


Army Family Advocacy Program

Restricted Reporting Policy for Incidents of Domestic Abuse

- **Master Policy Letter #80 (Command Response to Incident of Domestic Violence)**

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Transitional Compensation
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Restricted Reporting for Incidents of Domestic Abuse

- *The Army is fully committed to ensuring victims of domestic abuse are protected, treated with dignity and respect, and provided support, advocacy, and care.*
- *The Army strongly supports effective command awareness and prevention programs and law enforcement and criminal justice activities that will maximize accountability and prosecution of perpetrators of domestic abuse.*
- *To achieve these dual objectives, Army policy prefers that personnel report suspected domestic abuse incidents promptly to activate both victims' services and accountability actions.*

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- *However... a requirement that all domestic abuse incidents be reported can represent a barrier for victims hoping to gain access to medical and victim advocacy services without command or law enforcement involvement.*

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- **Solution:**
 - *In order to address these competing interests, adult victims of domestic abuse incidents will now have two reporting options:*
 - 1) *unrestricted reporting*
 - 2) *restricted reporting*

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- **Unrestricted reporting:**
 - *Victims should use current reporting channels (police, commanders, etc).*
 - *Victim advocacy services and FAP clinical services will be offered.*
 - *At the victims request, health care services will be offered.*

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Restricted Reporting for Incidents of Domestic Abuse

- **Restricted Reporting:**
 - *Allows adult victims of domestic abuse, who are eligible to receive treatment at an MTF, to report an incident to specified individuals without initiating the investigative process.*
 - **Specified individuals are:**
 - *Victim Advocates*
 - *Healthcare providers (including FAP clinical social workers)*
 - *The supervisor of victim advocates*
 - *Victim signs statement of understanding.*
 - *Communications remain protected unless the victim authorizes release or an exception applies.*

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- **Covered communications:**
 - *Oral, written, or electronic communication of personally identifiable information related to a domestic abuse incident made by a victim to the victim advocate, the supervisor of victim advocates, or to a healthcare provider for the purposes of receiving medical care or information, referral to service providers, advice, or safety planning. Includes statements, notations and reports but not statistical data that does not identify an individual.*

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- **Health care provider (HCP):**
 - *Individuals employed or assigned as healthcare professionals, or are credentialed to provide health care services (including clinical social workers), at a military medical or military dental treatment facility, or a military family support center, or who provide such care at a deployed location or in an official capacity. This term includes military personnel, DoD civilian employees or DoD contractor personnel.*

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Restricted Reporting for Incidents of Domestic Abuse

- **What about Chaplains?**
 - *A report to a chaplain is not a restricted report.*
 - *However, it is a communication that may be protected under the Military Rules of Evidence or applicable statutes and regulations.*
 - *The restricted reporting process does not affect any privilege recognized under the Military Rules of Evidence.*
 - *This restricted reporting policy is in addition to the current protections afforded privileged communications with a chaplain, and does not alter or affect those protections.*

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Restricted Reporting for Incidents of Domestic Abuse

- **Exceptions:**
 - *When disclosure is authorized by the victim.*
 - *When a serious and imminent threat to the health or safety of the victim or another exists.*
 - *When child abuse is suspected.*
 - *When information is needed by Disability Retirement Boards.*
 - *When supervision of victim advocates or healthcare providers is required for provision of direct services.*
 - *Military or civilian courts of competent jurisdiction when a military, Federal, or State judge issues a subpoena for the covered communications or to other officials or entities when required by Federal or state statute or applicable U.S. international agreement.*

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- **What if an exception exists?**
 - *Consult supervisor and servicing legal office prior to disclosure.*
 - *If there is disagreement, consult the Garrison Commander.*
 - *Notify the victim.*

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- **Improper disclosures may result in disciplinary action.**
- **Disclosures to persons not covered by this policy may result in notification to:**
 - **Law enforcement**
 - **Command**
 - **Family Advocacy Program staff**

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Restricted Reporting for Incidents of Domestic Abuse

- **Benefits:**
 - Victims decides when to report.
 - Victims receive appropriate health care and advocacy services.
 - Victims are afforded space and time to make informed decisions.
 - Victims control the release and management of personal information.
 - Victim's may develop increased trust in "the system."
 - Commanders will receive information about incidents that were previously unknown.
 - Reports, investigations, and prosecutions may increase.

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Restricted Reporting for Incidents of Domestic Abuse

- **Limitations:**
 - The abuser is not held accountable and may commit further abuse.
 - The victim and abuser may continue to have contact.
 - Crime scene evidence will be lost.
 - Military and civilian protection orders are unavailable.

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Restricted Reporting for Incidents of Domestic Abuse

- **The Army recognizes the potential impact of restricted reporting on investigations and a commander's ability to hold perpetrators accountable, and this policy decision represents the judgment that such risks have been carefully considered but were outweighed by the overall interest in providing domestic abuse victims this form of support.**

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Victim Advocate Roles

- Establish long and short-term safety plans
- Help victims locate shelter or other safe housing
- Accompany victims to court, meetings with legal services, law enforcement, CID, ER visits
- Assist in obtaining MPOs and CPOs
- Represent victims at the Case Review Committee (CRC)

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Master Policy Letter #80
15 March 2005
Commanders Response to Incident of Domestic Violence

- A "how-to" guide for commanders, first sergeants (anyone in a leadership position)
- Enclosure 1 – prevention (phone #s)
- Enclosure 2 – checklist (on-post offense)
- Enclosure 3 – checklist (off-post offense)
- Enclosure 4 – Military Protective Order (DD Form 2873)

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Transitional Compensation

- **Authorization: 10 USC 1059**
 - DoDI 1342.24
 - OpNavInst 1750.3
- **Compensation to V when dependent abuse offense results in**
 - SM sentenced to punitive discharge by CM, or
 - SM sentenced to forfeit all pay, or
 - Administratively separated

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Transitional Compensation

- **Commencement of Payments**
 - Date sentence adjudged, or
 - Date adsep is approved by sep authority
- **Duration**
 - 36 months unless or SM's unserved contract obligation, whichever is less
 - Notwithstanding above, at least 12 months

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Transitional Compensation

- **Amount:**
 - Same as dependency indemnity comp 38 USC 1311
 - \$1,091 / month for spouse
 - Additional \$271 per dependent child
- **Medical, Exchange, Commissary privileges for duration of payment period**
- **See community counseling center for assistance**

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Transitional Compensation

- **Forfeiture of Transitional Compensation**
 - V remarries (not renewed if divorce)
 - V cohabits with perpetrator
- **Ineligible if an active participant in the conduct for which SM was separated or sentenced; e.g., civilian spouse also harms child or helps SM to do so.**

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Questions ???

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