



DIRECTORATE OF PREVENTION, RESILIENCE AND READINESS



SHARP
SEXUAL HARASSMENT/ASSAULT
RESPONSE AND PREVENTION

FACTSHEET

Expanded Eligibility to File Restricted Reports

Topics from Deputy Secretary of Defense Memo, "Updates to Department of Defense Policy and Procedures for the Sexual Assault Prevention and Response Program and Adult Sexual Assault Investigations," signed November 10, 2021. Available at www.sapr.mil/policy.

TOPIC: Expanded Eligibility to File Restricted Reports and Process for Victims to Decline to Participate in Investigations

Enclosure 4 of DoDI 6495.02, volume 1, paragraph 1 REPORTING OPTIONS, as follows:

Corresponding changes below from (b)-(f) are approved for DoDI 5505.18, Section 3, Procedures.

A Sample Section 540K Declination Letter is available here.

Expanded Eligibility to File Restricted Reports:

- (b)
- (6) Victims are eligible to file a Restricted Report, providing they did not personally report the sexual assault incident to law enforcement, to include MCIOs, and they did not previously elect to make an Unrestricted Report by signing a DD Form 2910, with a SARC or SAPR VA on the same sexual assault incident. Victims covered by DoDI 6495.02, volume 1 are eligible to file Restricted Reports even if:
 - (a) they disclosed the sexual assault incident to their commander or to personnel in the chain of command, or
 - (b) there is an ongoing MCIO investigation into the sexual assault incident initiated by a third party and not due to the victim's disclosure to law enforcement, or
 - (c) the MCIO investigation into the sexual assault incident has been closed. SHARP Program Prevention Specialists support the Senior Commander and are responsible for the coordination and implementation of comprehensive primary prevention activities that address individual, organizational and community factors that contribute to sexual harassment and sexual assault.

"Clarification: What does "personally report the sexual assault incident to law-enforcement" mean?"

Expanded Eligibility to File Restricted Reports

Scenarios.

1. Victim approaches law-enforcement and tells them they want to report a sexual assault.
 - a. Victim is **NO LONGER ELIGIBLE** to file a Restricted Report, even if the victim doesn't follow through and actually sign a statement for law-enforcement.
2. Victim tells a friend she or he was thinking of going to law-enforcement to report her or his sexual assault. Friend of the sexual assault victim approaches law-enforcement and tells law-enforcement her or his friend wants to report.
 - a. Victim **IS STILL ELIGIBLE** to file a Restricted Report, because the victim did not personally report.
3. Victim previously filed a Restricted Report and is subsequently approached **BY** law enforcement about an open investigation. The investigation was initiated on a third-party report.
 - a. Victim **RETAINS** the Restricted Report.
 - b. If the victim underwent a forensic examination, that **SAFE Kit** is protected as part of the Restricted Report, and the **MCIOS** cannot seize it as evidence.
 - c. **MCIOS** need to ask whether the victim wants to participate in the investigation, and if the victim does not, then the **MCIOS** will offer her or him a "Section 540K Declination to Participate in the Investigation Letter" to formally document the declination."
4. Victim previously filed a Restricted Report and is subsequently approached **BY** law enforcement about an open investigation. Victim decides to participate in the investigation and gives a formal statement to the **MCIO**.
 - a. Victim **RETAINS** the Restricted Report. There is **NEVER** an "automatic unrestricting" of a Restricted Reporting that was previously filed on a DD Form 2910. The **SARC** may ask the victim **IF** he or she wants to convert, but if the victim doesn't want to re-sign the 2910, the Restricted Report stays in place.
 - b. This will appear in **DSAID** as an "open with limited" and a Restricted Report."