

Frequently Asked Questions

Q. What is sexual assault?

Sexual Assault is defined as intentional sexual contact, characterized by use of force, threats, intimidation, abuse of authority, or when the victim does not or cannot consent. Sexual assault includes rape, forcible sodomy (oral or anal sex), and other unwanted sexual contact that is aggravated, abusive, or wrongful (to include unwanted and inappropriate sexual contact), or attempts to commit these acts. "Consent" means words or overt acts indicating a freely given agreement to the sexual conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the accused's use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating relationship by itself or the manner of dress of the person involved with the accused in the sexual conduct at issue shall not constitute consent.

Q. Does digital (finger) penetration constitute sexual assault?

Yes, digital penetration meets the definition of sexual assault.

Q. What constitutes consent?

A freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent. A sleeping, unconscious, or incompetent person cannot consent.

Q. Who does the SAPR program cover?

The SAPR program applies to military victims sexually assaulted in a non-domestic situation (e.g.: a Marine sexually assaulted by Service member, friend, civilian, or stranger). Marines assaulted by someone they have a domestic relationship with (e.g. spouse, father/mother of their child, live in boyfriend/girlfriend) are not covered under the SAPR program. The domestic violence sexual assault victim is covered under Family Advocacy Program's domestic violence policy. A Victim Advocate can explain the domestic violence sexual assault policy and the program protections.

Q. What will the command do about my misconduct?

If, as a victim, you are engaged in prohibited conduct (e.g. underage drinking, out of bounds, off limit establishment, fraternization, or adultery) prior to the sexual assault, the command will decide whether to bring disciplinary actions on the misconduct. Your commander has complete discretion in addressing

violations of established rules and orders within the unit. However, the SARC will advise the commander of the Commandant White Letter dated 29 April 2005. The White Letter advises commanders to consider delaying addressing a victim's collateral misconduct. Commanders are encouraged to wait until the sexual assault investigation is completed before holding a victim accountable for their misconduct. However, a commander can choose to address the victim's misconduct at any point in the process.

Q. How do I report?

There are several ways to make an initial report of a sexual assault. Depending on whether you choose to make a Restricted or Unrestricted report, you will have reporting options. Under restricted reporting, you can make a report confidentially to a VA, UVA, Sexual Assault Response Coordinator (SARC), Military Healthcare personnel, Counselor, or Chaplain. In unrestricted reporting, you may report to any command personnel, PMO, NCIS, legal, VA, UVA, SARC, Chaplain, or a healthcare provider.

Q. Can I seek support services without reporting?

Yes. Both DoD policy and MCO 1752.5B allow sexual assault victims to make a restricted report. Restricted reporting allows you to obtain the necessary medical, counseling and mental health services without reporting to law enforcement. ** California state law requires all medical facilities (civilian and military) to report to law enforcement agencies all cases of suspected or actual sexual assault. A Memorandum of Understanding with the Naval Hospital Camp Pendleton and other community hospitals allows victims to access health care AND maintain a restricted report.

Q. Under restricted reporting can I change my mind about not reporting to authorities?

Yes. Restricted reporting is a tool to assist a victim of sexual assault in addressing the myriad of emotions surrounding a sexual assault. The Marine Corps' goal is to hold all perpetrators of sexual assault accountable. However, the Corps realizes that victims may not be able to immediately face the challenges that come along with reporting to authorities. Therefore, one may choose not to report initially, but may change their mind when and if they choose to make an official report.

Q. Is confidentiality absolute?

No. In those instances where yours or another person's safety is in imminent danger, confidentiality will be breached. There are several other exceptions to confidentiality which the VA or UVA will explain in more detail.

Q. Do I have to use on base services?

No. A civilian VA, UVA, or Military One Source (1-800-342-9647) can provide referral information for off base services. Please contact one of them for further details.

Q. If I choose not to use installation services will I be responsible for any costs associated with civilian resources?

Maybe. All civilian medical services must be coordinated with Tricare except for medical emergencies. Tricare or a medical treatment facility should be contacted beforehand to ensure coverage of the services.

Q. What should I expect? Why don't I feel like myself? How will I feel?

Trauma affects different people in different ways. The way a person feels can differ from day-to-day and from person-to-person. Some days you may cope, others you may not be able to get on with your day-to-day activities. A memory, sight, sound, smell or event could trigger the bad feelings. It is important to remember that you are reacting normally to an abnormal situation. You are aware of what happened, but feel numb. This is a common initial reaction. You may feel that what happened is remote and has nothing to do with you. You may or may not feel the impact immediately, or later. You may experience physical symptoms such as: lack of appetite, high blood pressure, fatigue, stomach irritability and sleeping disturbances. Depending on your situation, you may experience a mix of emotions, and these will not occur in any particular order. Some emotions will go away and come back later. These emotions could include: emptiness or numbness, fear or anxiety, sadness or depression, guilt or shame, anger or irritability, grief, loss of privacy and control, and panic or confusion. You may feel helpless and deserted, and that no one understands what you are going through. These symptoms could affect your physical health and well-being, work performance, as well as, your current and future relationships. Seeking help through counseling is confidential and can alleviate these symptoms.

Q. Will I have to go through this alone?

No. You will receive support from a VA, UVA, and SARC who will refer you to the resources to help guide you through the process and towards recovery. Some resources include counseling, speaking to your chaplain, Victim's Legal Counsel (VLC), group therapy. Depending on the type of reporting, you can also receive assistance from Victim Witness Assistance Program (VWAP), your command, base legal services and investigative support.

Q. How will I be treated?

In unrestricted reporting cases, MCO 1752.5B requires a commander to ensure you are provided reasonable protection. DoD policy and MCO 1752.5A, provide guidance to commanders that when appropriate, the victim and offender should not remain in the same work and/or living area.

Q. Will the command keep me safe?

Yes. In unrestricted reporting cases, MCO 1752.5B requires a commander to ensure you, as a victim of sexual assault, are provided reasonable protection. DoD policy and MCO 1752.5B, provide guidance to commanders that when appropriate, the victim and offender should not remain in the same work and/or living area.

Q. What if I work with the person who assaulted me and I want to keep a restricted report, how will the command keep me safe?

With the nature of a restricted report being preservation of your confidentiality, a commander's ability to protect you is limited because the command will not have any identifying information of the victim and therefore would not be able to provide protection. The UVA will assist you in the development of a safety plan.

Q. If I seek medical treatment at a military facility will medical personnel maintain my privacy and choice to make a restricted report?

Under California state law, medical personnel are mandated to report sexual assaults to law enforcement. Although they will report treatment for a victim of sexual assault, they are not required to disclose personally identifiable information (PII) if the victim chooses restricted reporting. Please speak with your victim advocate or SARC to ensure you have all the information about the restricted reporting option.

Q. How do I handle the reactions and criticism of others when they learn about my sexual assault?

Many comments by others may be perceived as criticism or blaming even though it may not be intended that way.. You were taken out of control in the situation. You survived. Yes, your life has changed but you can move forward in spite of the criminal behavior committed against you. Use this as an opportunity to experience your personal strengths by holding your head up high, looking others in the eye, and holding the accused accountable for inappropriate behavior

Q. I heard that a friend of mine reported a rape and the command ended up charging her for not telling the truth. Can this happen?

Yes. NCIS will investigate all allegations of sexual assault. They may conclude that the allegations were fabricated. If that is the case, false statements are a violation of the UCMJ.

Q. Do I have to testify when I do not want to?

Maybe. The decision will be discussed thoroughly with your legal counsel (if you choose to retain counsel) and will be at yours and his/her discretion.

Q. When someone else in the command reports the sexual assault that happens to me, even if I do not want him or her too, will I have to participate in the investigation?

Per DoD policy and MCO 1752.5B, a report of sexual assault will be forwarded to the military criminal investigators for investigation. You will have the option to not participate in the criminal investigation by signing a Victim's Preference Statement. You will be advised of the decreased likelihood of a successful investigation and prosecution of the perpetrator absent your participation. Even without your participation, the criminal investigation may continue.

Q. Will the command keep me safe?

Yes. In unrestricted reporting cases, MCO 1752.5B requires a commander to ensure you, as a victim of sexual assault, are provided reasonable protection. DoD policy and MCO 1752.5B, provide guidance to commanders that when appropriate, the victim and offender should not remain in the same work and/or living area.

TO CONFIDENTIALLY REACH A CAMP PENDLETON VICTIM ADVOCATE

24/7 HelpLine (760) 500-1707