

Reporting a sexual assault

The intent of the Sexual Assault Prevention and Response (SAPR) program is to provide support, advocacy, and care for each individual who chooses to report a sexual assault. This includes “what happens next”, including the choice of reporting options. Optimally, the victim decides what happens. There are circumstances where this may not be possible, that is to say, the victim may not have control over everything, which will be discussed here as well.

One important point to consider here is, besides the victim, does anyone else know? What information has the victim shared with others? Do the parents know? Friends? Roommates? Significant others? Team mates? Were others present, were there witnesses? This information is not under the control of the victim.

The information provided here is brief and not meant to be all-encompassing or to answer every question. For more detailed information, please contact the SAPR office at 333-5389.

What is a restricted report?

Bottom line: “no one finds out”. The intent of the restricted report is to enable the victim to make a *confidential* report of their sexual assault and receive help. This option does not trigger an investigation and leadership does not find out.

Here is a short excerpt from the SAPR AFI 90-6001 that discusses restricted reporting:

3.1.3. DoD has directed the implementation of confidentiality in the form of a restricted reporting option. This reporting option is intended to remove barriers to medical care and support while giving the victim additional time and increased control over the release and management of personal information.

To officially make a restricted report, you must sign *DD Form 2910*. The SAPR office will assist with this, providing complete information and a full explanation of this form.

What kind of help is available?

Regardless of which reporting option a victim chooses there are many resources and support options available. These include medical; legal, victim advocacy, counseling (chaplain, Peak Performance Center, Mental Health, TESSA (downtown Colorado Springs)), and civilian counselors (primarily off base). Other “less traditional” assistance can come from coaches, instructors, faculty, team mates, and related individuals.

SARC and Victim Advocates

Initial reporting is usually made with the Sexual Assault Response Coordinator (SARC) and/or a Victim Advocate. The SARC and Victim Advocates (VA) are available during duty hours, located in Arnold Hall, in room 180. They are available 24/7 by phone, by dialing 719-333-7272. The SARC is the “center of gravity” for victims of sexual assault, they insure all the proper paperwork is signed, and that support and care is provided to each victim who reports an assault. SARCs provide

oversight of each victim who reports, they manage the Case Management Team and ensure each victim is receiving adequate support including academics, athletics, medical, squadron, family, and anything else concerning care of the victim. SARC's assign a victim advocate to each victim who reports an assault. The Victim advocate is there to provide support and advocacy to the victim they are assigned to: the type of care they provide is unique for each victim! The VA is someone the victim can call at 2 am if they are struggling, and need someone to talk to. Their VA can provide a ride to an appointment, or take the victim to get a cup of coffee. They are there for the victim, not as a counselor, but as a support person. The VA can get questions answered, and get additional resources if needed, for the victim.

Medical Care

Medical assistance may be confidential and ranges from a forensic (evidence collecting) exam, to a medical exam to insure the victim is ok medically. Sexual Assault Forensic Exams (SAFE) are conducted off-base at Memorial Hospital Central. Both SAFE and medical exams may include checks for sexually transmitted disease, pregnancy, or any injury that may have occurred during the assault. Treatment is also available, with follow-up care available as well. Plan B is also an option. Even with a restricted report, a forensic exam may be performed, with the evidence submitted anonymously to law enforcement (a non-identifying case number is issued, only the SAPR office knows the identity); and, the evidence is kept for five years. Near the end of that time, law enforcement notifies the SAPR office, who in turn notify the victim, to see if the victim is interested in changing their reporting option.

A cadet or permanent party airman (or eligible civilian) may have a medical exam performed on-base, SAFE capabilities are only available at Memorial Hospital Central. Plan B is available on-base, at Memorial Central, at Planned Parenthood, and at most pharmacies (no prescription is necessary).

Is legal assistance available for restricted reports?

A victim who elects the restricted reporting option may choose to have a Special Victim's Counsel or SVC. This is a specially trained Judge Advocate attorney who is assigned to represent the victim and has attorney-client privilege once assigned. The SVC is permitted to attend all meetings with the victim they represent including OSI interviews (if the victim elects to change their reporting option to unrestricted). The SVC provides legal process information regarding the investigation and legal proceedings including Article 32 Hearings and Court Martial and is able to answer questions.

There is no military protection order available for restricted reporting

This is one down side of this reporting option, since leadership/command is not aware of the assault nor is OSI or security forces. Because of this, they are not able to issue "No Contact" or Military Protective Orders.

What type of counseling is available?

For cadets, the Peak Performance Center is available during duty hours, they are located in Sijan Hall. They have flexibility with scheduling, as they understand cadets are very busy. Chaplains are also available to work with cadets and airmen who are victims of sexual assault. Mental Health offers services. TESSA is an off-base community center that provides services on a sliding-pay

scale; they specialize in domestic violence and sexual violence/sexual assault programs. Their services include individual and group counseling.

What is an unrestricted report?

An unrestricted report triggers an investigation with law enforcement and command is notified. Support services are available and the victim may also elect to have an SVC. This type of report also activates victim services as well as accountability.

Safety and Military Protective Orders (No Contact Orders)

Because investigators and command are aware of the unrestricted report, if you as a victim feel unsafe, a protective order may be requested. To initiate a protective order, speak to your commander or AOC. Typically protective orders are issued to both the victim and the “subject” (named offender”) of the investigation. Protective orders are issued based on the circumstances.

*****WORD OF CAUTION** If you feel in immediate danger call 911 right away**

Who can I talk to, confidentially?

There are differences between confidentiality, “privileged communication”, “attorney-client” privilege, “patient-client” communication, and a “restricted report”. Each type of these communications is defined by law, and is dependent upon who you are talking to, the relationship you have with the individual, and the circumstances of your relationship. For restricted reporting, the only individuals who can take a restricted report are SARCs, VAs, VVAs, and medical personnel under certain circumstances.

You may also confidentially speak to the DoD Safe Helpline at: <http://safehelpline.org> or 877-995-5247.

There are also individuals who are defined as “mandatory reporters” in reference to sexual assault. Mandatory reporters are individuals who, when they receive information that a sexual assault has occurred, must report that information to OSI. These individuals include all military members or civilian employees supervising someone involved (including Commanders, AOCs, First Sergeants, and AMTs of those they supervise), law enforcement, equal opportunity personnel, Military OneSource, and law enforcement.

What if I don’t want to make a report, but my leadership finds out?

This is called a “third party” or independent report, and this does happen sometimes. If a Commander, AOC, First Sergeant, AMT, or other supervisor in your supervisory chain, finds out about your assault, they are considered “mandatory” reporters and must report to OSI. Additionally, any other person who knows and reports to law enforcement can start an independent report; therefore, you should be careful who you discuss your facts with and should consider only speaking to someone who can maintain confidentiality

What if I was drinking underage, and was assaulted? Won't I get in trouble for that if I report?

Underage drinking, fraternization, intimate behavior behind closed doors, adultery, or other violations of certain regulation, or orders...are all examples of "collateral misconduct". This is behavior that happens in conjunction with a sexual assault. It is also a major barrier or reason why many victims do not report sexual assault: they do not want to get in trouble or be punished for the misbehavior associated with the sexual assault.

For restricted reports, collateral misconduct disclosed in conjunction with a sexual assault report to a SARC VA, or VVA is not reported to law enforcement or leadership. This is to permit victims to seek help. There are few exceptions to disclosing a restricted reporting per AFI 90-6001; primarily harm to self, or to others, when ordered by a judge, and several others.

For unrestricted reports, per AFI 90-6001:

6.4.2 Commanders (or equivalent) are responsible for addressing collateral victim misconduct in a manner that is consistent and appropriate with the circumstances.

6.4.3. Commanders (or equivalent) have the authority to determine the appropriate disposition of alleged victim misconduct, to include deferring disciplinary action until after disposition of the sexual assault case.....When considering what corrective actions may be appropriate, balance the objectives of holding members accountable for their own misconduct with the intent to avoid unnecessary additional trauma to sexual assault victims and the goal of encouraging sexual assault reporting.

What this translates to is, Commanders are responsible for conducting good order and discipline, but they may delay any punitive action for victims, they may also choose to not punish the victim at all, or they may choose a "lesser" punishment for the victim.

What if I'm assaulted but do not want to participate in the investigation or legal process?

A victim does not have to participate in the investigative nor the legal process, however, OSI, SFS, JA, and leadership can and may conduct an investigation and move forward to a hearing and trial without the victim's participation.

If a victim elects the restricted reporting option, signs the DD Form 2910 before leadership and investigators learn of the sexual assault, that information is protected.

All communication with the SARC, SAPR VA or VVA, is protected communication under Military Rules of Evidence (514).

Investigators and JA may talk to individuals who they think may have information about the assault. This may include friends, roommates, team mates and related individuals.

Here is what AFI 90-6001 says:

3.6. Non-Participating Victim. For victims not selecting either restricted or unrestricted reporting, the following guidelines apply:

3.6.1. Only those personnel who have an official need to know will have access to the details regarding the incident (**T-0**). The victim's decision to decline to participate in an investigation or prosecution should be honored by all personnel charged with the investigation and prosecution of sexual assault cases, including, but not limited to, commanders (or equivalent), DoD law enforcement officials, and personnel in the victim's chain of command. If at any time the victim who originally chose the unrestricted reporting option declines to participate in an investigation or prosecution, that decision should be honored IAW this subparagraph. The victim should be informed by the SARC, SAPR VA, or VVA that the investigation may continue regardless of whether the victim participates.

3.6.2. The victim's decision to decline to participate in an investigation or prosecution does not limit the commander's authority to ensure good order and discipline of his or her unit. In general, commanders (or equivalent) should defer to the decision made by the victim not to participate and not order a victim to testify or answer interview questions when the victim declines to voluntarily do so. Prior to ordering a victim to participate in any stage of the investigation or prosecution, commanders (or equivalent) are required to consult with the General Court-Martial Convening

What if I'm not sure I want to make a report? If I talk to the SARC or a Victim Advocate, do they tell my commander or AOC? Do they call OSI?

You are not alone in feeling this way!

This is a very common question, and concern. Many people who are assaulted are not sure they want to make a report, and most are anxious or even afraid to talk to anyone about it. Those feelings are very normal. We encourage you to call, or stop in and talk to the SARC or Victim Advocate and discuss your concerns. You can have a trusted friend call, or come in with you, if that helps. You don't have to give any details of what happened, you can simply talk about your concerns, or worries, and then, see how you feel. Nothing you say to the SARC or VA is reported to anyone: all communication is confidential. **No one finds out.** The SARC and VA are there solely to help and support you, and find out what you need. Whether you decide to make a report or not is totally your choice. What is most important is that you are safe, that you understand it is normal and very common to feel anxious after being assaulted, and that you know there is someone there who wants to help, and that they are available to talk to you 24/7.

The restricted reporting option gives the "gift of time" to the victim, to allow time to think over options discussed with the SARC or Victim Advocate. Talking to the Special Victim's Counsel is especially helpful if one is uncertain of what to do. A huge benefit of the Special Victim's Counsel is their ability to discuss the legal and investigative process **before** that process actually begins, to manage expectations of what could happen. Each case is different, but the process is essentially the same.

What can I expect if I call or stop in the SAPR office to make a report?

If calling by phone, you will likely be asked if you are safe, or in a place where you can talk or speak freely. You will also be asked if you have any immediate medical/safety needs, and if so, would you like to have an exam/be taken for an exam at Memorial Hospital by the SARC or a Victim Advocate? The SARC or VA will ask what they can do to help. In person, similar questions are asked initially. Remember, you can have a trusted friend call or go into the office with you, if you elect a medical exam they can also accompany you there. There is certain information the SARC/VA will ask you. You do not have to go into detail about the incident, or share any detail about the incident if you do

not wish to do so. Speak at a pace you are comfortable with, and share information as you are comfortable as well! You are in control of the information you share. All information you share with the SARC and VA is confidential, with the exception of self-harm or harm to others. You will be asked if you would like to make a report, and both reporting options will be explained to you in full detail. You may ask questions about the reporting options. The Special Victim's Counsel will be offered to you, and the role of that individual explained. If possible, you may be able to meet with the SVC that same day/time. You do not have to complete or sign any forms or paperwork, that is your choice. You may defer to do that at a later date, or decide to not complete paperwork at all.

Please note, there is good reason to complete the DD form 2910:

- It provides legal documentation of your sexual assault for Veteran's Affairs (VA) for benefits
- DD For 2910, for restricted cases, provides confidentiality of information

What paperwork do I sign, and, what happens with the paperwork if I sign it?

For a restricted report, you only sign one form, the DD Form 2910, election of reporting option. On this form, you also initial all the information on the form as it is explained to you. No one sees this form. You are advised to keep a copy of this form. The DD Form 2910 is kept for 50 years, and the importance of this form is underscored in AFI 90-6001:

5.3.5.3. The victim will be advised again to keep copies of the DD Form 2910 and the DD Form 2911 (*DoD Sexual Assault Examination Report, if applicable*) as these forms may be used by the victim in other matters with other agencies (e.g. Department of Veterans Affairs) or for any other lawful purpose.

If you have any questions that were not answered here, please contact the SAPR office:

Administrative Number: 719-333-5389

To report a sexual assault or speak with the SARC or a Victim Advocate: 719-333-7272