

The DoD Times (Redacted)

NEWSLETTER

SATURDAY, 17TH MAY 2025

ISSUE 71.

WEAPONIZED DIAGNOSES: THE MYTH OF PRIVACY IN MILITARY HEALTHCARE





LTC (Ret) Francesca Graham (Retired, Army – United States Military Academy), COO of the [Walk the Talk Foundation](#), authored this article. (Published May 17th, 2025)

Check out our Podcast, The Star Chamber, on: [Apple](#) | [Spotify](#) | [YouTube](#)

Your Diagnosis, Their Ammunition: The Illusion of Privacy in Military Behavioral Healthcare

The Department of Defense claims that it protects the mental health privacy of its service members. Yet embedded within its own governing regulations are broad carve-outs that allow precisely the opposite. Two policies—DoDI 6490.08 (Sept 2023) and DoDM 6025.18—outline when and how protected health information (PHI) may be disclosed to military command authorities. While framed as safeguards for mission execution and safety, key provisions in both documents create structural loopholes that commanders can—and do—exploit to gain access to personal mental health information, often for retaliatory or administrative purposes.

The implications of these policy loopholes are vast. They enable a system where whistleblowers, survivors of sexual assault, or simply those who are out of favor with leadership can be involuntarily routed into medical evaluations, stigmatized as “unfit,” and ultimately pushed out of service without due process. In essence, the language of care and readiness conceals a quiet machinery of control.

Policy Loophole 1: “Harm to Mission” — DoDI 6490.08, Paragraph 3.1.b.(3)

Under this provision, a provider may disclose a service member’s mental health information to command if the provider believes the member presents a “serious risk of harm to a specific military operational mission.” The policy goes further, instructing providers to become familiar with the service member’s occupational specialty and unit mission—placing on them the responsibility of assessing not just clinical status, but operational impact.

The problems here are twofold. First, “serious risk” is undefined and entirely subjective. A command-sensitive topic such as whistleblowing, dissent, or sexual assault reporting could easily be reframed by leadership as signs of impaired judgment, lack of insight, or diminished reliability. Second, this clause allows providers—many of whom lack deep knowledge of military operational roles—to make determinations that carry profound administrative and career consequences.



Once such a disclosure is made, there is no requirement for command to notify the member, no obligation to provide a copy of the records disclosed, and no formal appeal process. The member may never even know that command gained access to their diagnosis, treatment plan, or prognosis—information that may be later used to justify clearance suspensions, duty restrictions, or separation.

Policy Loophole 2: “Other Special Circumstances” — DoDI 6490.08, Paragraph 3.1.b.(9)

Perhaps the most open-ended clause in all of DoD mental health policy, this paragraph authorizes PHI disclosure “based on other special circumstances in which proper execution of the military mission outweighs the interests served by avoiding notification.” The determination is made by a healthcare provider or medical facility commanding officer at the O-6 or GS-15 level or above—again, with no independent review, external oversight, or defined criteria.

This effectively gives senior commanders a **blank check** to demand PHI access for any reason that can be framed as related to mission success. There is no requirement that the member pose a danger to themselves or others. No requirement that they be formally diagnosed. No requirement that they be involved in a high-risk job or security-sensitive position. The justification can be entirely speculative, and the disclosure can proceed unchallenged.

This creates an alarming dynamic where protected mental health information becomes accessible not because of medical necessity, but because of institutional convenience. It legitimizes pretextual disclosures, particularly in retaliatory environments, and enables command actors to pursue administrative actions under the veneer of mental health concern.

Policy Loophole 3: “Fitness for Duty” and the Military Command Exception — DoDM 6025.18, Paragraphs 2 & 6

DoDM 6025.18 complements and expands the loopholes found in DoDI 6490.08 by codifying the so-called “Military Command Exception” under HIPAA. Paragraph 2 allows commanders to access PHI to determine whether a service member is “fit to perform any particular mission, assignment, order, or duty.” On its face, this seems narrowly tailored to safety or performance. In practice, it is routinely invoked to remove unwanted personnel or justify administrative separation.



Commanders may assert that a member's demeanor, disagreement, or whistleblowing undermines "good order and discipline" or cohesion. From there, a vague assessment of "impulse control" or "judgment" is enough to initiate a mental health referral and request disclosure of the resulting PHI. Since "fitness for mission" is ill-defined and highly context-dependent, commanders are able to stretch the standard to cover virtually any behavior they deem undesirable.

Paragraph 6 makes matters worse. It authorizes PHI disclosures for **any activity necessary for the proper execution of the military mission**. This language is so vague it renders the previous paragraphs moot. There is no limiting principle—no requirement that harm be imminent, no need to show that the member's condition affects safety or performance, and no procedural safeguard to prevent abuse.

Practical Consequences

The cumulative effect of these provisions is a policy framework that prioritizes command access and institutional control over individual rights and clinical ethics. This enables several dangerous outcomes:

- ▶ **Pretextual Disclosures:** Commanders can manufacture or exaggerate concerns to trigger a mental health referral, then access the PHI to justify administrative punishment.
- ▶ **No Appeal, No Access:** Service members often cannot access their own records, especially if labeled "sensitive," yet these same records may be shared with leadership.
- ▶ **Administrative Punishment via Medical Means:** Rather than pursuing traditional legal processes requiring evidence and due process, commands can leverage a "fitness" narrative to sideline members without ever filing formal charges.
- ▶ **Chilling Effect on Care-Seeking:** These loopholes send a clear message to the force: seek mental health care at your own risk. If you're already under scrutiny, doing so may simply arm your commander with ammunition to end your career.

The Department of Defense has enshrined into policy a system that undermines the very mental health protections it claims to uphold. Through vague language, discretionary authority, and lack of oversight, DoDI 6490.08 and DoDM 6025.18 grant commanders near-total control over when and how mental health information is disclosed—and how it is used. These policies represent not just administrative loopholes but structural vulnerabilities that make service members' most private information available for institutional weaponization.

The implications are clear: as long as these policies remain unchanged, service



members will remain vulnerable to punitive disclosures masquerading as concern. The system is not broken by accident. It is functioning exactly as designed—and that design leaves justice, privacy, and clinical ethics behind.



If you would like to help us fight these issues, please consider donating to the [Walk the Talk Foundation HERE](#). We greatly appreciate your support. As a 501(c)(3) nonprofit, your donation is 100% tax deductible.

Send this newsletter to your elected officials if you believe they need to correct the issues discussed.

- ▶ Find your Representative here: <https://www.house.gov/representatives/find-your-representative>
- ▶ Find your Senator here: <https://www.senate.gov/senators/senators-contact.htm>

Feel free to reach out privately at francescagraham@walkthetalkfoundation.org or in the comments.

PETITIONS: [SIGN THIS PETITION](#) demanding that our leaders in Congress change the DoD's unjust administrative investigatory system.

All our articles are posted on [LinkedIn here](#) and [Online here](#). Be sure to subscribe to the newsletter on LinkedIn and follow us on [Instagram](#), [Facebook](#), and [X \(Twitter\)](#).

Graphics: ([Health.Mil The Official Website of the Military Health System](#))