Department of Defense
DIRECTIVE

NUMBER 6495.01
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USD(P&R)

SUBJECT: Sexual Assault Prevention and Response (SAPR) Program

References: (a) Section 113 of title 10, United States Code
(b) Under Secretary of Defense for Personnel and Readiness Memorandum, Collateral Misconduct in Sexual Assault Cases (JTF-SAPR-001)," November 12, 2004
(c) Under Secretary of Defense for Personnel and Readiness Memorandum, "Increased Victim Support and A Better Accounting of Sexual Assault Cases (JTF-SAPR-002)," November 22, 2004
(d) Under Secretary of Defense for Personnel and Readiness Memorandum, "Data Call for CY04 Sexual Assaults (JTF-SAPR-003)," November 22, 2004
(e) through (w), see enclosure 1

1. PURPOSE

1.1. Pursuant to reference (a), this Directive establishes a comprehensive DoD policy on prevention and response to sexual assaults according to the guidance in references (b) through (d), and the Under Secretary of Defense for Personnel and Readiness (USD(P&R)) memoranda JTF-SAPR-004; JTF-SAPR-005; JTF-SAPR-006; JTF-SAPR-007; JTF-SAPR-008; the Deputy Secretary of Defense memorandum dated March 16, 2005; JTF-SAPR-009; and the USD(P&R) memoranda JTF-SAPR-010, JTF-SAPR-011, JTF-SAPR-012, JTF-SAPR-013, and JTF-SAPR-014 (references (e) through (o)).

1.2. Supersedes all regulatory and policy guidance within the Department of Defense not expressly mandated by law that are inconsistent with its provisions, or would preclude execution.

2. APPLICABILITY AND SCOPE

This Directive applies to:

2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The

term "Military Services," as used herein, refers to the Army, the Navy, the Marine Corps, and the Air Force, including their National Guard and Reserve components.

2.2. The National Guard and Reserve members who report they are victims of sexual assault when performing active and inactive duty (as defined in Section 101(d)(3) of title 10, United States Code (reference (t)).

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2 and shall be uniformly applied in implementing DoD instructions and regulations issued by the Secretaries of the Military Departments.

4. POLICY

It is DoD policy to:

4.1. Eliminate sexual assault within the Department of Defense by providing a culture of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and well-being of all its members.

4.2. Provide standardized requirements, guidelines, protocols, and instructional materials focused on awareness and prevention at all levels as appropriate.

4.3. Provide an immediate, trained response capability for each report of sexual assault in all locations, including deployed locations, and ensure victims of sexual assault are protected, treated with dignity and respect, and receive timely access to appropriate treatment and services.

4.4. Ensure strong support of effective command awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held accountable for their actions, which includes the possibility of prosecution for committing acts of sexual assault.

4.5. Encourage complete, unrestricted reporting of sexual assaults to achieve the objectives in paragraph 4.4. of this Directive.

4.6. Provide a restricted reporting option that allows a Service member who is sexually assaulted to confidentially disclose, in accordance with DoD Directive 5400.11 (reference (q)), the details of his or her assault to specified individuals and receive medical treatment, counseling, and advocacy without automatically triggering the official investigative process. See enclosure 3.

4.7. Prohibit the enlistment or commissioning of personnel in the active duty Armed Forces, National Guard or Reserve components when the person has a qualifying conviction (see paragraph E2.1.8.) for a crime of sexual assault.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel Readiness (USD(P&R)) shall:

5.1.1. Oversee the Sexual Assault Prevention and Response Office (SAPRO). This organization addresses DoD sexual assault policy matters, except criminal investigative policy matters assigned to the DoD Inspector General.

5.1.2. Acquire the quarterly and annual sexual assault prevention and response data from the Military Services and assemble the annual reports involving members of the Armed Forces.

5.1.3. Develop overall policy and provide guidance for the DoD Sexual Assault Prevention and Response (SAPR) Program, except criminal investigative policy matters assigned to the DoD Inspector General.

5.1.4. Monitor compliance with this Directive.

5.1.5. Provide guidance and technical assistance to the Heads of the DoD Components in addressing matters concerning sexual assault prevention and response.

5.1.6. Develop strategic program guidance, joint planning objectives, and identify legislative changes needed to ensure the future availability of resources in support of DoD sexual assault prevention and response policies.

5.1.7. Develop metrics to measure compliance and the effectiveness of sexual assault prevention and response training and awareness objectives. Review and analyze data collected by the Military Services.

5.1.8. Maintain sexual assault data collected from the Military Services in the Defense Incident-Based Reporting System (DIBRS) (see DoD Directive 7730.47, reference (r)). This system meets uniform federal crime reporting and statutory requirements, and serves as a DoD source for internal and external response requests for statistical data on criminal offenses.

5.1.9. Establish reporting categories and monitor specific goals included in the annual sexual assault prevention and response assessments of each Military Service.

5.1.10. Collaborate with Federal and State Agencies that address sexual assault prevention and response issues and serve as liaison to their committees and advisory groups as appropriate.

5.2. The Assistant Secretary of Defense for Health Affairs (ASD(HA)), under the USD(P&R), shall recommend the Department's Sexual Assault healthcare policies, clinical practice guidelines, related procedures, and standards governing the Department of Defense healthcare programs for victims of sexual assault.

5.3. The General Counsel of the Department of Defense shall provide advice and assistance on all legal matters, to include the review and coordination on all proposed policies, regulations, directives, instructions, proposed exceptions to policy, and the review of all legislative proposals affecting mission and responsibilities of the SAPRO.

5.4. The Inspector General of the Department of Defense shall:

5.4.1. Develop and/or oversee the promulgation of criminal investigative and law enforcement policy regarding sexual assault and establish guidelines for the collection and preservation of evidence with non-identifying information on the alleged victim, under the restricted reporting process, in coordination with the ASD(HA).

5.4.2. Oversee criminal investigations of sexual assault conducted by the DoD Components and sexual assault training within the DoD law enforcement community.

5.4.3. Collaborate with the SAPRO on sexual assault matters.

5.5. The Secretaries of the Military Departments shall:

5.5.1. Ensure compliance with this Directive and establish policies and procedures to implement this program within their cognizance and consistent with the provisions of this Directive.

5.5.2. Program appropriate resources to enable the Combatant Commands to achieve compliance with the policies set forth in this Directive.

5.5.3. Provide program and obligation data to the Principal Deputy Under Secretary of Defense for Personnel and Readiness, as required.

5.5.4. Establish and codify support to Combatant Commands and Defense Agencies, either as a host activity or in a deployed environment.

5.5.5. Provide annual reports of sexual assaults involving Service members to the SAPRO for consolidation into the annual report to Congress according to reference (a).

5.6. The Chairman of the Joint Chiefs of Staff shall:

5.6.1. Assess SAPR as part of the overall force planning function of any force deployment decision. Periodically, reassess the SAPR posture of deployed forces. Review the Combatant Commanders' joint plans, deployment orders, and other relevant documents for SAPR considerations.

5.6.2. Monitor policy implementation of this Directive and implementing instructions during military operations.

5.7. The Commanders of the Combatant Commands, through the Chairman of the Joint Chiefs of Staff and the Directors of Defense Agencies, under their OSD Principal Staff Assistants who report directly to the Secretary or Deputy Secretary of Defense, shall:

5.7.1. Ensure compliance with this Directive, and establish policies and procedures to implement the SAPR Program within their areas of responsibility. When the Combatant Commanders and Defense Agencies rely on the installation host Service or a component theater commander to provide investigation, legal, medical and counseling support, these relationships should be formally established and published.

5.7.2. Ensure joint operational plans, development orders, and other relevant documents establish theater-level requirements for prevention and response to incidents of sexual assault that occur during military operations.

6. INFORMATION REQUIREMENTS

The sexual assault reporting requirements in Directive have been assigned Report Control Symbol (RCS) DD-P&R(A) 2205 in accordance with DoD 8910.1-M (reference (s)).

7. EFFECTIVE DATE

This Directive is effective immediately.

Gordon England
Acting Deputy Secretary of Defense

Enclosures - 3
E1. References, continued
E2. Definitions
E3. Confidential Reporting Policy for Victims of Sexual Assault

E1. ENCLOSURE 1

REFERENCES, continued

(e) Under Secretary of Defense for Personnel and Readiness Memorandum, "Review of Administrative Separation Actions Involving Victims of Sexual Assault (JTF-SAPR-004)," November 22, 2004
(f) Under Secretary of Defense for Personnel and Readiness Memorandum, "Commander Checklist for Responding to Allegations of Sexual Assault (JTF-SAPR-005)," December 15, 2004
(g) Under Secretary of Defense for Personnel and Readiness Memorandum, "Department of Defense (DoD) Definition of Sexual Assault (JTF-SAPR-006),"December 13, 2004
(h) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for DoD Personnel on Sexual Assault Prevention & Response (JTF-SAPR-007)," December 13, 2004
(i) Under Secretary of Defense for Personnel and Readiness Memorandum, "Response Capability for Sexual Assault (JTF-SAPR-008)," December 17, 2004
(j) Deputy Secretary for Defense Memorandum, "Confidentiality Policy for Victims of Sexual Assault (JTF-SAPR-009)," March 16, 2005
(k) Under Secretary of Defense for Personnel and Readiness Memorandum, "Collaboration with Civilian Authorities for Sexual Assault Victim Support (JTF-SAPR-010)," December 17, 2004
(l) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for Sexual Assault Response Training (JTF-SAPR-011)," December 17, 2004
(m) Under Secretary of Defense for Personnel and Readiness Memorandum, "Training Standards for Pre-Deployment Information on Sexual Assault and Response Training (JTF-SAPR-012)," December 13, 2004
(n) Under Secretary of Defense for Personnel and Readiness Memorandum, "Essential Training Tasks for a Sexual Assault Response Capability (JTF-SAPR-013)," April 26, 2005
(o) Under Secretary of Defense for Personnel and Readiness Memorandum, "Sexual Assault Evidence Collection and Preservation Under Restricted Reporting (JTF-SAPR-014)," June 30, 2005
(p) Section 504 of title 10, United States Code
(q) DoD Directive 5400.11, "DoD Privacy Program," November 16, 2004
(r) DoD Directive 7730.47, "Defense Incident-Based Reporting System (DIBRS)," December 1, 2003
(s) DoD 8910.1-M, DoD Procedures for Management of Information Requirements, June 30, 1998
(t) Section 101(d)(3) of title 10, United States Code
(u) DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 2003
(v) Section 1191c of title 29, United States Code
(w) Chapter 47 of title 10, United States Code

E2. ENCLOSURE 2

DEFINITIONS

The following definitions apply to the DoD SAPR Program.

E2.1.1. Commander. An officer who occupies a position of command authorized by appointment or by assumption of command.

E2.1.2. Confidential Reporting. For the purposes of the policies and procedures of the SAPR Program, confidential reporting is restricted reporting that allows a Service member to report or disclose to specified officials that he or she has been the victim of a sexual assault. This reporting option gives the member access to medical care, counseling, and victim advocacy, without requiring those specific officials to automatically report the matter to law enforcement or initiate an official investigation. See enclosure E3.

E2.1.3. Covered Communication. Verbal, written, or electronic communications of personally identifiable information concerning a sexual assault victim or alleged assailant provided by the victim to the Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), or healthcare provider related to his or her sexual assault.

E2.1.4. DoD Sexual Assault Prevention and Response (SAPR) Program. A DoD program for the Military Departments and the DoD Components that establishes sexual assault prevention and response policies to be implemented worldwide. The program objective establishes an environment and military community free of sexual assault.

E2.1.5. Healthcare Provider (HCP). For the purpose of this Directive, this term applies to those individuals who are employed or assigned as healthcare professionals, or are credentialed to provide health care services, at a military medical or military dental treatment facility, or who provide such care at a deployed location or in an official capacity. This term also includes military personnel, DoD civilian employees, and DoD contractors who provide health care at an occupational health clinic for DoD civilian employees or DoD contractor personnel.

E2.1.6. Non-Identifying Personal Information: For the purpose of this Directive, this term applies to the victim and alleged assailant of a sexual assault and is that information which would disclose or have a tendency to disclose the person's identity and is personal identifying information. Personal identifying information includes the person's name or 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). In contrast, non-identifying personal information includes those facts and circumstances surrounding the sexual assault incident or that is about the individual that enables the identity of the individual to remain anonymous.

E2.1.7. Official Investigative Process. The formal process a commander or law enforcement organization uses to gather evidence and examine the facts and circumstances surrounding a report of sexual assault.

E2.1.8. Qualifying Conviction. A State or Federal conviction for a felony crime of sexual assault and any general or special court-martial conviction for a Uniform Code of Military Justice (reference (p)) offense which otherwise meets the elements of a crime of sexual assault, even though not classified as a felony or misdemeanor.

E2.1.9. Restricted Reporting. A process used by a Service member to report or disclose that he or she is the victim of a sexual assault to specified officials on a requested confidential basis. Under these circumstances, the victim's report and any details provided to a healthcare provider, the SARC, or a VA will not be reported to law enforcement to initiate the official investigative process unless the victim consents or an established exception is exercised under this Directive. Additional explanation and guidance is provided in enclosure 3.

E2.1.10. Senior Commander. For the purpose of this Directive, this term refers to an officer, usually in the grade of O-6 or higher, who is the commander of a military installation, base, post or comparable unit, and has been designated by the respective Military Service to oversee the SAPR Program.

E2.1.11. Service Member. An active duty or National Guard or Reserve Service member performing active or inactive service (as defined in Section 101(d)(3) of title 10, United States Code (reference (t)) or a member of the Coast Guard (when the Coast Guard is operating as a Service of the Department of the Navy).

E2.1.12. Sexual Assault. For the purpose of this Directive and SAPR awareness training and education, the term "sexual assault" is defined as intentional sexual contact, characterized by use of force, physical threat or abuse of authority or when the victim does not or cannot consent. It includes rape, nonconsensual sodomy (oral or anal sex), indecent assault (unwanted, inappropriate sexual contact or fondling), or attempts to commit these acts. Sexual assault can occur without regard to gender or spousal relationship or age of victim. "Consent" 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.

E2.1.13. Sexual Assault Forensic Examination (SAFE). The medical 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, meet the requirements necessary for use as evidence in criminal proceedings.

E2.1.14. Sexual Assault Response Coordinator (SARC). Military personnel, DoD civilian employees, or DoD contractors under the senior commander's supervision, who:

E2.1.14.1. Serves as the central point of contact at an installation or within a geographic area to oversee sexual assault awareness, prevention and response training.

E2.1.14.2. Ensures appropriate care is coordinated and provided to victims of sexual assault; and tracking the services provided to a victim of sexual assault from the initial report through final disposition and resolution.

E2.1.15. Unrestricted Reporting. A process a Service member uses to disclose, without requesting confidentiality or restricted reporting, that he or she is the victim of a sexual assault. Under these circumstances, the victim's report and any details provided to healthcare providers, the SARC, a VA, command authorities, or other persons are reportable to law enforcement and may be used to initiate the official investigative process. Additional explanation and guidance are provided in enclosure 3.

E2.1.16. Victim. For the purpose of this Directive, a victim is a person who alleges direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault. The term encompasses all persons eligible to receive treatment in military medical treatment facilities; however the restricted reporting option is only available to those sexual assault victims who are service members as defined in paragraph E2.1.11.

E2.1.17. Victim Advocate (VA). Military personnel, DoD civilian employees, DoD contractors, or volunteers who facilitate care for victims of sexual assault under the SAPR Program, and who, on behalf of the sexual assault victim, provide liaison assistance with other organizations and agencies on victim care matters, and report directly to the SARC when performing victim advocacy duties.

E3. ENCLOSURE 3

CONFIDENTIAL REPORTING PROGRAM FOR VICTIMS OF SEXUAL ASSAULT

E3.1.1. The Department of Defense recognizes the potential impact restricted reporting may have on investigations and the ability of the alleged offender's commander to hold the offender accountable. However, this policy decision represents the judgment that such risks have been carefully considered, but were outweighed by the overall interest in providing sexual assault victims this form of support.

E3.1.2. This enclosure provides the framework for the confidential reporting program and its policies. The SAPRO will coordinate specific implementation details consistent with this policy, in conjunction with the Military Departments. This SAPR Program requires extensive, in-depth training for DoD personnel and specialized training for Commanders, Senior Enlisted Leaders, VA, SARC, investigators, law enforcement, chaplains, HCP, and legal personnel.

E3.1.3. See restricted reporting as defined in enclosure 2.

E3.1.4. The Department of Defense is committed to ensuring victims of sexual assault are protected, treated with dignity and respect, and provided support, advocacy and care. DoD policy also strongly supports effective command awareness and prevention programs, as well as law enforcement and criminal justice procedures that enable persons to be held accountable for their actions, which includes appropriate criminal dispositions for sexual assault. To achieve these dual objectives, DoD policy prefers complete reporting of sexual assaults to activate both victims' services and accountability actions. However, recognizing a mandate of complete reporting may represent a barrier for victims to access services when the victim desires no command or law enforcement involvement, there is a need to provide an option for confidential restricted reporting.

E3.1.5. Assuring privacy and providing a confidential disclosure option for sexual assault victims is critical to discharging the military's commitment to providing care and support for victims of sexual assault. Sexual assault is one of the most under-reported violent crimes in our society and in the military. Although the victim's decision to report is a crucial step following a sexual assault, reporting is often precluded by the victim's desire for no one to know what happened. The Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the privacy of victims under their command. Subject matter experts agree that a system which promotes privacy and confidentiality can have a positive impact in bringing victims forward to provide information about being assaulted.

E3.1.6. Recognizing these DoD interests as a matter of DoD policy, Service members who are sexually assaulted will now have the following reporting options:

E3.1.6.1. Unrestricted Reporting. A Service member who is sexually assaulted and desires medical treatment, counseling, and an official investigation of his or her allegation should use existing reporting channels (e.g., chain of command, law enforcement, or report the incident to the SARC). When notified of a reported sexual assault, the SARC will immediately assign a VA. Additionally, at the victim's discretion or request, the healthcare provider shall arrange a SAFE (see paragraph E2.1.13.) to be conducted, 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.

E3.1.6.2. Restricted Reporting. Restricted reporting allows a sexual assault victim to confidentially disclose the details of his or her assault to specified individuals and receive medical treatment and counseling, without triggering the official investigative process. Service members who are sexually assaulted and desire restricted reporting under this policy may only report the assault to the SARC, VA or a HCP. However, consistent with current policy, they may also report the assault to a chaplain. Although a report to a chaplain is not a restricted report under this policy or the provisions of this Directive, it is a communication that may be protected under the Military Rules of Evidence (MRE) or applicable statutes and regulations. The restricted reporting process does not affect any privilege recognized under the MRE. This Directive and its policy on restricted reporting is in addition to the current protections afforded privileged communications with a chaplain, and does not alter or affect those protections.

E3.1.6.2.1. HCP will initiate the appropriate care and treatment, and report the sexual assault to the SARC instead of reporting the assault to law enforcement or the command. When notified of a reported sexual assault, the SARC will immediately assign a VA. The assigned VA will provide the victim accurate information on the reporting process, including both restricted and unrestricted reporting procedures. Additionally, at the victim's discretion or request, the HCP, if appropriately trained and/or supervised, shall conduct a SAFE, which may include the collection of evidence. If the healthcare provider is not appropriately trained to conduct a SAFE, the HCP shall help arrange for a properly-trained DoD HCP, if available. In the absence of a DoD HCP, the victim will be appropriately referred to a non-DoD HCP for the SAFE. When SAFE is performed at local civilian medical facilities, those facilities are bound by State and local laws, which may require reporting the sexual assault. The victim will acknowledge, in writing, his or her understanding of restricted reporting, the exceptions to, and limitations on, restricted reporting. This acknowledgement will also include the victim's understanding that restricted reporting may limit the ability of the Government to prosecute the assailant and an understanding of the reasons DoD policy favors unrestricted reporting.

E3.1.6.2.2. Restricted reporting is intended to give victims additional time and increased control over the release and management of their personal information, and to empower them to seek relevant information and support to make more informed decisions about participating in the criminal investigation. A victim who receives appropriate care and treatment, and is provided an opportunity to make an informed decision about a criminal investigation, is more likely to develop increased trust that his or her needs are of primary concern to the command and may eventually lead the victim to decide to pursue an official investigation. Even if the victim chooses not to pursue an official investigation, this additional reporting avenue gives the senior commander a clearer picture of the sexual violence within the command, and enhances the senior commander's ability to provide a safe environment and contributes to the well-being and mission-readiness of all of its service members

E3.1.7. In cases where a victim elects restricted reporting, the SARC, assigned VA (whether uniformed or civilian), and HCPs may not disclose covered communications to law enforcement or command authorities, either within or outside the Department of Defense, except as provided in paragraph E3.1.8. For purposes of public safety and command responsibility, the SARC shall report information concerning sexual assault incidents, without information that could reasonably lead to personal identification of the victim or the alleged assailant, to the senior commander (see paragraph E2.1.10.) within 24 hours of the sexual assault report.

E3.1.8. Exceptions to Confidentiality and Restricted Reporting and Limitations on Use. In cases where victims elect restricted reporting, the prohibition on disclosing covered communications to the persons or entities as indicated will be suspended for the reasons as follows:

E3.1.8.1. The Command officials or law enforcement when disclosure is authorized by the victim in writing.

E3.1.8.2. The Command officials or law enforcement when disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.

E3.1.8.3. The Disability Retirement Boards and officials when disclosure by a HCP is required for fitness for duty for disability retirement determinations, limited to only the information necessary to process disability retirement determination.

E3.1.8.4. The SARC, VA or HCP when disclosure is required for the supervision and/or coordination of direct victim treatment or services.

E3.1.8.5. Military or civilian courts of competent jurisdiction when disclosure is ordered by a military, Federal, or State judge, or other officials or entities as required by a Federal or State statute or applicable U.S. international agreement. The SARC, assigned VA, and healthcare providers will consult with the senior commander's servicing legal office, in the same manner as other recipients of privileged information, to determine if the exception criteria apply

and have a duty to disclose the otherwise protected information. Until those determinations are made, only non-identifying information should be disclosed.

E3.1.8.6. The SARC will evaluate the information provided and determine whether an exception applies. If needed, using non-identifying personal information (see paragraph E2.1.6.), the SARC shall do so in consultation with the staff judge advocate of the senior commander. When there is uncertainty or disagreement on whether an exception applies, the matter shall be brought to the attention of the senior commander for decision.

E3.1.8.7. The SARC, VA and healthcare provider will not disclose covered communications unless the victim authorizes the disclosure in writing or another exception established herein applies when the information about a sexual assault is disclosed to command from a source independent of restricted reporting avenues or to law enforcement from other sources, and an investigation into an allegation of sexual assault is initiated.

E3.1.8.8. The disclosure will be limited to information necessary to satisfy the purpose of the disclosure in the event a disclosure is made under the authority of subparagraphs E3.1.8.1. through E3.1.8.5. Further disclosure will not be made unless the victim authorizes the disclosure in writing.

E3.1.8.9. If a SARC, VA or healthcare provider makes an unauthorized disclosure of a covered communication, the SARC, VA and healthcare provider will not disclose additional covered communications unless the victim authorizes the disclosure in writing or another exception established herein applies. As noted below, the unauthorized disclosure of a covered communication may result in disciplinary action.

E3.1.8.10. If the report contains an allegation of sexual assault and qualifies for restricted reporting, any other offenses revealed by the victim are considered covered communications and will not be disclosed except as authorized according to paragraph E3.1.8.

E3.1.8.11. Because non-identifying personal information under the restricted reporting option is intended to provide the senior commander with general environmental information about the number and types of sexual assaults on the installation, and is to be used to provide a better understanding of incidents of sexual assault, neither the senior commander nor law enforcement officials may initiate investigations based on information provided by SARCs under paragraph E3.1.7. (information for safety and command responsibility purposes without identifiers). The senior commander, however, may use the information to enhance preventive measures, to enhance the education and training of their personnel, and to more closely scrutinize their organization's climate and culture for contributing factors, but may not use the information for investigative purposes or in a manner that is likely to discover, disclose, or reveal the identities being protected.

E3.1.9. Regardless of whether the member elects restricted or unrestricted reporting, confidentiality of medical information will be maintained in accordance with DoD 6025.18-R (reference (u)).

E3.1.10. Healthcare providers may also convey to the victim's unit commander any possible adverse duty impact related to the victim's medical condition and prognosis in accordance with reference (u) and the Health Insurance Portability and Accountability Act (reference (v)). Such circumstances however, do not otherwise warrant an exception to policy, and therefore the covered communication related to the sexual assault may not be disclosed. Improper disclosure of covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under Chapter 47 of title 10, United States Code (reference (w)) or State statute, loss of privileges, or other adverse personnel or administrative actions.

E3.1.11. When information about a sexual assault comes to any commander's attention from a source independent of the restricted reporting avenues, that commander shall report the matter to law enforcement and an official investigation may be initiated based on that independently-acquired information. Additionally, when the SARC or assigned VA learns that a law enforcement official has initiated an official investigation that is based upon independently-acquired information, and after consulting with the law enforcement official responsible for the investigation, the SARC or assigned VA will notify the victim, as appropriate. A victim will also be notified that disclosure of his or her sexual assault to persons outside the protective sphere of the specified persons covered by this restricted reporting policy may result in the initiation of the official investigative process regarding the allegations that the victim disclosed.

E3.1.12. Restricted reporting does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any actionable conduct by the offender or the victim. Covered communications that have been disclosed may be used in disciplinary proceedings against the offender or the victim, even if such communications were improperly disclosed.