allegation should use current reporting channels (for example, chain of command, law enforcement or report the incident to the SARC). Upon notification of a reported sexual assault, the SARC will immediately assign a VA. Healthcare providers will, with the consent of the victim, initiate the appropriate care and treatment, and report the sexual assault to law enforcement or the chain of command. Additionally, at the victim’s 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. [AR 600-20, Appendix G]

**Victim -** A person who asserts direct physical, emotional, or pecuniary harm because of the commission of a sexual assault. The term encompasses all persons 18 and over eligible to receive treatment in military medical treatment facilities; however, the Restricted Reporting Program applies to Service members and their military dependents 18 years of age and older. For additional persons who may be entitled to Restricted Reporting, see eligibility criteria in DoDD 6495.01.

**Victim Advocate (VA) -** A person who, as a victim advocate, shall provide non-clinical crisis intervention, referral, and ongoing non-clinical support to adult sexual assault victims. Support will include providing information on available options and resources to victims. The SAPR VA, on behalf of the sexual assault victim, provides liaison assistance with other organizations and agencies on victim care matters and reports directly to the SARC when performing victim advocacy duties. [AR 600-20, paragraph 8-5s]