



UNDER SECRETARY OF DEFENSE
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PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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SUBJECT: Establishing Protocols for Law Enforcement and Command Responses to
Domestic Violence Involving Military Members on Active Duty

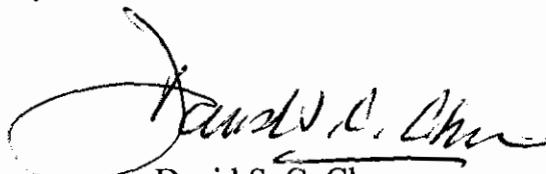
This directive-type memorandum and the attached sample protocols provide guidance for establishing law enforcement and command responses to domestic violence involving an active duty military member as either the abuser or the victim. Each Military Service shall establish Service-specific guidance based upon the protocols to help reduce the incidence and severity of domestic violence through prompt and effective law enforcement investigation and command action.

Law enforcement personnel shall be responsible for investigating reports of domestic violence and assembling evidence indicating whether or not an act, attempted act, or threatened act of non-accidental physical force has occurred, by whom and against whom, and the impact the act has had on the victim in terms of actual or potential physical injury or the fear it creates (see Attachment 1).



Commanding officers shall be responsible for ensuring that military abusers are held to account for their criminal conduct through appropriate disposition under the Uniform Code of Military Justice and/or administrative regulations, as appropriate (see Attachment 2).

This memorandum is effective immediately. A DoD issuance implementing this policy shall be issued within 180 days.



David S. C. Chu

Attachments:
As stated

Attachment 1

Sample Protocol for Law Enforcement Response to Domestic Violence

Purpose

To establish an effective law enforcement response to domestic violence.

Policy

Law enforcement personnel shall respond to reports of domestic violence as they would to credible reports of any other crime. Law enforcement personnel shall further ensure that alleged victims are informed of services available to victims of domestic violence.

Scope

These guidelines apply to any act of domestic violence involving a military member on active duty either as the abuser or as the victim. Acts of domestic violence constitute chargeable offenses under the United States Code, the Uniform Code of Military Justice, or state law involving the use, attempted use, or threatened use of force or violence, or a violation of a lawful order of protection against (a) a current or former spouse; (b) a person with whom the abuser shares a child in common; or (c) a current or former intimate partner with whom the abuser shares or has shared a common residence.

Dispatcher Responsibilities

1. Upon receiving a domestic violence call, the dispatcher should attempt to elicit from the caller and any accessible law enforcement records as much of the following information as possible:
 - The nature of the alleged incident.
 - The address or specific location of the alleged incident.
 - A telephone number where the caller can be reached.
 - Whether firearms or other weapons were involved in the incident or are otherwise present in the home or location.
 - Whether an ambulance is needed.
 - Whether the alleged suspect is present. If not, the alleged suspect's description, direction of flight, and mode of travel.
 - Who else is present at the scene, their involvement in the alleged incident, and their relationship to the parties.
 - Whether there have been previous domestic violence incidents involving the parties.
 - Whether there is a protective order in effect involving the parties.
2. The dispatcher should then relay the information to the responding law enforcement personnel either in person or via a secure radio network.

First Responder Responsibilities

1. Responding law enforcement personnel should approach the scene of a domestic violence incident as one of high risk.
2. Upon arrival, law enforcement personnel should identify themselves, explain their presence, and request entry to investigate the call. If refused entry, be persistent. Seek appropriate legal advice if a forced entry is contemplated.
3. Once inside, law enforcement personnel should establish control by:
 - Identifying potential weapons in the surroundings.
 - Separating the alleged victim and the alleged suspect.
 - Restraining, detaining, or apprehending the alleged suspect as needed.
 - Assessing injuries, administering first aid, or notifying emergency medical services.
 - Inquiring about the alleged incident.
 - Identifying all occupants and witnesses on the premises.
 - Separating occupants and witnesses from the alleged victim and the alleged suspect and keeping them out of hearing range.
4. Once control has been established, interview the alleged victim and suspect as fully as circumstances allow.
5. Ensure the alleged victim's safety and privacy by interviewing the alleged victim in an area apart from the alleged suspect, witnesses, and occupants. Be sure to inquire about any history of abuse or existing protective orders. Fully investigate all orders violations. Encourage the alleged victim to seek a medical examination and arrange transport as needed. Inquire about injuries that are concealed by clothing or otherwise not readily apparent. Advise the alleged victim to contact law enforcement and arrange for photographs to be taken of other injuries that become apparent in the days following the incident.
6. If the alleged suspect has fled the scene, attempt to get information about potential whereabouts.
7. Interview any witnesses as fully and as soon as circumstances allow.
8. Interview children in a manner appropriate to their age.
9. Collect and preserve all physical evidence reasonably necessary to establish what took place, including photographic evidence substantiating the victim's injuries and crime scene, and evidentiary articles that substantiate the incident.
10. Follow established law enforcement procedures pertaining to apprehension (for military personnel) and detention (for civilians). Comply with training on whether advisement of rights under the 5th Amendment of the U.S. Constitution or Article 31 of the Uniform Code of Military

Justice is required. Civilian suspects should be detained and turned over to DoD or local law enforcement personnel having arrest authority for further disposition.

11. Seek appropriate legal advice if seizure of firearms not directly tied to the incident is contemplated.

12. If apprehension or detention is not authorized, explain to the alleged victim the reasons why apprehension or detention is not going to occur.

13. Whether or not apprehension or detention occurs, law enforcement personnel should not leave the scene of the incident until the situation is fully under control and the likelihood of further violence has been eliminated. Law enforcement personnel should inform the alleged victim of the availability of local shelter facilities, victim advocate and other domestic violence services, and procedures for obtaining a protective order. If the alleged victim desires to take advantage of the shelter option, law enforcement personnel are obliged to stand by as belongings are gathered for the stay at the shelter and arrange transport, as needed.

14. A detailed written report of the investigation should be promptly completed and a copy forwarded to the suspect's commanding officer or provided to local law enforcement authorities when the alleged suspect is a civilian in accordance with DoD or local law enforcement requirements and procedures.

Disclaimer

This guidance is intended only to improve the internal administration of the Department of Defense. It does not create any rights enforceable by any person, organization, or other entity in an administrative proceeding or at law or equity. Failure on the part of law enforcement personnel to comply with any aspect of these guidelines shall not create any rights or privileges in the persons referenced and shall not operate to provide a defense or other remedy in any proceeding arising under this protocol.

Attachment 2

Sample Protocol for Commanding Officer Response to Domestic Violence

Purpose

To establish an effective command response to domestic violence.

Policy

Commanding officers shall respond to reports of domestic violence as they would to credible reports of any other crime, and ensure that alleged victims are informed of services available to victims of domestic violence. Commanding officers at all levels, beginning with unit-level commanders closest to the accused, shall be familiar with the responsibilities delineated below. If a particular responsibility is beyond a commander's capabilities, he/she shall involve his/her next higher in the chain of command.

Scope

These guidelines apply to any act of domestic violence involving a military member on active duty as either the abuser or the victim. Acts of domestic violence constitute chargeable offenses under the United States Code, the Uniform Code of Military Justice, or state law involving the use, attempted use, or threatened use of force or violence, or a violation of a lawful order of protection against (a) a current or former spouse; (b) a person with whom the abuser shares a child in common; or (c) a current or former intimate partner with whom the abuser shares or has shared a common residence.

Commanding Officer Responsibilities

1. Upon receiving a report of domestic violence, commanders shall counsel a military suspect about his/her alleged misconduct, but only after providing the military suspect his/her Article 31 rights under the Uniform Code of Military Justice.
2. Refer any incident of domestic violence reported or discovered independent of law enforcement to law enforcement for formal investigation.
3. Secure safe housing for the alleged victim as needed.
4. Direct the alleged abuser to alternative housing as needed.
5. Consider issuing a military protection order, as necessary, and monitor compliance as needed.
6. Cooperate in making the alleged abuser available to be served with a civilian protection order as needed. Obtain a copy of the protection order and review it with the legal office.

7. If the alleged abuser is a civilian, consider requesting that the installation commander bar the individual from the installation.
8. If the alleged abuser is a civil service employee, consult with the servicing civilian personnel office as the employee may be subject to disciplinary action.
9. Provide the alleged victim with information about victim advocate services, legal services, the Victim Witness Assistance Program, and transitional compensation as needed.
10. Monitor the alleged victim's safety.
11. Review each law enforcement investigative report with the installation legal office to determine if punitive and/or administrative action is warranted, and the level of appropriate disposition in accordance with the Uniform Code of Military Justice and/or administrative regulations.
12. Consult Family Advocacy Program (FAP) staff to determine if an abuser is a suitable candidate for intervention services.
13. Consult personnel officials to determine if Temporary Duty or Permanent Change of Station (PCS) orders that interfere with the completion of any directed intervention services should be cancelled or delayed.
14. Document command actions and report such actions through installation law enforcement officials for inclusion in the Defense Incident Based Reporting System.

Garrison or Installation Commanding Officer Responsibilities

In addition to assisting unit-level commanders with the responsibilities above, garrison or installation commanders will:

1. Establish, oversee, and provide authority for the installation Family Advocacy Program.
2. Ensure 24 hour a day capability to report and respond to domestic violence calls.
3. Require investigation of every reported incident of domestic violence.
4. Ensure that all programs and organizations with roles in responding to domestic violence have the necessary protocols and procedures in place to execute their responsibilities.
5. Institute and participate in the installation Family Advocacy Committee.
6. Direct installation law enforcement and legal officials to seek formal memoranda of understanding with their local civilian counterparts to enhance information sharing regarding domestic violence investigations, arrests, and prosecutions involving military personnel.

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