



INDIANA NATIONAL GUARD
JOINT FORCE HEADQUARTERS
2002 SOUTH HOLT ROAD
INDIANAPOLIS, INDIANA 46241-4839



NGIN-AG

1 October 2014

MEMORANDUM FOR ALL MEMBERS OF THE INDIANA NATIONAL GUARD

SUBJECT: Policy Number 32-14, Sexual Assault Prevention and Response (SAPR)

1. **Sexual violence is a crime.** It will not be tolerated in the Indiana National Guard (INNG) and it is contrary to our values. We must develop an organizational culture where those who bring forward allegations of sexual assault or harassment are protected; treated with extreme sensitivity and discretion; are not stigmatized for reporting; and suffer no harm regarding personal or professional advancement. Sexual assault and harassment have a life-long debilitating impact on victims. Both undermine unit cohesion and combat readiness. Failure of the chain of command to deliberately, immediately, aggressively, and thoroughly investigate any allegation permanently erodes trust in leadership and adds further professional injury to the victim. Once investigated, commanders must bring the matter to closure and appropriately address findings and conclusions consistent with the evidence.

2. **Sexism must be treated like racism.** Every member and employee of the Indiana National Guard - Army, Air, state employee, or contractor must immediately and openly condemn any sexist remark or behavior as if it were a remark about race, ethnicity, national origin, religious belief, or sexual orientation. There can be no tolerance in our agency for a "permissive environment which implicitly condones sexism as a form of de facto sexual harassment. This is not about political correctness;" it is about professional conduct in a professional institution generating trust, cohesion, readiness, mission accomplishment, and fostering personal and professional growth.

3. **Sexual Assault** is defined as intentional sexual contact characterized by the use of force, physical threat or abuse of authority, or- when a victim does not or cannot consent. Sexual assault includes rape, non-consensual sodomy, indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender, spousal relationship, or age of victim. 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 sexual conduct at issue shall not constitute consent. *Consent is a given agreement to the conduct at issue by a competent person and shall 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, coercion, or when the victim is asleep, incapacitated, or unconscious.*

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4. **Sexual Harassment** is defined as a form of gender discrimination which involves unwelcomed sexual advances and attention; requests for sexual favors; and other verbal, physical, or written conduct of a sexual nature that creates a hostile work environment or makes someone's job or career advancement a condition of their participation in the request for sexual favors (i.e. "quid pro quo"). Complaints and reports of sexual harassment remain the responsibility of the State Equal Employment Manager (SEEM) and are processed by Equal Opportunity Advisors (EOA) at the ARNG O-6 level commands and ANG Wings. The SEEM can be reached at 317-247-3237.

5. **Investigations.** Commanders will *not* conduct investigations of sexual assault allegations. Investigations of allegations of sexual assault will only be conducted by a local law enforcement agency, a Military Criminal Investigation Organization (MCIO), or the National Guard Bureau Office of Complex Investigations (OCI). If local law enforcement or an MCIO declines to investigate a sexual assault allegation then the Adjutant General will request an OCI investigation. The National Guard Bureau Office of Complex Investigations provides trained sexual assault investigators, when requested, to ensure there is no real or perceived conflict of interest or undue command authority in the investigation.

6. **Disposition.** Once the investigation is completed, the Deciding Authority for military disposition of the case will be a commander in the grade of O-5 or higher. The first General Officer in the chain of command will review all sexual assault investigations and provide, in writing to The Adjutant General, notice of all findings, conclusions, dispositions, "lessons learned", and, if appropriate, recommendations on revisions or refinements to this policy.

7. **Flagging.** When an individual is alleged to have committed sexual assault, the first O-5 Commander in the chain of command shall take the following actions:

a. Army – Indiana Army National Guard commanders shall take the following actions: Under AR 600-20, paragraph 8-5(o)(32), unit commanders must 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.

b. Air – Indiana Air National Guard commanders shall take the following actions:

1) Under AFI 31-501, Chapter 8, a suspect's immediate commander shall consult with the servicing SJA regarding the suspension of the security clearance and the establishment of a Security Information File.

2) For enlisted, under AFI 36-2502, para 4.2.4, a commander will withhold an Airman's promotion if he or she is under investigation.

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3) For Officers, under AFI 36-2504 Chapter 7, the Wing Commander will initiate a Propriety of Promotion action, which may include a delay of promotion, removal of an officer's name from a promotion list, or information presented to the SAF or a selection board indicating an officer may not be qualified for promotion.

8. **OER and NCOER Comments.** Army Rating officials are responsible for properly evaluating Officer and NCO support of, and compliance, with the Army SHARP Program objectives. Rating Officials will prepare all OERs and NCOERs per guidance found in AR 623-3, Personnel Evaluation - Evaluation Reporting System, paragraph 2-12 j., dated 31 March 2014.

9. **"No One Alone".** The "No One Alone" policy (AG-IN Policy Number 27-05) implemented in 2005 for Indiana Army and Air National Guard recruiters remains in effect. This 2005 policy directs that no recruiter (full-time, part-time, or temporary full-time) will be alone with or travel together with an applicant or new recruit of the opposite gender without another person present.

11. **Compliance.** Leaders at all levels in the Indiana National Guard will ensure implementation of and compliance with the Sexual Assault and Prevention Response (SAPR) program in spirit, intent, and written policy. Commanders, supervisors, and enlisted leaders down to the lowest level will become informed of the policies which govern this program. Leaders will place special emphasis on ensuring every allegation of sexual assault is deliberately, immediately, aggressively, and thoroughly investigated and appropriate action is taken. Every leader must take an active role in educating our service members about the debilitating impact of sexual assault and harassment on our units and our service members. Equally important is ensuring all victims are treated with care and dignity and protected against reprisal for reporting.

13. **This policy is punitive in nature and violations are subject to action under the Uniform Code of Military Justice.**

14. **This policy will be prominently displayed on unit bulletin boards and web sites, shared via official social media sites, and a copy provided to each service member and employee of the Indiana National Guard.**

15. The Sexual Assault Response Coordinator (SARC) for the Indiana National Guard can be reached at 1-800-237-2850 x85475 (cell 317-690-6650). Questions regarding this policy may be addressed to the Director of Civil-Military Operations (J-9) at 317-247-3300 x85450 (cell 317-605-8596).



R. MARTIN UMBARGER
Major General, INARNG
The Adjutant General