NATIONAL GUARD BUREAU
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NGB-J1 5 October 2009

MEMORANDUM FOR ALL JOINT FORCE HEADQUARTERS DIRECTORS OF MANPOWER AND PERSONNEL

SUBJECT: Commander's Responsibilities for Responding to Allegations of Sexual Assault

1. References:

a. Department of Defense Instruction 6495.02, Encl 5, Attach A1, 13 Nov 08

b. Army Regulation 600-20, Chapter 8, Appendix G, 11 Feb 09

c. Air Force Instruction 36-6001, Attachment 2, 29 Sep 08

2. Commanders have the responsibility to ensure every National Guard service member who reports a sexual assault is treated with the utmost respect and care throughout any investigative process. The Commander's Checklist has been developed as a tool to prevent further harm and victimization and to do everything possible to maintain readiness and retention. It is also designed to help ensure the appropriate balance between an alleged sexual assault victim's right to feel secure and the subject's right to due process under the law. The checklist details the actions to be taken in the event a commander receives a report of a sexual assault.

3. Every reported sexual assault will be treated seriously and victims will be afforded dignity and fairness. Commanders will take immediate steps to ensure the victim's physical safety, emotional security, and medical treatment needs are met, and the appropriate civilian and military authorities are notified. Additionally, the victim's unit commander must take these necessary actions:

a. Work with the commander of the accused (if different than the victim's commander), until there is a final legal disposition of the allegation or any physical safety and/or emotional security issues are resolved.

b. Assess and determine the need for temporary reassignment of the victim or the accused being investigated. To the maximum extent possible, commanders should consider the victim's desires prior to any reassignment decision.

4. Questions concerning this memorandum should be addressed to LTC Alfranda Durr, Chief, Sexual Assault Prevention and Response, 703-607-1460, DSN 327-1460, or

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LAWRENCE H. ROSS
Major General, USA
Director, Manpower and Personnel
National Guard Bureau

Encl:
Commander's Sexual Assault Victim Assistance Checklist

CF:
JFHQ-State-COS
JFHQ-State-DS

National Guard Bureau
Sexual Assault Prevention and Response Program

Commander's Sexual Assault Victim Assistance Checklist

(Note: These actions are to be taken in the event of receiving a report of sexual assault. Verify that the following actions have been completed).

Upon receiving report, Commander will contact the State JFHQ SARC IMMEDIATELY

1. _____Ensure the physical safety of the victim – determine if the alleged assailant is still nearby and if the victim needs protection.

2. _____Ensure the victim is advised of the need to preserve evidence (e.g., not bathing, showering, washing garments and encourage the victim to refer to a hospital for a medical examination immediately (even if the incident occurred prior to the past 72 hours).

3. _____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).

4. _____Notify the Chaplain if the victim desires pastoral counseling or assistance.

5. _____Report the sexual assault incident, within 24 hours of receipt, through the chain of command to the following, if entities have not been notified :

   _____ Civilian/Military Authorities

   _____ Commanders in the chain of command (as appropriate)

   _____ Judge Advocate

6. _____Ensure the Civilian/Military Authorities notify victims and witnesses of their rights through a completed Victims and Witnesses of Crime form, DD Form 2701, or civilian equivalent. (Reference AR 27-10 and AR 600-20, Appendix G).

7. _____Ensure the victim is made aware of, and encouraged to exercise their options during each phase of the medical, investigative, and legal processes.

8. _____Determine the best courses of action for separating the victim and the subject during the investigation. Options available may be:

   - ❑ Determine whether the victim desires to be transferred to another unit.
   - ❑ Determine if the suspect needs/desires to be transferred to another unit.
   - ❑ Coordinate with sexual assault resources and 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/reassignment.
   - ❑ Military Protection Order (MPO) and or Civilian Protective Order (CPO).

9. _____Ensure the victim is aware of available resources.

10. _____Ensure the victim receives monthly reports regarding the status of the sexual assault investigation and or prosecution.

11. _____Initiate follow-up with the victim within 45 days after disposition of the case.

12. _____Consider deferring discipline for victim misconduct until the final disposition of the case IAW DoDD 6495.01 and DoDI 6495.02.