

MS 243 Responding to Sexual Assault

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Responsible Offices: Office of Sexual Assault Risk Reduction and Response (OSARRR); Office of Global Operations (OGO), Office of Safety and Security (OSS), Office of Victim Advocacy (OVA), Office of Health Services (OHS), Office of the General Counsel (OGC)

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Issuance Memo (04/05/2018)

MS 243 Responding to Sexual Assault Procedures

Attachment

Attachment A – CARS CMS Documentation Requirements

MS 243 FAQ – *Sexual Assault Program Frequently Asked Questions*

1.0 Purpose

This Manual Section establishes a system of Restricted and Standard Reporting of Sexual Assault in accordance with the requirements of the Kate Puzey Peace Corps Volunteer Protection Act of 2011.

The system of reporting established in this policy can only be pursued by a Volunteer who reports having been sexually assaulted. Standard Reporting provides a Volunteer with the full array of support services and options, including the opportunity to request an Official Investigation, while still maintaining to the extent possible the confidentiality of information about the Volunteer and the Sexual Assault. The Peace Corps believes that it is best able to respond to the needs of a Volunteer who has been sexually assaulted when the Volunteer makes a Standard Report of the Sexual Assault. Restricted Reporting provides a Volunteer who might not otherwise report a Sexual Assault under Standard Reporting with the option of confidentially reporting the Sexual Assault and requesting certain specific services, without dissemination of information about the Volunteer or the Sexual Assault except as necessary for the provision of the services requested by the Volunteer and without automatically triggering an Official Investigation. A Volunteer who has been sexually assaulted during his or her service has the option to make either a Restricted Report or a Standard Report of a Sexual Assault.

2.0 Authority

22 U.S.C. 2507b(a)(1)

3.0 Definitions

- (a) **Designated Security Specialist** means a staff member in the Office of Safety and Security at Headquarters who has been trained to handle Restricted and Standard Reports and provides technical assistance to post staff and Peace Corps Safety and Security Officers, and, if necessary, to direct and coordinate actions to mitigate risks to safety and security.
- (b) **Designated Staff** means:
- (1) at post, Peace Corps Medical Officers (PCMOs), Sexual Assault Response Liaisons (SARLs), Safety and Security Managers (SSMs), back-up SSMs as needed; Peace Corps Safety and Security Officers (PCSSOs) in some circumstances; and
 - (2) at Headquarters, the Director of the Office of Victim Advocacy, the Victim Advocate in the Office of Victim Advocacy who is assigned to the particular case, the Designated Security Specialist who is assigned to the particular case, the Counseling and Outreach Unit personnel who are assigned to the particular case, and the Office of Health Services Field Support Unit personnel who are assigned to the particular case.
- (c) **Medical Treatment Plan** means a plan developed by a PCMO to address the medical treatment needs of a Volunteer who has been sexually assaulted, including treatment of physical injuries; mental health assessment, support and treatment; and prevention of sexually transmitted infections and pregnancy.
- (d) **Official Investigation** means any investigation or other action carried out by the Peace Corps or law enforcement authorities in response to a Sexual Assault, but does not include actions carried out by Designated Staff or other authorized Peace Corps staff for purposes of providing Standard Report Services or Restricted Report Services.
- (e) **Personally Identifying Information** or **PII** means individually identifying information for or about a Volunteer who is a victim of Sexual Assault, including first and last name, home or physical address (including site location), contact information (such as postal address, email, IP address, telephone or fax number), social security number, date of birth, ethnicity, race, religious affiliation, the location of the incident, the victim's sector, entry on service date, close of service date or time since swearing-in and any other information that, either individually or in combination with other information, would serve to identify the Volunteer.
- (f) **Procedures** means the MS 243 *Responding to Sexual Assault Procedures*.

- (g) **Restricted Report** means a confidential report made to Designated Staff by a Volunteer who reports being sexually assaulted during service in order for the Volunteer to receive Restricted Report Services without further dissemination of the Volunteer's PII, except to the extent necessary for the provision of such Restricted Report Services and without automatically triggering an Official Investigation.
- (h) **Restricted Report Services** means, for a Volunteer who reports being a victim of Sexual Assault:
- (1) an explanation of the option to make either a Restricted Report or a Standard Report;
 - (2) provision of a SARL and a Victim Advocate;
 - (3) provision of a sexual assault forensic exam in accordance with applicable host country law;
 - (4) provision of emergency health care, including a mechanism to evaluate the provider;
 - (5) provision of counseling and psychiatric medication;
 - (6) completion and implementation of a Victim Safety Plan and a Medical Treatment Plan;
 - (7) evacuation for medical treatment, accompanied by Designated Staff at the request of the Volunteer and, when evacuated to the United States, to the extent practicable a choice of medical providers and a mechanism to evaluate such providers; and
 - (8) an explanation of the available law enforcement and prosecutorial options, including, for this purpose, legal representation.
- (i) **Serious or Imminent Threat** means a serious or imminent threat to the health or safety of the Volunteer or others, such as (i) any life threatening, or potentially life threatening condition or security situation, (ii) any condition or security situation that threatens loss of limb or other serious bodily harm, or (iii) any situation that has involved the Volunteer losing consciousness. A threat to health or safety would only be considered to be a Serious or Imminent Threat if it cannot be adequately prevented or lessened by Designated Staff or the Volunteer and/or the threat will require disclosure of the Volunteer's PII to limited individuals or organizations to adequately prevent or lessen the substance of the threat to health or safety.
- (j) **Sexual Assault** means a Rape, Aggravated Sexual Assault, or Non-Aggravated Sexual Assault, as defined in the Peace Corps' Consolidated Incident Reporting Guide and the Procedures.

- (k) ***Specific need to know*** means, with respect to particular information, that an individual is unable to perform a specific task that is part of that individual's official duties without knowledge of that particular information.
- (l) ***Standard Report*** means any report by a Volunteer of a Sexual Assault that, in accordance with this policy or the Procedures, is no longer treated as a Restricted Report and may provide the Volunteer with the opportunity to receive services other than Restricted Report Services and trigger an Official Investigation. A Standard Report of a Sexual Assault is confidential in nature.
- (m) ***Standard Report Services*** includes all Restricted Report Services, as well as the following:
- (1) Assisting the Volunteer in making a report of the Sexual Assault to law enforcement authorities;
 - (2) Assistance in any legal proceedings related to the Sexual Assault;
 - (3) Retaining legal counsel to represent the Volunteer in legal proceedings in accordance with MS 774 *Retention of Counsel and Payment of Expenses*;
 - (4) Reporting to and requesting assistance from the Office of Inspector General;
 - (5) Initiating formal Peace Corps administrative processes, including initiating a complaint of sexual misconduct by another Volunteer in accordance with IPS 1-12 *Volunteer/Trainee Sexual Misconduct*;
 - (6) Consideration of site and host family changes;
 - (7) Support and assistance from non-Designated Staff; and
 - (8) Any other services not listed under Restricted Report Services that are deemed necessary in the particular circumstances.
- (n) ***Third party*** means an individual other than the Volunteer victim of a sexual assault. The third party could be, for example, another Volunteer, host family member, bystander, neighbor or local official. The recipient of a report from a third party could be any employee of Peace Corps, including Designated Staff, Country Director, post staff, or Office of Inspector General.
- (o) ***Victim Safety Plan*** means a plan developed by Designated Staff and a Volunteer to address the immediate and ongoing personal safety and emotional needs of the Volunteer following a Sexual Assault.
- (p) ***Volunteer*** means a currently serving or Returned Peace Corps Volunteer or Trainee who reports being a victim of a Sexual Assault during training or service for the purposes of this Manual Section only.

4.0 Restricted Report

4.1 Making a Restricted Report

- (a) A Volunteer's report of Sexual Assault is presumed to be a Restricted Report until the Volunteer exercises the option to make the report a Standard Report or until it is otherwise converted into a Standard Report in accordance with the Procedures.
- (b) A Restricted Report should be made to a Designated Staff member at post. However, if a Volunteer initially reports a Sexual Assault to a Peace Corps staff member who is not Designated Staff at post, such staff member must immediately notify the Designated Staff at post, and must not reveal the Volunteer's PII to anyone other than Designated Staff at post. No Peace Corps staff member (other than Designated Staff) may attempt to use any information from a Restricted Report to discover the identity or location of the Volunteer who made the Restricted Report unless it is determined in accordance with the Procedures that an exception in paragraph 4.4(a) applies. Nothing in this sub-paragraph affects the right of OIG to independently investigate incidents or review allegations of mismanagement as set out in paragraph 4.2(d).

4.2 Effect of Making a Restricted Report

- (a) Where a Volunteer has made a Restricted Report, the Volunteer's PII may be disclosed only as set out in this paragraph 4.2, paragraph 4.6 and the Procedures.
- (b) Notwithstanding any other provision of the Peace Corps Manual, Designated Staff may not, without the Volunteer's consent, disclose the Volunteer's PII to anyone other than those persons who are necessary for the provision of services requested by the Volunteer, unless:
 - (1) it is determined in accordance with the Procedures that an exception in paragraph 4.4(a) applies; or
 - (2) OIG has access to such information in accordance with paragraph 4.6.

This prohibition applies to any written or oral communications between the Volunteer and members of the Designated Staff and among members of the Designated Staff that involve the Volunteer's PII.

- (c) The filing by a Volunteer of a Restricted Report will not automatically trigger an Official Investigation. The Peace Corps (including OIG) will not initiate an Official Investigation of a Restricted Report unless and until the Restricted Report is converted into a Standard Report in accordance with the Procedures.
- (d) If any Peace Corps staff member improperly discloses a Volunteer's PII from a Restricted Report or other information regarding the Sexual Assault that is part of a Restricted Report, such staff member may be subject to disciplinary action, including adverse personnel or administrative actions; provided, however, that:

- (1) anyone may at any time report to OIG concerns or allegations regarding mismanagement of a sexual assault incident without violating this policy; and
 - (2) no Peace Corps staff member will take or threaten to take any action against the person reporting such a concern or allegation to OIG as a reprisal for doing so unless the report to OIG was made with the knowledge that it was false or with willful disregard for its truth or falsity.
- (e) If the Peace Corps is contacted by members of a Volunteer's family regarding a Restricted Report, the Peace Corps will not release any information to such family members even if the Volunteer provides written consent.
 - (f) Pursuant to MS 893 *Freedom of Information Act Administration*, when a Freedom of Information Act (FOIA) request is made to Peace Corps to obtain any information regarding a Sexual Assault against a Volunteer, the FOIA Officer should consult with the Designated Security Specialist to ascertain if the information requested is contained in a Restricted Report. If it is covered by a Restricted Report, the Designated Security Specialist will inform the FOIA Officer that the Restricted Report cannot be distributed to the FOIA Officer in accordance with the requirements of the Kate Puzey Peace Corps Volunteer Protection Act of 2011. The FOIA Officer will proceed to process the FOIA request in accordance with MS 893. This provision does not apply if the requestor is the Volunteer who made the Restricted Report.

4.3 Restricted Report Services

- (a) The Peace Corps will make all of the Restricted Report Services available to a Volunteer who makes a Restricted Report.
- (b) In order for a Volunteer to receive services other than Restricted Report Services, a Restricted Report must be converted into a Standard Report in accordance with the Procedures.

4.4 Exceptions to Restricted Reporting

- (a) When a Volunteer chooses to file a Restricted Report, Designated Staff may only disclose the Volunteer's PII to the following persons or organizations when the disclosure is for the following reasons:
 - (1) To Peace Corps staff or law enforcement if authorized in writing by the Volunteer.
 - (2) To Peace Corps staff or law enforcement if necessary to prevent or lessen a Serious or Imminent Threat.
 - (3) To staff at Headquarters and to health care providers outside the Peace Corps if necessary for the provision or procurement of Restricted Report Services.

- (4) To a state or Federal court if disclosure is ordered by such court or if disclosure is required by a Federal or state statute.
- (b) The Procedures contain further details regarding application of the exceptions set out in paragraph 4.4(a).
- (c) Any disclosure under an exception set out in paragraph 4.4(a) will be only to those with a specific need to know and limited to the minimum information necessary to meet the substance of the exception, and the Peace Corps will take such action as is necessary to protect the privacy and safety of the Volunteer. Designated Staff will make reasonable attempts to provide notice to the Volunteer of any disclosure of the Volunteer's PII where written consent by the Volunteer has not been given.

4.5 Notification to Country Director and the Regional Security Officer

- (a) As soon as possible after receiving a Restricted Report, the SSM will report to the Country Director that a Sexual Assault has taken place in the country and that the Volunteer opted to make a Restricted Report. The report to the Country Director will include information on the type of assault (Rape, Aggravated Sexual Assault or Non-Aggravated Sexual Assault), the category of the location of the Sexual Assault (e.g., residence, local establishment, public transportation), and if services were requested. Unless an exception applies in paragraph 4.4(a), Designated Staff will not disclose any of the Volunteer's PII to the Country Director, in accordance with the Procedures.
- (b) Upon notification from the SSM, the Country Director will inform the Regional Security Officer (RSO) at the US Embassy as soon as possible that a Sexual Assault took place in-country and that the Volunteer has opted for a Restricted Report. The Country Director will only provide the Regional Security Officer the type of assault (Rape, Aggravated Sexual Assault or Non-Aggravated Sexual Assault) and category of the location of the Sexual Assault (e.g., residence, local establishment, public transportation).
- (c) As soon as possible after the initial report to the Country Director, Designated Staff will confirm to the Country Director that the Volunteer is safe and that the Designated Staff is working to provide any Restricted Report Services requested by the Volunteer. When all requested services have been provided to the Volunteer, Designated Staff will confirm to the Country Director that the Volunteer is safe and all requested services were provided.
- (d) Notwithstanding any other provision of the Manual, the Country Director may not disclose information received pursuant to paragraph 4.5(a), 4.5(b) or 4.5(c) to any other staff member, other than Designated Staff or an individual designated as Acting Country Director, or to anyone else unless it is determined in accordance with the Procedures that an exception in paragraph 4.4(a) applies. The Country Director may not use information received pursuant to paragraph 4.5(a), 4.5(c) or 4.5(d) for the purpose of conducting an Official Investigation or for the purpose of seeking to discover the identity or location of the Volunteer who made the Restricted Report.
- (e) If, at any point, the Country Director's authority is needed to assemble additional support for the Volunteer, the PCMO will notify the Country Director of such request. Unless

one of the exceptions in paragraph 4.4(a) applies, the PCMO will not provide the Country Director with the Volunteer's PII or any other information from the Restricted Report other than that referred to in paragraph 4.5(a), 4.5(c) or 4.5(d).

4.6 Access by OIG to Information from Restricted Reports

- (a) The Peace Corps will, on request by OIG, provide OIG with access to all information related to Restricted Reports, including PII.
- (b) Notwithstanding the policy set forth in Section 4.2(c), OIG may initiate an investigation of the incident that is the subject of a Restricted Report if it independently receives information about the incident from an individual other than the Volunteer who made the Restricted Report. In that case, the Restricted Report will not automatically be converted into a Standard Report, and the OIG will not reveal the Volunteer's PII to anyone other than Designated Staff unless and until the report is converted into a Standard Report.
- (c) OIG will not contact a Volunteer who files a Restricted Report with regard to the Restricted Report in the absence of the Volunteer's consent, as provided in the Procedures. If OIG wishes to contact the Volunteer who made the Restricted Report, OIG will seek the consent of the Volunteer through the Director of the Office of Victim Advocacy (or, in the case of a whistleblower complaint under paragraph 6.0(d) another member of the Designated Staff). The Office of Victim Advocacy (or such other member of the Designated Staff) will work with OIG on the nature of the communication to the Volunteer.
- (d) A Volunteer may at any time report concerns or allegations regarding mismanagement of the Peace Corps' response to the sexual assault incident to OIG without the Restricted Report being converted into a Standard Report. OIG may initiate and carry out a review or investigation of such concerns or allegations and will have full access to information related to the Restricted Report.
- (e) Anyone may at any time report concerns or allegations regarding mismanagement of the Peace Corps' response to the sexual assault incident to OIG without the Restricted Report being converted into a Standard Report
- (f) The Volunteer may at any time report the Sexual Assault to OIG or other law enforcement for the purpose of triggering an Official Investigation of the Sexual Assault. In that case (as opposed to a situation in which concerns or allegations regarding mismanagement of the Peace Corps' response is reported to OIG as provided in (e) above), the Restricted Report will be converted into a Standard Report. OIG will treat any information it receives regarding sexual assault with the utmost discretion and confidentiality, consistent with applicable law.

5.0 Standard Report

5.1 Effect of Making a Standard Report

- (a) If the Volunteer exercises the option to make the report of a Sexual Assault a Standard Report or a Restricted Report is otherwise converted into a Standard Report in accordance with the Procedures, the Peace Corps will make all Standard Report Services available to the Volunteer as provided in the Procedures.
- (b) A Standard Report cannot be converted to a Restricted Report. Therefore, if a Restricted Report has been converted into a Standard Report in accordance with the Procedures, it may not be converted back to a Restricted Report.
- (c) If the Peace Corps is contacted by members of a Volunteer's family regarding a Standard Report, the Peace Corps will not release any information to such family members even if the Volunteer provides written consent.

6.0 Confidentiality

- (a) Both Standard Reports and Restricted Reports contain confidential information.
- (b) For a Standard Report, PII and any other information relating to the Sexual Assault may be disclosed only to those Peace Corps staff who have a specific need to know that particular information. Only the minimum information necessary for the Peace Corps staff to perform the required tasks may be disclosed to the Peace Corps staff. However, this does not apply to requests by OIG for information in accordance with 7.1 of MS 861 *Office of Inspector General*. Peace Corps staff must provide OIG with prompt access to all documents, information and records requested by OIG with respect to a Restricted or Standard Report.
- (c) Pursuant to paragraph 4.4(a)(ii), Designated Staff will make reasonable attempts to provide notice to the Volunteer of any disclosure of the Volunteer's PII where written consent by the Volunteer has not been given.
- (d) Any Peace Corps staff who improperly discloses the Volunteer's PII from a Standard Report or any other information regarding a Sexual Assault that is part of a Standard Report may be subject to disciplinary action, including adverse personnel or administrative actions; provided, however, that:
 - (1) anyone may at any time report to OIG concerns or allegations regarding mismanagement of a sexual assault incident without violating this policy; and
 - (2) no Peace Corps staff member will take or threaten to take any action against the person reporting such a concern or allegation to OIG as a reprisal for doing so unless the report to OIG was made with the knowledge that it was false or with willful disregard for its truth or falsity.

7.0 Third Party Reports of Sexual Assault

- (a) In cases where a third party discloses to post, Headquarters, or OIG that a Volunteer is a victim of a Sexual Assault, the agency will attempt to keep the Restricted Report option available to the Volunteer. Designated Staff must be informed of the third party report and immediately contact the Volunteer to determine the safety status of the Volunteer and ascertain if a Sexual Assault did occur in accordance with the Procedures.
- (b) If the Volunteer confirms that a Sexual Assault took place, section 4.0 above applies, and Designated Staff will follow the Procedures for responding to a sexual assault.
- (c) If the Volunteer denies that a Sexual Assault occurred, the Designated Staff must disclose the third party report and the Volunteer's response to the Country Director and follow protocols regarding Third Party Reports as prescribed in the Procedures
- (d) If the third party report involves an allegation that the perpetrator is a Volunteer, staff member, or contractor, regardless of Volunteer's decision on filing a report, OIG must be notified as described in MS 861. In cases where the Volunteer files a Restricted Report, OIG will adhere to Section 4.6 above.
- (e) Staff should adhere to the principles of confidentiality in MS 271 when a third party report is by another currently serving Volunteer (not subject of Sexual Assault) or Peace Corps staff member.

8.0 Procedures

Procedures implementing this Manual Section are contained in the Procedures. Any changes to the Procedures must be developed under the direction and guidance of the Director of the Office of Sexual Assault Risk Reduction and Response, in accordance with MS 123 *Office of the Director: Organization, Mission, and Functions*. Any changes to the Procedures must be approved by the Office of Global Operations, the Office of Safety and Security, the Office of Victim Advocacy, the Office of Health Services, and the Office of the General Counsel, and are subject to the final review and approval of the Office of Sexual Assault Risk Reduction and Response.

9.0 Effective Date

- (a) The effective date is the date of issuance.
- (b) The Office of Sexual Assault Risk Reduction and Response, the Office of Victim Advocacy, the Office of Global Operations, the Office of Safety and Security, the Office of Health Services, and the Office of the General Counsel will create mechanisms to monitor and evaluate the effectiveness of this Manual Section and the Procedures, regularly reviewing data from these mechanisms.