



Courts & Other Justice Systems

The Criminal Justice Court Systems

Within the structure of our legal system, all crimes committed are considered to be crimes against the State. When someone breaks the law, they are held accountable by the state of Maine. Therefore, if an investigation starts the case is officially between the State of Maine and the offender. Following a police report and investigative phase, the law enforcement agency submits the case to the DA's office to be reviewed. The prosecutor may ask law enforcement to investigate further, decline the case, or accept the case for prosecution.

The offender is now called the defendant, with the prosecutor at the county's District Attorney's (DA's) office prosecuting the case. The survivor of sexual violence is given the status of "witness" in the criminal legal process. This means that the DA's office, not the survivor, is in charge of the case and makes decisions about whether or not the case will move forward through the legal system.

This decision is based on the strength of the case as perceived by that prosecutor and their office. The DA's office must believe that either sexual contact or a sexual act occurred by force and/or without the consent of the survivor, and they must feel confident that they can prove it to a jury "beyond a reasonable doubt". Rape culture impacts what a prosecutor sees as the strength of the case. Individuals with historically marginalized identities (like queer or disabled folks) or stigmatized identities (poverty, addiction, or sex work) or behavior that plays into victims blaming (drinking or taking reasonable risks) might be held to different standards of believability or respect.

As a witness for the State, the survivor does not need to hire a lawyer but may do so. This would be a private attorney and not our usual civil legal attorneys. The prosecutor is not the survivor's lawyer and the survivor does not have sole power over decisions about the case. However, it is perfectly acceptable for the survivor to contact the DA's office to discuss the progress of the case.

Chapter 75 Victims' Rights in Maine

In 1995, the Maine State Legislature enacted the state's first comprehensive crime victim rights legislation. In short, victims in Maine are afforded the right to:

- Victim witness support.
- Confidentiality.
- Notification and information about court dates.
- Be heard within the plea agreement procedure.
- Be heard at sentencing.
- Be heard regarding early termination of probation.
- Notification regarding release or escape from a state facility.
- Post-conviction DNA analysis.
- Restitution.
- Victims Compensation.

Legal Terms

AFFIDAVIT: A sworn statement.

ARRAIGNMENT: The opportunity for a criminal defendant to be made aware of the charges pending against them and enter a plea (answer) to the charges.

BAIL: Money or security that is given to insure that the defendant will appear at every stage of the legal proceedings in which they are involved.

COMPLAINT: A legal document laying out the cause of action against a criminal or civil defendant.

CONTINUANCE: The postponement of a case for trial or hearing to a later date.

DEFENDANT: The person who is being prosecuted for a crime or sued in civil court.

DISPOSITION: The final outcome of a case.

DISTRICT COURT: The lower trial court where lesser criminal offenses, civil actions, and family law matters may be tried.

JURY: A group of people who make a decision about the outcome of a criminal or civil action at trial. A grand jury decides whether there is probable cause to believe a crime occurred. If probable cause exists, the grand jury will return a written statement of the charges called an "indictment."

PERSONAL RECOGNIZANCE: An arrested defendant's promise to appear in court for further proceedings.

PROBABLY CAUSE: when there is enough information for a reasonably cautious person to believe a crime is being or was committed.

PROBATION: A sentencing alternative for a defendant who has been convicted of certain crimes. The defendant is supervised by a probation officer. If the defendant violates their probation, the court may revoke the probation, and the defendant may be incarcerated.

RESTITUTION: After a conviction, a court may order payment by the defendant (restitution) for certain loss, damage, or injury to the victim of a crime, including the dependent of a deceased victim; a person, organization or government entity that provided recovery to the victim; and any person legally authorized to act on behalf of the victim.

SUBPOENA: An order issued by the court to compel the appearance of a witness and/or documents at a hearing or a trial.

SUPERIOR COURT: The higher trial court where almost all civil and criminal matters may be tried.

THE MAINE SUPREME JUDICIAL COURT: This Court's major job is to decide appeals on questions of law that arise in civil actions and criminal trials. Questions of law are presented to the Court when a case is appealed from a trial court. In its appellate capacity (as interpreter of the laws), the Court is called the Law Court.

VICTIM IMPACT STATEMENT: If an offender has pled or been found guilty and before the judge imposes a sentence, the victim has an opportunity to let the judge know how the offender's actions and the crime have affected their life (Adams, 2003).

Victim Witness Advocates

In addition to prosecutors, DA's office staff members also include Victim Witness Advocates (VWAs), or Trial Assistants (TAs). The role of these individuals varies among DA's offices, but their primary function is to ensure that victim rights are upheld and victims have the support they need for the duration of the case. VWAs may offer supportive assistance directly to survivors and may be a primary contact for the survivor within the DA's office. VWAs may be resources for survivors who have legal questions about the criminal case, and may attend meetings with the prosecutor and survivor. In all cases, it is important for advocates to be clear that the role of the VWA/TA is different than the role of a sexual assault support center advocate.

If the DA's office decides not to go forward with the case, the survivor may request a meeting with the prosecutor who made the decision. This is an opportunity for a survivor and possibly concerned others to hear why the decision has been made to not move forward with the case or ask clarifying questions and ensure everyone has the same information.



The Grand Jury

If the DA's office decides to move forward with the case and it is a Class A, Class B or Class C crime or murder, the first step may be a hearing before the grand jury. The survivor may or may not be asked to testify at this hearing. The grand jury process is informal and confidential, and does not take place in an open courtroom. A grand jury is a group of 13 to 23 citizens, who hear evidence and have the task of deciding whether there is probable cause to believe a crime has been committed.

While the grand jury is taking evidence, only the attorneys for the State and the witness under examination may be present. The defendant, defense counsel, judge and advocate are not present when witnesses testify before the Grand Jury. If the survivor is asked to testify, they may have an opportunity to review their statement and will be asked by the DA to explain what happened to them. The detective assigned to the case usually testifies, and occasionally professionals from the crime lab also testify. The DA and jurors are allowed to ask questions.

Once the evidence has been presented and all questions have been answered, the grand jury members vote, and if 12 or more find probable cause that the defendant committed a crime, the defendant is indicted (formally charged with a crime). The Grand Jury does not determine innocence or guilt. The prosecutor can explain the process and what is required. If the grand jury does not find probable cause, the case does not move forward. The case can be brought back to the grand jury only if new evidence is found.

The Arraignment

If the grand jury hands down an indictment, the suspect will have to appear in court for an arraignment. The survivor is not required to be present for the arraignment, but some find it empowering to attend. Since the suspect is now formally charged with a crime, they are referred to as the defendant. At the arraignment, a judge reads the charges established by the grand jury and the defendant enters a plea of:

- Not guilty.
- Guilty.
- Nolo contendere (no contest).
- Not criminally responsible by reason of insanity.

There is rarely a guilty plea on a sexual assault case during the first court appearance. During the next few weeks, the defendant might ask to plead guilty. If the defendant pleads guilty or nolo contendere and the judge accepts the plea, the judge may ask that a probation officer from the Department of Corrections conduct a pre-sentence investigation and delay sentencing, or the judge may accept the plea as agreed to without a further investigation.

If there is a not guilty plea, a tentative trial date may be set or is set at another hearing. Nolo contendere pleas are those in which offenders do not admit guilt, but are convicted and sentenced according to the charge they are facing. These pleas are rare in cases of sexual violence.

The judge may also revisit the conditions of bail at this time. This is a time when a no-contact order or other conditions might be modified, added, or removed.

Before the Trial

After the arraignment and before the trial, there are usually a series of motion hearings. Either the defense attorney or the prosecutor from the DA's office may ask the court to hear motions.

Motions are simply the district attorney's or defense attorney's way of bringing issues related to the evidence or procedure to the court's attention before any trial takes place. Survivors aren't ordinarily present for motion hearings but are occasionally required to attend depending on the nature of the issue raised.

Many cases do not go to trial because the prosecutor and the defense attorney agree on a plea and sentence for the defendant. The judge does not have to accept the recommendation of the prosecutor and can impose a greater or shorter sentence. If



a greater sentence is imposed, the offender can withdraw the guilty plea, plead not guilty again, and go to trial.

In this case the prosecutor and the defense attorney could work together on another plea agreement. The district attorney's office keeps the survivor informed regarding the specifics of any proposed plea agreement and notifies the survivor when a plea agreement is reached.

Preparing for the Court Process

Staff advocates may provide emotional support around the court process and may provide accompaniment to court proceedings. In addition, the VWA from the DA's office may notify survivors about court appearances, answer questions about the court process, and meet with survivors to help familiarize them with the courtroom and other spaces within the courthouse.

The Trial

It can take between one to two years for a case to go to trial and cases are often not tried the first time they are scheduled. The postponement of a case to a later date is called a continuance.

When the case goes to trial, the VWA will contact the survivor. Therefore, it is important to keep the court, law enforcement, and the DA's office up to date with current contact information. The survivor is usually also sent a subpoena, which is an official court order to come to court as a witness at a specific date and time and/or to provide written materials. Willful failure to comply with the subpoena is a crime. If the survivor cannot appear on a date specified, it is important that they notify the DA's office as soon as possible.

As the trial begins, the prosecution and defense attorney will each present an opening statement, outlining what evidence will be presented. Following opening statements, the prosecution will call witnesses. Typical witnesses for the prosecution include the survivor, law enforcement officers, detectives, Sexual Assault Forensic Examiners or other health care providers who examined the survivor, crime lab professionals, and any other people who have direct knowledge about the crime.

As a witness for the prosecution, the survivor will only be allowed in the courtroom during their own testimony. This is true of all witnesses and is designed to ensure that the testimony of some witnesses will not be affected by the testimony of others. This absence from the courtroom can be frustrating to many survivors and making a plan for support during trial hours will be important.

Depending on the case, the length of the survivor's testimony can vary a great deal. It may take a few minutes or a few hours. Both the prosecutor and the defense attorney may reserve the right to call the survivor back to the stand at any time. If neither attorney has further questions for the survivor, they may allow the survivor to watch the remainder of the trial and the closing arguments.

For each person who is called to testify, the attorney who called the witness asks questions, known as the direct examination, followed by questions from the opposing attorney, known as cross-examination. Defendants are not required to testify in their own defense, although they can choose to.

When both sides have called and questioned their witnesses, the attorneys make their closing arguments. These are statements reviewing the testimony, summarizing the state of the case, and arguing for one particular verdict, either guilty or not guilty.

Following closing arguments, the judge will give instructions to the jury. The jury then moves to a separate room to deliberate. Deliberation is the process used to examine the testimony and evidence and share thoughts about whether to find the offender guilty or not guilty. That decision is called the verdict. All jurors must agree in order for a verdict to be reached.

There are four possible outcomes of the deliberation process. When jurors cannot unanimously reach a verdict it is called a hung jury. If this happens, the case can be tried again by a different jury. It is also possible for a mistrial to be called if there is an irregularity in the trial or if something happens which may unfairly influence the jury. A mistrial can also result in a new trial with a different jury. If the defendant is found not guilty, the case is dismissed and can never be tried again. If the defendant is found guilty, bail will be set and a date for sentencing will be scheduled.

Victim Impact Statements

Maine law gives the survivor the right to be heard at the time of sentencing. This is the survivor's only opportunity to speak directly to the court and the judge and explain how the crime has impacted them. The survivor can either address the judge in person or submit a statement, referred to as the Victim Impact Statement, which will be read to the judge in open court by the survivor.

If the survivor does not want to read their statement,

then a VWA, a sexual assault support center advocate, the prosecutor, or some other appropriate individual may read it for the survivor. The survivor may also request that the judge read their statement privately, but the defendant will likely have access to the statement and be able to view it. The defendant and others, such as family members, also have the right to be heard at the time of sentencing.

Sentencing

If the defendant is convicted or pleads guilty, a sentence can be imposed immediately, or may be scheduled for a future date after a pre-sentencing investigation. This is an investigation into the background of the defendant, conducted by a probation officer from the Department of Corrections, which will help the judge decide the type of sentence the offender receives.

In Maine, a judge presides at the sentencing hearing. Sentences can vary tremendously. Sentences for the crime of sexual violence can include jail or prison time and a period of probation.

Probation may carry certain conditions, such as mandated offender treatment, registration as a sex offender, and no contact with the survivor.

If the defendant violates these conditions while on probation, they could be sent back to jail for a specified amount of time. Defendants who repeatedly violate probation may be sent back for the remainder of their sentence.

Restitution

If there is a conviction (defendant found guilty), the law provides an opportunity for judges to consider restitution for economic loss. This economic loss may be due to medical expenses, destroyed or stolen property and lost work time but does not include psychological trauma or expenses related to court testimony. If a survivor has sustained economic loss, they can inform the DA's office. The judge in the case can then consider restitution as a part of a possible sentence for the crime(s) committed.

Victim Notification Program

The Maine Department of Corrections (DOC) is responsible for the Victim Notification Program. Survivors may choose whether or not they want to be notified about the status of the offender after sentencing. Survivors who want to be notified will need to fill out a card with their contact information. The institution to which the defendant is committed keeps the survivor's written request for a notification in the

file of the defendant and notifies the survivor by mail of any impending release as soon as the release date is set or, if the defendant has escaped, by the quickest means reasonably practicable.

DOC Victim Advocates are the best resource for survivors seeking information once the offender is incarcerated in a state facility. DOC Advocates can give the survivor information about if the offender is incarcerated, when the offender is moved to any other facility, if the offender dies or escapes, if the offender files an appeal, and when the offender is being released back into the community for any reason, including conditional release, probation, supervised release, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or an unconditional release and discharge or expiration of a sentence. It is the survivor's responsibility to keep the DOC updated about changes in contact information if they continue to want to be informed about the offender.



Finding out that the offender is being released back into the community can be a particularly difficult and stressful time. Survivors may ask the DOC to facilitate a "safety planning meeting," to include a victim advocate from DOC, local law enforcement, the offender's future Probation Officer (if the offender is being released on probation), and an advocate from the sexual assault support center. It is an opportunity for the survivor to ask questions about what the offender's conditions for release include and to request conditions to help the survivor feel safer. For example, the survivor may feel safer if the offender is not allowed to be in a specific neighborhood or location that is near the survivor's residence, or to contact them.

The Protection from Abuse Order process is always available to the survivor, regardless of the release conditions that are imposed by the criminal justice system.

The Appeal Process

If the defendant is found guilty and sentenced, the defense attorney may file an appeal with the Maine Supreme Judicial Court. The district attorney will explain this process if a defendant appeals a conviction.



Victims Compensation

Survivors may experience financial impacts resulting from sexual violence. Maine has a program in place to provide financial assistance to survivors of sexual violence and/or other crimes. Survivors of sexual violence may qualify for assistance with financial costs resulting from the crime(s) through the Maine Crime Victims' Compensation Program (VCP). This program

is administered through the Maine Office of the Attorney General and is funded, in part, by fines paid by individuals convicted of crimes in Maine.

Advocates, in particular the SART Advocate, can offer information about the VCP to survivors. Advocates who hear from callers about financial concerns stemming from acts of sexual violence can provide details about the program and assist the survivor in filling out the application. Advocates should never assume that someone else already has provided VCP information to the survivor, although law enforcement officers, VWAs or TAs within the district attorney's office, or forensic examiners at healthcare facilities may also provide information about the program. There are two parts to the VCP. The original program provides benefits based on an application by a crime victim. The second part provides direct payments to hospitals for medical/forensic examinations for victims of the crime of gross sexual assault.

Under the program, a variety of expenses stemming from sexual violence or other violent crimes may be covered, including:

- Medical charges (ambulance, hospital care, doctor's office, dental, eyeglasses, prescription, and any out-of-pocket co-payments). Though the cost of the medical/ forensic exam will not be billed to the survivor, any other medical care performed at the time will be.
- Counseling expenses (these may also be covered for the survivor's family/household members and others, in some cases).
- Lock repair or replacement of other security devices.
- Income loss.
- Crime scene cleaning costs (bio-matter only).
- Security deposit (in limited circumstances requiring an imminent threat and active involvement with a sexual assault support center or domestic violence organization).

In order for a survivor to receive any of these benefits, a survivor must meet the following eligibility requirements. If a survivor has insurance and other coverage or eligibility for free care or a sliding scale, that must be applied to an expense or loss before Victims' Compensation pays.

The survivor must be a victim of a crime covered by the VCP statute. Virtually all violent crimes are covered. The crime must be reported within five days of the occurrence. This requirement may be waived for good cause, as explained below.

An application to the Victims' Compensation Board must be filed within three years of the incident. The survivor must cooperate with law enforcement and prosecutors, however there are exceptions to this case if making a report to law enforcement is unsafe – have an advocate reach out for clarification.

The Victims' Compensation Board often will review cases and grant a 'good cause' waiver for survivors who do not report to police within five days (though a report must ultimately be made). The advocate can help the survivor complete a statement explaining the reason for the delay and send it along with the application.

It is not necessary for the offender to be charged with the crime or convicted of the crime in order for the survivor to be eligible for the program.

Title IX & Campus Sexual Assault

Title IX is a federal civil right that prohibits sex-based discrimination in an educational setting. It includes sexual harassment, gender-based discrimination, and sexual violence.

Title IX protects any student, faculty, or staff member regardless of their real or perceived sex, gender identity, or gender expression.

Schools must be proactive in ensuring campuses are free of sex discrimination. Schools must take immediate steps to address any sexual harassment, discrimination, or violence, remedy the harm caused, and prevent future occurrences.

Schools are required to have, and follow, an established procedure for handling complaints of sexual harassment, discrimination, or violence. Every school must have a Title IX Coordinator who manages complaints, and their contact information should be easily accessible.

Individuals experiencing sexual harassment, discrimination, or violence, are entitled to a number of rights under Title IX. If a complaint is filed, their school must promptly investigate it regardless of whether there is a report made to the police.

All students have a right to feel safe on campus. Schools should ensure that a victim does not have to share spaces—such as dorms, classes, or campus jobs—with their assailant. Schools can issue a no-contact directive to prevent the accused student from approaching or interacting with you. Campus security and police should enforce such directives. This is not a court-ordered restraining order, but the school should provide the victim with information on how to obtain a restraining order and assist with the process if they choose to pursue it.

Victims have a right to seek a formal disciplinary hearing. In cases of sexual violence, schools are prohibited from encouraging or allowing mediation, rather than a formal hearing, of the complaint. They may still offer an alternative process, but survivors have a right to request a disciplinary hearing if you choose. Schools are discouraged from allowing the accused to question you during a hearing. If your school allows that, consider getting a nonprofit attorney or other legal advocate to help you through the process. Or file a Title IX complaint with the U.S. Department of Education about that school's hearing process.

Victims have a right to remain on campus and have every educational program and opportunity made available. Schools may not retaliate against someone filing a complaint and must keep victims safe from other retaliatory harassment or behavior. Schools cannot discourage victims from continuing their education, such as telling them to “take time off” or forcing them to quit a class, club, or team.

Statistics

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998, originally known as the Student Right-To-Know and Campus Security Act, requires institutions of higher education (IHE's) to publish annual crime statistics for their campuses. However, these reports do not show the whole picture of sexual violence on a campus. One key reason is that Clery reports only measure crimes that occurred on college-owned or controlled property. Sexual violence that occurs off-campus is not counted in the statistics.

Additionally, colleges and universities want to market their school positively in an effort to recruit students. Publishing accurate crime statistics may detract from the positive and successful appearance the school desires to present. Also, the law excludes crimes such as larceny, theft, threats, harassment, and vandalism (Carr, 2005). These exclusions can affect the true picture of stalking and other behaviors which may lead up to or follow other acts of sexual violence.

Statistics for campus sexual violence include:

- “During the course of their college careers, between 20 and 25 percent of women will be sexually assaulted or experience attempted sexual assault” (Fisher, Cullen, & Turner, as cited in AAUW, 2009).
- 95% of campus sexual assaults are not reported (Fisher, Cullen, & Turner, as cited in AAUW, 2009). In a 2009 study by the Center for Public Integrity, the most commonly cited reason for why the incident was not reported was institutional barriers on campus (as cited in AAUW, 2009).
- The overall rate of nonconsensual sexual contact by physical force or inability to consent since the student enrolled at the school was 13.0 percent, with the rates for women, transgender, gender queer, gender questioning, and gender non-conforming, and undergraduate students being significantly higher than for men and graduate/professional students (Cantor, et. al., 2020).

- Undergraduate transgender and gender-nonconforming and women students reported having the highest rates of other forms of sexual misconduct. Among undergraduate TGQN students, 65.1 percent reported experiencing harassing behavior since first enrolling at the school, 21.5 percent with partners reported intimate partner violence (IPV) and 15.2 percent stalking. Among undergraduate women 59.2, 14.1 and 10.0 percent experienced harassing behavior, IPV and stalking, respectively (Ibid).
- The most common type of program or resource contacted after a victimization was counseling (46.8% of victims contacting a program or resource). Campus police (11.2%) and local police (9.4%) were contacted less often. (ibid) Rape and sexual assault victimizations of students (80%) were more likely than nonstudent victimizations (67%) to go unreported to police (Sinozich and Langton, 2014).
- For both college students and nonstudents, the offender was known to the victim in about 80% of rape and sexual assault victimizations (Ibid).

IHEs that receive federal funds are mandated to keep records and publicly disclose statistics pertaining to sexual violence on campus. In addition, the Clery Act requires that IHEs have policies and procedures regarding response to reports of sexual violence. Amendments to the law also require basic rights for survivors and continue to emphasize reporting obligations and mandating campus security policies and procedures (Karjane, Fisher, & Cullen, 2002).

Another important law, the Campus Sexual Assault Victims' Bill of Rights of 1992, requires that public and private colleges and universities that participate in federal student aid programs offer sexual assault survivors certain basic rights. The accuser and accused must have the same opportunity to have supports present at judicial hearings; both parties must be informed of the outcome of any disciplinary proceeding; and survivors must be informed of their options to notify law enforcement. Survivors must be notified of counseling services and options for changing academic and living situations (Carr, 2005).

Advocate Response & Support

Advocates support survivors of campus and school-based sexual violence in similar ways as survivors of any type of sexual violence.

Per federal guidelines, when an individual on campus has been accused of committing a crime, the colleges or universities may be required to notify the campus

community in an effort to keep students as safe as possible. When a college or university withholds information about a potentially dangerous individual on campus, they may face the possibility of being held liable for further harm to students. Title IX, which pertains to gender equity at federally funded IHEs, and the Clery Act, while intended to protect the rights of survivors, may also impact a school's ability to protect a survivor's confidentiality: they have an obligation to pursue incidents, with or without the survivor's support.

When discussing reporting options with survivors, it is important for advocates to let callers know there may be a variety of options, ranging from filing a formal report with law enforcement to filing a complaint with the school to not reporting. Reporting sexual violence at a school is not the same as reporting to law enforcement, unless the school maintains its own police department rather than a security division. In addition to reporting on at school, a report of sexual violence can also be made to the law enforcement agency with jurisdiction.

Some colleges and universities also have anonymous reporting options. Students and advocates can consult student handbooks for more information. It is important to know that when cases are pursued through campus justice systems, the processes and outcomes will be very different from those in the criminal justice system. The case may be heard by a jury of student peers, and the perpetrator is almost never expelled, even when found guilty. Rather, education and prevention tools are used, such as counseling or alcohol treatment (Center for Public Integrity, as cited by Shapiro, 2010). Additionally, Title IX verdicts do not follow perpetrators after they have left the school environment.

It is also important for students to know that some locations at school may be fully confidential, such as a counseling office, while other locations may not be able to keep information provided completely confidential. Again, students and advocates can consult student handbooks for more information. It is also important to remember that school authority potentially ends at the school boundaries, though schools do have the ability to address some issues that originate off campus. Protection or no contact orders that are obtained through campus avenues are not enforceable off campus. However, orders for Protection from Abuse or Harassment that are obtained through the court are enforceable both on and off campus.

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Sexual Violence in the United States Military

The United States Armed Forces, with more than 2 million civilian and military employees, is one of the largest government institutions. There are also approximately 24.5 million U.S. Armed Forces veterans and thousands of students currently attending military academies across the country (U.S. Census Bureau, 2010).

In a 2016 meta-analysis, data showed that 13.9% of military personnel and veterans reported military sexual assault (1.9% of men, 23.6% of women) and 31.2% reported military sexual harassment (8.9% of men, 52.5% of women) (Wilson, 2018). However, given the barriers to reporting, actual rates of sexual violence in the military and at military academies are still difficult to determine.

Some specific barriers to reporting for survivors in the military include:

- Fear of repercussions by the survivor's chain of command.
- Fear of demotion in the ranks of service.
- The closed nature of the U.S. Armed Forces.
 - Military base or installation may be in a confined environment.
 - Work conditions may bring survivor into frequent contact with the offender.
- Although the military's "Don't Ask, Don't Tell" policy regarding sexual identity and same gender relationships was repealed in 2010, the policy created previous barriers to reporting, and homophobic issues still maintain similar barriers.
 - Fear of further harm by the offender.
 - Sometimes offender holds a higher rank.
- Damage to status if offender is of lower rank.
- The lack of a reliable system for reporting such crimes.

Fears of reprisal appear to be well-founded given that a study examining the separations of service members who made unrestricted reports of sexual assault from January 1, 2009, to June 30, 2015, the Defense Manpower Data Center found that the Services had separated a total of 5,301 service members (34 percent) who made an unrestricted report of sexual assault (Stone, 2016).

In response to the lack of a reliable reporting system, in June 2005, in accordance with the DOD Policy on Prevention and Response to Sexual Assault released

earlier that same year (DOD, 2005), reporting avenues were expanded to allow survivors in the military the opportunity for a "restricted", or

confidential, reporting option. The survivor's chain of command may be notified that one of their subordinates was sexually assaulted, but will not be given any identifying information. Military criminal investigation organizations will not be notified. The survivor will be able to access confidential services available on the base or installation, such as services from sexual assault program staff, healthcare providers, and chaplains.

The other reporting option is an unrestricted report. Unrestricted reports activate an investigation of the report. The command chain is notified, as well as military criminal investigation organizations, and support avenues continue to be available (DOD, 2006). For survivors who are currently active in the military, services are available at their

base or installation.

All U.S. Armed Forces branches have a Sexual Assault Response Coordinator position and trained sexual assault advocates. Some bases or installations have medical services and conduct forensic examinations, while others require that survivors seek medical attention and forensic evidence collection at the local civilian medical facility.

This improved and coordinated effort has helped to increase the number of sexual assault reports made, and to more effectively address the issues of sexual violence in the military. Most importantly, it has given survivors in the military the option of making a confidential report while still qualifying for confidential and supportive services within their military base or installation.

The implementation of these reporting options does not eliminate many of the reasons it may be difficult to report. Survivors may ultimately choose not to report the assault. If survivors decide it is in their best interest to make a report, their reporting location will depend on the situation surrounding the assault.



The following will assist the advocate in providing the caller with accurate reporting location information:

Situation	Reporting Local Options
Military member assaulted by another military member or civilian employee of the military.	Military officials and Local Law Enforcement
Military member assaulted by someone who is not an employee of the military.	Local Law Enforcement
Non-military member assaulted by a military member or civilian employee of the military.	Military officials and Local Law Enforcement

In the United States Department of Veterans Affairs Military Sexual Trauma Program, survivors are encouraged to see a healthcare professional and a clinician. Counseling is encouraged, regardless of when the assault happened or whether or not it was reported.

Support for survivors in the military is similar to the support an advocate would provide to any survivor. It will be helpful to acknowledge their current situation, be open to hearing about their situation and their knowledge of options available to them, while also demonstrating an awareness of the Department of Defense Sexual Assault Prevention and Response Policy. (Centers may choose to include this policy as supplemental material to this section.)

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