



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
UNITED STATES ARMY GARRISON FORT HUNTER LIGGETT
BUILDING 238 CALIFORNIA AVENUE
FORT HUNTER LIGGETT, CA 93928-7000

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JAN 12 2016

MEMORANDUM FOR United States Army Garrison, Fort Hunter Liggett (USAG FHL)

SUBJECT: USAG FHL Policy #9-5, Reporting for Incidents of Domestic Abuse

1. REFERENCES.

- a. Department of Defense (DoD) 6025.18, DoD Health Information Privacy Regulation, 24 Jan 03, Rapid Action Revision (RAR), 2 Dec 09.
- b. Section 585, National Defense Authorization Act for Fiscal Year 2000, Public Law 106-65, Department of Defense Instruction (DoDI) 6400.06, 21 Aug 07, Incorporating Change 1, 20 Sep 11.
- c. U.S. Army Community and Family Support Center Memorandum, Restricted Reporting Policy for Incidents of Domestic Abuse, 22 Jan 06.
- d. Department of Defense (DoD) 6400.1, Family Advocacy Program, 23 Aug 04. Incorporating Change 1, 20 Sep 11.
- e. Deputy Secretary of Defense Memorandum, Restricted Reporting Policy for Incidents of Domestic Abuse, 22 Jan 06.
- f. Under Secretary of Defense for Personnel and Readiness Policy Memorandum Domestic Abuse Victim Advocate Program, 17 Feb 05.

2. PURPOSE.

- a. The Department of Army (DA) is committed to ensuring that victims of domestic abuse are protected, treated with dignity and respect, and provided support, advocacy, and care. DA policy also strongly supports command awareness and prevention programs and law enforcement and criminal justice activities that will maximize accountability and prosecution of perpetrators of domestic abuse.
- b. To achieve these dual objectives, DA policy prefers that personnel report suspected domestic abuse incidents promptly to activate both victim services and accountability actions. However, a requirement that all domestic abuse incidents be

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reported can represent a barrier for victims hoping to gain access to medical and victim advocacy services without command or law enforcement involvement.

c. The Department of the Army is also committed to ensure that the alleged offender is treated with respect and dignity and that all applicable rights are adhered to.

d. As a result of the aforementioned, competing interests of the DoD and subsequently DA have established guidelines for the restricted reporting of incidents of domestic violence.

3. SCOPE. For the purposes of this policy, restricted reporting is limited to adult victims of domestic abuse. Restricted reporting is defined as allowing a victim of domestic abuse, who is eligible to receive military medical treatment, the option of reporting an incident of domestic abuse to specified individuals without initiating the investigative process or notification to the victim's or alleged offender's Commander. This option provides domestic abuse victims access to medical care and victim advocacy services.

4. APPLICABILITY. Restricted reporting is limited to adult victims of domestic violence who have attained the age of 18 or are married. This policy pertains to:

a. Active Duty Victims.

b. Family member spouses.

c. Unmarried intimates of Active Duty (current or former) and may include non military medical beneficiaries.

5. POLICY.

a. Domestic abuse often goes unreported in society at large. Although the victim's decision to report the incident is a crucial step towards holding an offender accountable following a domestic abuse incident, it can have potential serious consequences for the safety and welfare of the victim and other Family member's. When domestic abuse is reported to military and or civilian authorities who fail to take appropriate action, the abuse may recur and escalate. In the military community, a victim is usually concerned that reporting will have immediate repercussions on the military career of the Family-member offender, and thus affect the Families financial welfare. The result is that this potential impact may deter the victim from seeking care or reporting the domestic abuse incident.

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b. Commanders have a responsibility to ensure community safety and due process of law. Commanders must also recognize the importance of protecting the safety and well-being of victims and other Family member's.

c. A system that affords victim's access to medical and victim advocacy (VA) services without immediate command or law enforcement involvement can encourage victims to feel more comfortable and safe about reporting domestic abuse.

d. In order to address these competing interests, Adult Victims of Domestic Abuse Incidents (AVDAI) will now have two reporting options: unrestricted reporting and restricted reporting.

e. Regardless of whether the victim elects restricted or unrestricted reporting, confidentiality of medical information will be maintained IAW DoD 6025.18-R-8 DoD Health Information Privacy Regulation.

6. PROCEDURES.

a. Unrestricted Reporting

(1) Victims of domestic abuse who want to pursue an official investigation of an Incident should use current reporting channels, e.g., the Installation Reporting Point of Contact (RPOC), the chain of command, Family Advocacy Program (FAP) or law enforcement. The RPOC for Fort Hunter Liggett (FHL) is the Department of Emergency Service (DES), 831-386-2526.

(2) Upon notification of a domestic abuse incident, FAP services and Family Advocacy clinical services will be offered to the victim.

(3) At the victim's discretion/request, a healthcare provider will conduct any forensic medical examination deemed appropriate.

(4) DA and installation protocols will be followed with regard to investigation, assessment and disciplinary proceedings.

(5) Details regarding the incident will be limited to those personnel who have a legitimate need to know.

b. Restricted Reporting

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(1) Victims may elect a restricted report only when domestic abuse disclosures are made to the following individuals:

- (a) FAP Manager (FAPM)
- (b) Healthcare Provider
- (c) Chaplain

(2) If the victim discloses the domestic abuse in the presence of anyone other than the specified individuals listed above, it negates the restricted reporting option.

(3) In cases where the adult victim elects restricted reporting, the FAPM and healthcare provider may not disclose covered communication to the victim's or offender's command or to law enforcement either within or outside the DoD/DA except as provided in paragraph #7 below.

(4) For purposes of command responsibility and the gatherings of accurate data, the FAPM is responsible for reporting information concerning domestic abuse incidents, without information that could reasonably lead to the identification of the victim or alleged offender, to command officials at the next Family Advocacy Committee (FAC) meeting following receipt of information about the alleged domestic abuse incident. This will give commander(s) a clearer picture as to the number and type of domestic abuse incidents within their command, and enhance the commander's ability to provide an environment that is safe and contributes to the well-being and mission-readiness Service member's.

(5) If the disclosure is made to a healthcare provider, the provider will administer the appropriate care and treatment and will report the domestic abuse only to a FAPM.

(a) In connection with an incident of domestic violence, at the victim's request the healthcare provider, if appropriately trained and/or supervised, shall conduct any forensic medical examination deemed appropriate.

(b) In the absence of a DoD healthcare provider trained to conduct an examination of this nature, the victim will be appropriately referred for a forensic medical examination. Due to the lack of medical treatment after hours care at a civilian facility will be utilized along with regulations governing the release of medical information at that facility apply.

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(6) The FAPM will:

(a) The FAPM will contact the victim and provide information about the process of restricted reporting, as compared to unrestricted reporting, and VA services.

(b) The victim will acknowledge in writing his or her understanding that restricted reporting may limit the government's ability to prosecute the alleged offender for a domestic violence incident and an understanding of the reasons DoD/DA policy favors unrestricted reporting. The victim will make such acknowledgement via his or her selection of a reporting option and signature on the Victim Reporting Preference Statement (VRPS) (Encl. 1) which will be maintained in the client's case file.

(7) Consistent with current policy regarding privileged communication, victims may also report the abuse to a chaplain. Although a report to a chaplain is not a restricted report under DoD/DA policy, it is a communication that may be protected under Military Rules of Evidence (MRE) or applicable regulations.

7. Exceptions to Confidentiality and Restricted Reporting and Limitations.

a. In cases in which a victim elects restricted reporting, the prohibition on disclosing covered communications to the following persons or entities will be suspended when disclosure would be for the following reasons:

(1) Named individuals when disclosure is authorized by the victim in writing.

(2) Command officials or law enforcement when necessary, to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.

(3) FAP and any other agencies authorized by law to receive reports of child abuse and/or neglect when, as a result of the victim's disclosure, the VA or healthcare provider has a reasonable belief that child abuse has also occurred. In such a case, disclosure will be limited only to information related to child abuse.

(4) Disability Retirement Boards and officials when disclosure by a healthcare provider is required for fitness for duty or disability retirement determinations, limited to only that information which is necessary to process the disability retirement determination.

(5) Military or civilian courts of competent jurisdiction when a military, Federal, or

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State judge issues a subpoena for the covered communication to be presented to the court or to other officials or entities when the judge orders such disclosure or to other officials or entities when required by Federal or State statute or applicable agreement.

(6) Healthcare providers may also convey to the victim's commander, if applicable, any possible adverse duty impact related to an active duty victim's medical condition and prognosis; however, specific details of the abuse will still be treated as covered communication and will not be disclosed.

b. If the VA or healthcare provider believes that disclosure is warranted or required pursuant to one of the exceptions listed above, the VA or healthcare provider shall first consult with his or her supervisor and the Installation Legal Office (ILO) prior to disclosure.

(1) When there is uncertainty or disagreement as to whether an exception applies, the matter will be brought to the attention of the Installation Commander for decision. The VA or healthcare provider must also make a reasonable effort to provide the victim advance notice of the intention to disclose a covered communication, a description of the information to be disclosed, the basis for disclosure, and the individual, group, or agency to which it will be disclosed.

(2) Disclosure will be limited to the information necessary to satisfy the purpose of the disclosure. Further disclosure will not be made unless the victim authorizes the disclosure in writing.

(3) Improper disclosure of covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under the Uniform Code of Military Justice (UCMJ), loss of credentials, and/or other adverse personnel or administrative actions.

(4) In the event that information about a domestic abuse incident is disclosed to the commander or FAP, from a source independent of the restricted reporting avenues, law enforcement (e.g., DES or Criminal Investigations Division-CID) will be notified and conduct investigations as appropriate. The FAP case worker and Medical Treatment Facility (MTF) at POM and the Family Advocacy Program Manager at FHL will intervene with the Family, conduct all appropriate assessments, and provide clinical intervention deemed appropriate in order to prevent further abuse.

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(a) A victim's disclosure of domestic abuse to persons other than those covered by this policy may result in an investigation of the allegations by law enforcement and clinical intervention from POM FAP.

(b) Consistent with current policy, commanders and senior Non-Commissioned Officers (NCO's) acquiring information about a domestic abuse incident shall immediately notify the DES at 831-386-2526.

8. Roles and Responsibilities.

a. Presidio of Monterey (POM) FAP Case worker will:

(1) Receive reports of child abuse and neglect and domestic violence in the course of routine responsibilities.

(2) Offer/receive restricted reports of domestic violence in the course of routine responsibilities.

(3) Execute informed consent and have clients sign VRPS.

(4) Contact the VA to request a Restricted Reporting Case Number (RRCN). The FAP clinician will ensure that the healthcare provider who conducts the forensic exam receives this number. This number will be attached to forensic evidence collected by the healthcare provider. All case files/documents will be identified by the RRCN.

(5) Conduct a comprehensive risk assessment and engage the victim in safety planning.

b. The FAPM will:

(1) Receive reports of child abuse and neglect and domestic violence in the course of routine responsibilities.

(2) Offer/receive restricted reports of domestic violence in the course of routine responsibilities.

(3) Report allegations of both child abuse and neglect to the RPOC and FAPM.

(4) After consultation and concurrence from the victim, refer the victim to the MTF for clinical services. Information may be shared among specified providers in

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order to assist the victim; however, a written release, Victim Advocacy Domestic Abuse Consent (VADAC) to Release Information (RI) form, should be obtained from the victim to avoid confusion and misunderstanding.

(5) Execute informed consent and have client sign the VRPS.

(6) Assign the case number for restricted report incidents.

(7) Conduct a thorough Victim Advocate Lethality Assessment Checklist (VALAC) and DD Form 2893, Victim Advocate Safety Plan (VASP).

(8) Provide victim advocacy and support services.

c. Medical Healthcare Providers will:

(1) Receive reports of child abuse and neglect and domestic violence in the course of routine responsibilities.

(2) Report allegations of domestic violence to POM FAP and FAPM for RRCN.

(3) Report allegations of both child abuse and neglect to RPOC, FAPM or POM FAP.

(4) Provide medical treatment as appropriate.

d. DES will:

(1) Report all allegations of child abuse and neglect and domestic abuse to the FAPM and POM FAP.

(2) Contact civilian Child Protective Services (CPS) regarding all allegations of child abuse and neglect.

(3) Utilizing the RRCN, secure forensic evidence and store it for one year or until the victim changes his/her report to unrestricted.

(4) Notify the FAPM regarding the status of the evidence in storage, at least one month prior to its destruction date.

e. ILO will:

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(1) Consult with the FAPM regarding the application of the restricted reporting policy, specifically the implementation of exceptions and the disclosure of information.

(2) Provide guidance to FAPM regarding the application of Federal and State Law regarding restricted reporting exceptions and the release of information for reporting exemptions.

9. This policy does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any conduct by the alleged offender or the victim, nor create any form of evidentiary or testimonial privilege. Covered communications that have been disclosed to persons other than those specified to receive them under the protections of this restricted reporting policy, even if disclosed improperly or inadvertently, may be used in administrative, non-judicial, or judicial disciplinary proceedings against the alleged offender or the victim.

10. This policy is effective upon signature and will remain in effect until superseded or rescinded by the Garrison Commander.

11. The FAP office is located at Army Community Service (ACS) and may be reached at 831-386-2378 during the day and on the 24/7 hotline at 831-236-7881, and via DES, 24 hours a day at 831-386-2526.

12. PROPONENT: The DFMWR is the proponent for this policy POC is the FAPM at 831-386-2378.

Encl


JAN C. NORRIS
COL, SC
Commanding