



DEPARTMENT OF DEFENSE
SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE



TOPIC: LAW ENFORCEMENT SEXUAL ASSAULT VICTIM DISCLOSURE EXCEPTION
JULY 2024

Topics from Deputy Secretary of Defense Memo, "Updates to Department of Defense Policies to Enhance Support for Adult Sexual Assault Victims," signed May 2024. Available at www.sapr.mil/latest-policy-updates.

Section 3.9 of Inspector General DoDI 5505.18, Investigation of Adult Sexual Assault in the Department of Defense," as follows:

"Law Enforcement (LE) Sexual Assault Victim Disclosure Exception" in DoDI 5505.18

b. [Volume 1 of SAPR DoDI 6495.02](#) states that adult victims who disclose a sexual assault made against them to Law Enforcement (LE) personnel (to include Military Criminal Investigative Organization MCIOs) are ineligible for Restricted Reporting in the SAPR Program and a criminal investigation must be initiated. To encourage LE victims (as defined in the Glossary in [IG DoDI 5505.18](#)) to disclose they are a victim of sexual assault to other LE personnel during personal conversations and receive available care and services, this issuance implements an LE Sexual Assault Victim Exception to that provision in Volume 1 of SAPR DoDI 6495.02.

(1) *The LE Sexual Assault Victim Disclosure Exception:*

(a) Allows LE victims to disclose they are a victim of sexual assault to other LE personnel during personal conversations without prompting command notification or initiation of an investigation and be eligible for Restricted Reporting.

(b) Applies to personal conversations between an LE victim and LE personnel who are not the victim's supervisor or in the victim's chain of command, which is different than professional conversations where an LE victim requests to file a police report for the sexual assault offense.

(c) Extends to personal conversations where an LE member's adult family member confides being a sexual assault victim to LE personnel who are not the LE member's supervisor or in the LE person's chain of command.

(2) *The LE personnel who are not a victim's supervisor or in a victim's chain of command receiving such a sexual assault incident disclosure:*

(a) Must ask the sexual assault victim if they want the information to remain private. If the LE victim wants the information to remain private, then the LE personnel receiving such a sexual assault incident disclosure will assume a non-LE personnel role and no official LE reporting or MCIO notification is required, unless, disclosure is required by law or safety concerns exist. [If the LE victim wants to report the sexual assault to law enforcement, then it becomes a professional conversation and the LE Victim Disclosure Exception does not apply].

(b) Will encourage the victim to report the incident to a SARC or SAPR VA to be informed of reporting options, victim's rights, and available services, to include eligibility for an special victims' counsel (SVC), victims' legal counsel (VLC), or victims' counsel (VC).

(3) The LE personnel in a victim's chain of command receiving such a sexual assault incident disclosure must follow [investigations] requirements specified in Paragraph 3.9.c. in IG DoDI 5505.18; however, the LE victim or an LE member's adult family member remain eligible to file a Restricted Report in accordance with Paragraph 3.9.a.(1).

(4) While an LE victim or an LE member's adult family member may elect to file a Restricted Report in the SAPR Program in accordance with this section, MCIO personnel retain the responsibility to investigate criminal offenses they become aware of from a victim's chain of command or a third-party reporter. A third-party reporter could include a person to whom the victim disclosed they are a sexual assault victim during a personal conversation but because of safety concerns for the victim or other reason, reported the offense to MCIO personnel.

If a Service member (who is not law enforcement (LE) personnel) tell their friend (who is LE personnel) that they were sexually assaulted, is the non-LE soldier still eligible to file a Restricted Report?

No. The disclosure by a non-LE soldier to LE is an official report to LE and the non-LE Service member is no longer eligible for a Restricted Report. The purpose of the "Law Enforcement Sexual Assault Victim Disclosure Exception" is to remove a barrier specifically for LE victims to report and be eligible for Restricted Reporting to obtain services. It was an exception directed at LE personnel, so they could have "personal conversations" with other LE personnel without triggering the duty to report the matter as a crime. It is a very narrow exception. Other non-LE Service members cannot have personal conversations with LE personnel and maintain the option for Restricted Reporting. As stated above, that personal conversation would result in a crime report and an MCIO investigation.

Are LE officers required to report after they are off duty?

The focus of the "Law Enforcement Sexual Assault Victim Disclosure Exception" is on the distinction between "personal" and "professional" conversations, not "on-duty" vs. "off-duty" statuses because military LE are never technically off-duty.

Does the "Law Enforcement Sexual Assault Victim Disclosure Exception" apply when a victim (who has a family member who is LE) has a personal conversation with another LE member that is not their immediate family member (i.e., spouse's best friend, an LE friend)?

No. This is a very narrow exception. It only applies to the LE family member victim having a personal conversation with the LE member who is the family of the victim.

Does the "Law Enforcement Sexual Assault Victim Disclosure Exception" include crimes committed during the sexual assault, such as Article 128 (Assault), or is it just for Article 120 (Sexual Assault)?

The purpose of the LE exception is to remove the barrier for the LE victim to disclose the sexual assault in a personal conversation with an LE friend and hopefully that friend could assist the LE in accessing the needed services. The crime would have to be part of the sexual assault incident, as Article 128 assault could potentially be. However, this would have to be assessed on a case-by-case basis.

LE personnel are not required to initiate an official investigation if they learn of a sexual assault from a disclosure in a personal conversation with an LE victim; however, are they

prohibited from doing so? Could a member of LE officially report a sexual assault even if the victim does not indicate they want that?

The “Law Enforcement Sexual Assault Victim Disclosure Exception” appears in DoDI 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense.” Page 20 states, “The LE personnel who are not a victim’s supervisor or in a victim’s chain of command receiving such a sexual assault incident disclosure: (a) Must ask the sexual assault victim if they want the information to remain private. If the LE victim wants the information to remain private, then the LE personnel receiving such a sexual assault incident disclosure will assume a non-LE personnel role and no official LE reporting or MCIO notification is required, unless disclosure is required by law or safety concerns exist. (b) Will encourage the victim to report the incident to a SARC or SAPR VA to be informed of reporting options, victim’s rights, and available services, to include eligibility for an SVC, VLC, or VC.” Consequently, they are directed to “assume a non-LE personnel role and no official LE reporting or MCIO notification is required, unless disclosure is required by law or safety concerns exist.”

Are security forces still mandatory reporters if they are off duty during training?

The focus of the “Law Enforcement Sexual Assault Victim Disclosure Exception” is on the distinction between “personal” and “professional” conversations, not on “on-duty” or “off-duty” statuses.