Department of Defense

INSTRUCTION

NUMBER 6400.06
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USD(P&R)

SUBJECT: Domestic Abuse Involving DoD Military and Certain Affiliated Personnel

References: (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," October 17, 2006
(b) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Domestic Violence and Child Abuse Fatality Reviews," February 12, 2004 (hereby canceled)
(c) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Notification of Department of Defense-Related Fatalities Due to Domestic Violence or Child Abuse," March 4, 2005 (hereby canceled)
(d) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Policy for Implementation of Domestic Violence Misdemeanor Amendment to the Gun Control Act for Military Personnel," November 27, 2002 (hereby canceled)
(e) through (am) see Enclosure 1

1. PURPOSE

Pursuant to Reference (a), this Instruction:

1.1. Establishes, implements, and updates domestic abuse policies; identifies and assigns responsibilities for preventing and responding to domestic abuse; replaces and cancels References (b) through (d) and Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum, "Policy for Implementation of Domestic Violence Misdemeanor Amendment to the Gun Control Act for Civilian Personnel" (Reference (e)); Under Secretary of Defense for Personnel and Readiness (USD(P&R)) Memorandum, "Domestic Abuse Victim Advocate Program" (Reference (f)); USD(P&R) Policy Memorandum, "Military Protective Orders (MPOs)" (Reference (g)); USD(P&R) Policy Memorandum, "Implementation of the Armed Forces Domestic Security Act," (Reference (h)); USD(P&R) Policy Memorandum, "Establishing Domestic Violence Memoranda of Understanding Between Military and Local Civilian Officials," (Reference (i)); Principal Deputy USD(P&R) Policy Memorandum, "Domestic Violence Prosecution Training," (Reference (j)); USD(P&R) Policy Memorandum, "Domestic Abuse Training for Chaplains," (Reference (k)); USD(P&R) Policy Memorandum, "Domestic Abuse Response and Intervention Training for Commanding Officers and Senior

Enlisted Personnel," (Reference (l)); USD(P&R) Policy Memorandum, "Establishing Protocols for Law Enforcement and Command Responses to Domestic Violence Involving Military Members on Active Duty," (Reference (m)); USD(P&R) Policy Memorandum, "Domestic Abuse Identification and Assessment Training for Health Care Providers," (Reference (n)); and USD(P&R) Policy Memorandum, "Restricted Reporting Policy for Incidents of Domestic Abuse" (Reference (o)).

1.2. Provides guidance for implementing those policies in accordance with section 1562 of title 10, United States Code (U.S.C.) (Reference (p)), and section 534 of Public Law 103-337 (Reference (q)) through a coordinated community response involving multiple offices and agencies at military installations working in coordination with the surrounding civilian community.

2. APPLICABILITY AND SCOPE

2.1. This Instruction applies to the Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

2.2. The provisions of this Instruction are not intended to change or otherwise modify regulations, including DoD Directives and Instructions, concerned with determining misconduct by individuals and the criminal or civil actions available to address such misconduct.

2.3. This Instruction 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 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. This guidance is intended only to improve the internal administration of the Department of Defense.

3. DEFINITIONS

Terms used in the Instruction are defined in Enclosure 2.

4. POLICY

It is DoD policy to:

4.1. Prevent and eliminate domestic abuse in the Department of Defense.

4.2. Provide for the safety of victims; hold abusers appropriately accountable for their behavior; and coordinate the response to domestic abuse with the local community.

5. RESPONSIBILITIES

5.1. The USD(P&R) shall:

5.1.1. Develop and maintain this Instruction and ensure compliance.

5.1.2. Collaborate with the Military Departments to establish procedures and programs consistent with this Instruction.

5.1.3. Maintain a central DoD database of domestic violence incidents that implements the requirements of section 1562 of Reference (p).

5.1.4. Program, budget, and allocate funds and other resources to meet the policy objectives of this Instruction.

5.2. The Deputy Under Secretary of Defense (Military Community and Family Policy) (DUSD(MC&FP)), under the USD(P&R), shall:

5.2.1. Issue standardized guidelines to the Secretaries of the Military Departments for developing a coordinated approach to addressing domestic abuse. These guidelines shall be designed to meet local needs and issued after consultation with healthcare and social programs and law enforcement and criminal investigative organizations serving DoD personnel and their families.

5.2.2. Provide guidance and technical assistance to the Military Departments and the DoD Components in addressing domestic abuse and facilitating the identification and resolution of inter-Component issues and concerns.

5.2.3. Collaborate with Federal and State Agencies that address domestic abuse and serve on related Federal committees and advisory groups.

5.2.4. Review annual reports of fatality reviews submitted by the Military Departments.

5.2.5. Convene an annual DoD Fatality Review Summit to respond to the findings and recommendations of the Military Departments' fatality review teams.

5.2.6. Monitor compliance with this Instruction and periodically evaluate the DoD response to domestic abuse in collaboration with organizations herein.

5.3. The Inspector General of the Department of Defense shall:

5.3.1. Develop policy for DoD criminal investigative organizations and oversee their investigations of domestic violence.

5.3.2. Oversee domestic violence training in the DoD investigative and law enforcement communities.

5.3.3. Collaborate with the Office of the USD(P&R) as necessary on domestic violence matters.

5.4. The Secretaries of the Military Departments and the Directors of the Defense Agencies and DoD Field Activities shall notify the DUSD(MC&FP) of any DoD-related fatalities known or suspected to result from an act of domestic violence, child abuse, or suicide related to an act of domestic violence or child abuse**,** using DD Form 2901, "Child Abuse or Domestic Violence Related Fatality Notification."

5.5. The Secretaries of the Military Departments shall also:

5.5.1. Establish policies and programs consistent with the procedures outlined in section 6 and ensure implementation, monitoring, and evaluation at all levels of military command.

5.5.2. Program, budget, and allocate funds and other resources to meet the policy objectives of this Instruction.

5.5.3. Provide annual education and training to key personnel on the policies and procedures in this Instruction.

5.5.4. Establish regulations implementing a restricted reporting policy for victims of domestic abuse consistent with Enclosure 3.

5.5.5. Establish guidance for commanders and law enforcement, in accordance with paragraphs 6.1. and 6.2., to help reduce the incidence and severity of domestic violence through prompt and effective law enforcement investigation and command action.

5.5.6. To implement sections 4061, 6036, and 9061 of Reference (p), establish multidisciplinary fatality review teams and provide appropriate training for their members, and establish procedures for conducting annual reviews of fatalities known or suspected to result from an act of domestic violence, child abuse, or suicide related to an act of domestic violence or child abuse.

5.5.7. Submit an annual report of fatality reviews conducted within the Military Department to the DUSD(MC&FP) through appropriate proponent offices for domestic violence and child abuse policy.

5.5.8. Issue regulations specifying that persons subject to the Uniform Code of Military Justice (UCMJ) (Chapter 47 of Reference (p)) comply with civilian and military orders of protection and that failure to comply may result in prosecution under the UCMJ.

5.5.9. Implement the Domestic Violence Amendment to the Gun Control Act in accordance with sections 922(d)(9) and 922(g)(9) of title 18, U.S.C. (Reference (r)), as directed in paragraph 6.1.4.

5.5.9.1. Periodically inform military and civilian personnel of the Domestic Violence Amendment to the Gun Control Act (Reference (r)), its consequences, and the requirements as described in paragraph 6.1.4.

5.5.9.2. Issue regulations governing how completed DD Forms 2760, "Qualification to Possess Firearms or Ammunition," are to be filed and maintained to ensure they are retrievable if needed. (See paragraph 6.1.4.)

5.5.9.3. Issue policies and procedures to ensure compliance with the Domestic Violence Amendment to the Gun Control Act (Reference (r)) with respect to privately owned firearms under Government control or permitted in Government quarters.

5.5.9.4. Issue policies and procedures governing the transfer of firearms and ammunition to individuals in morale, welfare, and recreation activities and other Government-sponsored or sanctioned activities.

6. PROCEDURES

6.1. Commanders' Role in Responding to Domestic Abuse. Commanders have a vital role in the coordinated community response to domestic abuse. Senior Enlisted Personnel serving in advisory roles to commanders should also be familiar with the requirements of this section.

6.1.1. Commanders shall:

6.1.1.1. Ensure that the alleged military abusers are held accountable for their conduct through appropriate disposition under the UCMJ (Chapter 47 of Reference (p)) and/or administrative regulations, as appropriate.

6.1.1.2. Respond to reports of domestic abuse as they would to credible reports of any other crime and ensure that victims are informed of services available.

6.1.1.3. Beginning with unit-level commanders closest to the accused, be familiar with the responsibilities delineated in section 6.1. If necessary, he/she shall involve his/her next higher superior officer in the chain of command.

6.1.1.4. Ensure that the restricted reporting policy procedures for victims of domestic abuse are fully implemented at the installation level. (See Enclosure 3.)

6.1.1.5. Refer any incident of domestic abuse reported or discovered independent of law enforcement to military law enforcement or the appropriate criminal investigative

organization for possible investigation in accordance with DoD Instruction 5505.3, "Initiation of Investigations by Military Criminal Investigative Organizations" (Reference (s)).

6.1.1.6. Counsel a military suspect about his/her alleged misconduct, but only after referring the incident of domestic abuse to law enforcement for investigation and consulting with the judge advocate general about providing the military suspect his/her Article 31 rights under the UCMJ (Chapter 47 of Reference (p)).

6.1.1.7. Ensure that the victim, alleged abuser, and family members of the victim who are eligible for treatment in a military medical facility (including those eligible on a fee-paying basis) are aware of appropriate medical, mental health, and other assessments, treatment, and referrals, recognizing the needs of a culturally diverse population, including needs for interpreter or translation services.

6.1.1.8. Ensure that those individuals who are not eligible to receive such services and treatment have been referred to the appropriate civilian office, agency, or organization.

6.1.1.9. Ensure safe housing has been secured for the victim as needed.

6.1.1.9.1. The preference is to remove the alleged abuser from the home when the parties must be separated to safeguard the victim.

6.1.1.9.2. If necessary, the alleged abuser will be directed to find alternative housing.

6.1.1.10. Cooperate in making the alleged abuser available to be served with a civilian protection order (CPO) as needed and consistent with service regulations. Obtain a copy of the protection order and review it with the servicing legal office.

6.1.1.11. If the alleged abuser is a civilian:

6.1.1.11.1. Consider requesting the installation/garrison commander to bar the individual from the installation.

6.1.1.11.2. Refer the alleged abuser to the appropriate criminal investigative organization for possible investigation.

6.1.1.11.3. Consult with the servicing civilian personnel office and the servicing legal office when the alleged abuser is a U.S. civil service employee who may be subject to disciplinary action.

6.1.1.12. Provide the victim with information about the Family Advocacy Program (FAP), victim advocate services, legal services, DoD Directive 1030.1 (Reference (t)), DoD Instruction 1342.24 (Reference (u)), and Principal Deputy Under Secretary of Defense for Personnel and Readiness Policy Memorandum, “Duration of Payment for Transitional Compensation for Abused Dependants,” (Reference (v)), as appropriate.

6.1.1.13. Ensure that victim advocacy is provided within a coordinated community response. (See paragraph 6.4.)

6.1.1.14. Ensure that victims of domestic abuse, living on or off the installation, have access to victim advocacy services in accordance with this Instruction 24 hours a day through either personal or telephonic contact; that such services include both immediate and ongoing information and referral assistance; safety planning (see paragraph 6.4.2.6.), and support services; that victims shall be actively involved in all aspects of the development of their safety and service plans; and that victims can make decisions regarding their safety and welfare, including refusal of victim advocacy services.

6.1.1.15. In consultation with FAP staff, ensure a safety plan is prepared and in place, and monitor the victim's safety.

6.1.1.16. Review each law enforcement investigative report with the servicing legal office to determine appropriate disposition. The commander shall make this determination independent of any clinical determination by the FAP committee as to whether this incident shall be entered into the DoD Component FAP registry of substantiated domestic abuse incidents.

6.1.1.17. Document, as appropriate, that a Service member engaged in conduct that is a dependent-abuse offense when referring such action for court martial and when initiating action to administratively separate, voluntarily or involuntarily, the Service member from active duty so that the family members may apply for transitional compensation benefits (Reference (u)).

6.1.1.18. Consult FAP staff to determine if an alleged abuser is a suitable candidate for clinical intervention services and his/her level of danger to the victim and others.

6.1.1.19. If the Service member is to be returned from deployment early for disciplinary or civilian legal procedures or for relaxation and recreation, regardless of when the abuse occurred, the unit commander shall ensure that the commander at the home station is notified in advance of the early return so that safety precautions can be planned and implemented in consultation with FAP. If the Service member is to be returned from deployment upon the regular schedule for return, the commander at the home station shall ensure that the FAP has planned and coordinated safety precautions.

6.1.1.20. Consult personnel officials to determine if Temporary Duty or Permanent Change of Station (PCS) orders that interfere with completion of any directed intervention services should be canceled or delayed. When Temporary Duty or PCS cannot be canceled or delayed, coordinate efforts with the gaining installation to ensure continuity of services with the FAP/victim advocate, and others regarding intervention for both the alleged abuser and the victim.

6.1.1.21. Document and report command actions through installation law enforcement officials according to DoD Directive 7730.47 (Reference (w)) and DoD 7730.47-M (Reference (x)).

6.1.1.22. Ensure protection of all persons alleged or known to be at risk from domestic abuse by issuing and enforcing an appropriate military protection order (MPO) that is coordinated with those civilian authorities that enforce the protection orders issued by civilian courts. (See paragraph 6.1.2.)

6.1.2. MPOs. A commander:

6.1.2.1. Shall issue and monitor compliance with an MPO when necessary to safeguard a victim, quell a disturbance, or maintain good order and discipline while a victim has time to pursue a protection order through a civilian court, or to support an existing CPO.

6.1.2.2. May issue an MPO to an active duty member only to prohibit the member from contacting or communicating with the protected person or members of the protected person's family or household and to direct the member to take specific actions that support, or are in furtherance of, the prohibition.

6.1.2.3. May use DD Form 2873, "Military Protective Order" to issue an MPO and shall provide copies of the signed MPO to the Service member who is the subject of the order, the Service member's local personnel file, and to the protected person (or the custodial parent of the protected person if the protected person is a child.)

6.1.2.4. Shall tailor the terms of the MPO to meet the specific needs of an individual victim.

6.1.2.5. May issue an MPO even if a CPO has already been issued by a judge or magistrate.

6.1.2.5.1. A commander may issue an MPO that is applicable to locations beyond the jurisdiction of the court that issued a CPO, including locations outside of the United States.

6.1.2.5.2. The terms of the MPO should not contradict the terms of a CPO.

6.1.2.5.3. A commander may issue an MPO with terms that are more restrictive than those in the CPO to which the member is subject.

6.1.2.6. May enforce an MPO whether the Service member is on or off of the installation. Violations may be prosecuted under Article 90 of the UCMJ, for Willfully Disobeying a Superior Commissioned Officer or under Article 92, for Failure to Obey Order or Regulation or under Article 134, for conduct prejudiced to good order and discipline in the Armed Forces or of a nature to bring discredit upon the Armed Forces (Chapter 47 of Reference (p)).

6.1.2.7. Should contact the gaining command and recommend that the gaining command issue a new MPO when the Service member is transferred to a new command and an MPO is still necessary to protect the victim(s).

6.1.3. The Armed Forces Domestic Security Act

6.1.3.1. Pursuant to the Armed Forces Domestic Security Act (section 1561(a) of Reference (p)), commanders and installation law enforcement personnel shall take all reasonable measures necessary to ensure that a CPO is given full force and effect on all DoD installations within the jurisdiction of the court that issued such order.

6.1.3.2. A commander may establish procedures for registering a CPO on a DoD installation, but failure to register the order shall not be reason for a commander, having knowledge of the order, to fail to give it full force and effect.

6.1.3.3. All persons who are subject to a CPO shall comply with the provisions and requirements of such order whenever present on a military installation.

6.1.3.3.1. Active duty Service members failing to comply with a CPO may be subject to administrative and/or disciplinary action under the UCMJ (Chapter 47 of Reference (p)).

6.1.3.3.2. Civilians failing to comply with a CPO, including DoD civilian employees, may be barred from the installation. DoD civilian employees may also be subject to appropriate administrative or disciplinary action in appropriate circumstances. Prior to taking administrative or disciplinary action, supervisors should consult the servicing legal and civilian personnel offices.

6.1.3.4. Any person who violates a CPO while on a military installation is subject to the imposition of sanctions by the court issuing the order.

6.1.4. Domestic Violence Misdemeanor (Lautenberg) Amendment to the Gun Control Act. The following provides procedures for implementing the Lautenberg Amendment to the Gun Control Act (Reference (r)) with regard to both military and civilian personnel.

6.1.4.1. The amendment makes it a felony for any person to sell or otherwise dispose of firearms or ammunition to any person he or she knows or has reasonable cause to believe has been convicted of a “misdemeanor crime of domestic violence.”

6.1.4.2. The amendment prohibits anyone who has been convicted of a misdemeanor crime of domestic violence from shipping or transporting in interstate or foreign commerce, or possessing in or affecting commerce, any firearm or ammunition; or receiving any firearm or ammunition which has been shipped or transported in interstate or foreign commerce. In addition to the Gun Control Act prohibiting anyone convicted of a felony from buying or possessing a firearm, the Lautenberg Amendment additionally prohibits any person convicted of a misdemeanor crime of domestic violence from buying or possessing a firearm.

6.1.4.3. Although the amendment only applies to misdemeanor crimes of domestic violence, it is DoD policy that a "qualifying conviction" also includes a conviction for a "crime of domestic violence" tried by general or special court-martial which otherwise meets the definition of a misdemeanor crime of domestic violence. See Enclosure 2 for the definition of qualifying conviction as used in this Instruction.

6.1.4.3.1. As a matter of DoD policy, a conviction for an offense meeting the definition of a "felony crime of domestic violence" adjudged on or after November 27, 2002 - the date at which the USD(P&R) policy was first issued as a directive-type memorandum (References (d) and (e)) - shall also be considered a qualifying conviction.

6.1.4.3.2. The term "qualifying conviction" does not include summary court-martial conviction, imposition of nonjudicial punishment under Article 15 of the UCMJ (Chapter 47 of Reference (p)), or deferred prosecutions or similar alternative dispositions in civilian courts. The term also does not include a determination by a FAP committee that this incident shall be entered into the DoD Component FAP registry of substantiated child abuse and domestic abuse incidents.

6.1.4.4. The Department of Defense does not construe the amendment to apply to major military weapon systems or "crew served" military weapons and ammunition (e.g., tanks, missiles, aircraft).

6.1.4.5. The actions required by the DoD implementing procedures as described in paragraphs 6.1.4.5.1. and 6.1.4.5.2. also apply outside United States territory.

6.1.4.5.1. Implementing Guidance for Military Personnel. Military personnel shall be periodically informed of the Domestic Violence Amendment to the Gun Control Act (Reference (r)) and the implementation procedures described in paragraphs 6.1.4.5.1.1. through 6.1.4.5.1.9..

6.1.4.5.1.1. Information provided shall include notice that personnel have an affirmative, continuing obligation to inform commanders or supervisors if they have, or later obtain, a qualifying conviction.

6.1.4.5.1.2. Information provided shall also direct that the revised DD Form 2760, which states that any statements made on the form will not be used in prosecution for violating the Gun Control Act (Reference (r)), is available.

6.1.4.5.1.3. All DoD Components shall post notices about the Domestic Violence Amendment and the procedures for implementation in all facilities in which Government firearms or ammunition are stored, issued, disposed of, and transported.

6.1.4.5.1.4. If in implementing this policy, a Military Department chooses to require that all or some of its military personnel certify whether or not they have a qualifying conviction, the DD Form 2760 shall be used for such certifications.

6.1.4.5.1.4.1. Even if certification is not required, DD Form 2760 shall be made available for use by those personnel who come forward to report a qualifying conviction in compliance with their obligation to do so.

6.1.4.5.1.4.2. Use of this form and the protections it affords have been approved in accordance with DoD Directive 5525.7 (Reference (y)).

6.1.4.5.1.5. Military Departments' procedures otherwise used to discover whether an applicant for military service has a qualifying conviction for a crime of domestic violence shall continue in effect. Individuals with a qualifying conviction shall not be granted a waiver for entrance into military service.

6.1.4.5.1.6. In the case of all members found to have a qualifying conviction, appropriate authority will immediately retrieve all government-issued firearms and ammunition, suspend his/her authority to possess government-issued firearms or ammunition, and advise them to dispose of their privately owned firearms and ammunitions lawfully. These actions shall also be taken if there is reasonable cause to believe a military member has a qualifying conviction.

6.1.4.5.1.7. Consistent with applicable laws and regulations, the Military Departments may promulgate regulations governing permanent adverse personnel actions, including separation, that may be taken with respect to Service members who have a qualifying conviction.

6.1.4.5.1.7.1. Separation of military personnel shall comply with existing statutory military retirement sanctuaries (sections 1176(a), 637(a)(5), 580(a)(4)(C), 12646(e)(1), and 12686 of Reference (p)).

6.1.4.5.1.7.2. A Service member in any of these sanctuaries who has a qualifying conviction and would otherwise be separated under Military Department regulations shall be given meaningful duties that do not involve access to firearms or ammunition until such member is retired upon first attaining eligibility for retirement.

6.1.4.5.1.8. DoD Components may afford military personnel who have a qualifying conviction a reasonable time to obtain an expungement or pardon of the qualifying conviction. If time is granted to a Service member for this purpose, however, DoD Components shall retrieve all Government-owned or issued firearms and ammunition and suspend the Service member's authority to possess firearms and ammunition until an expungement or pardon is obtained.

6.1.4.5.1.9. If a completed security clearance investigation reveals that a military member has a qualifying conviction, the investigation shall be referred to the requesting DoD Component for action consistent with this Instruction.

6.1.4.5.2. <u>Implementing Guidance for DoD Civilian Personnel</u>. The procedures in paragraphs 6.1.4.5.2.1. through 6.1.4.5.2.13. apply to all DoD appropriated and

nonappropriated fund civilian employees (section 2105 of 5, U.S.C. (Reference (z)), including employees working outside United States territory. It does not apply to foreign nationals employed overseas directly or indirectly by the Department of Defense.

6.1.4.5.2.1. Implementation of the procedures with respect to employees represented by unions shall be accomplished consistent with any labor relations obligations.

6.1.4.5.2.2. Each DoD Component shall identify all DoD civilian employment positions that include duties, activities, or responsibilities covered by the Gun Control Act, including selling or disposing of firearms and ammunitions or receiving, possessing, shipping, or transporting any firearm or ammunition in or affecting interstate or foreign commerce (Reference (r)) (hereafter referred to as "covered positions"). A data element identifying covered and non-covered positions was placed in the legacy Defense Civilian Personnel Data System (DCPDS) in the November 1998 release.

6.1.4.5.2.3. No DoD Component shall employ or retain in a covered position a civilian employee, including a nonappropriated fund employee, whom Component personnel know, or have reasonable cause to believe, has a qualifying conviction.

6.1.4.5.2.4. Each Component shall implement a program to inform its personnel in covered positions of the Domestic Violence Amendment to the Gun Control Act (Reference (r)), its consequences, and the procedures and policy in this Instruction.

6.1.4.5.2.4.1. Information provided shall include notice that personnel in covered positions have an affirmative, continuing obligation to inform their supervisors if they have, or later obtain, a qualifying conviction.

6.1.4.5.2.4.2. Information provided shall also direct that the revised DD Form 2760, which states that any statements made on the form will not be used in prosecution for violating the Gun Control Act (Reference (r)), is available.

6.1.4.5.2.4.3. DoD Components shall also post notices about the Domestic Violence Amendment and the following procedures for implementation in all facilities where firearms or ammunition is stored, issued, disposed of, and transported.

6.1.4.5.2.5. If in implementing this policy, a DoD Component chooses to require that all or some of its covered personnel certify that they do or do not have a qualifying conviction, the DD Form 2760 shall be used for such certifications.

6.1.4.5.2.5.1. Even if certification is not required, DD Form 2760 shall be made available for use by those personnel who come forward to report a qualifying conviction in compliance with their obligation to do so.

6.1.4.5.2.5.2. The form shall be filed on the left side of the employee's personnel folder.

6.1.4.5.2.6. Each DoD Component shall retrieve Government-issued firearms and ammunition from any DoD employee in a covered position found to have a qualifying conviction and shall suspend the employee's authority to possess firearms or ammunition. Such action shall also be taken if there is reasonable cause to believe a civilian employee in a covered position has a qualifying conviction.

6.1.4.5.2.7. The absence of a qualifying conviction shall be made a condition of employment for all covered positions.

6.1.4.5.2.8. No individual who has a qualifying conviction may be assigned or detailed into a covered position.

6.1.4.5.2.9. Notice must be provided to individuals applying for covered positions of the prohibition prior to employment in covered positions. Notification shall include an appropriate statement on a vacancy announcement for a covered position.

6.1.4.5.2.10. Individuals may be required to certify on a DD Form 2760 that they do not have a qualifying conviction before selection for, or appointment to, a covered position.

6.1.4.5.2.11. Personnel actions involving incumbents of covered positions having qualifying convictions may be taken in accordance with applicable law, regulations, collective bargaining agreements, and this Instruction. Such personnel actions may include redesigning a position so that it no longer is a covered position, reassigning an employee with a qualifying conviction, or taking an adverse action (e.g., a reduction in grade or removal).

6.1.4.5.2.12. A DoD Component may afford an employee found to have a qualifying conviction a reasonable time to obtain an expungement or pardon of the conviction. During this time, however, the Components shall retrieve all Government-owned or issued firearms and ammunition and suspend the employee's authority to possess Government-owned or issued firearms and ammunition until an expungement or pardon is obtained.

6.1.4.5.2.13. When initiating a security clearance or suitability investigation on an applicant for, or an incumbent of, a covered position, each DoD Component shall identify the covered position on the request for investigation. If the completed investigation reveals a qualifying conviction, the investigation shall be referred to the requesting DoD Component for an employment suitability determination.

6.1.5. Establishing Memoranda of Understanding. Commanders shall ensure military criminal investigative and law enforcement organizations and legal officials establish formal memorandums of understanding (MOUs), or include in existing MOUs with their counterparts in the local community, procedures for improving information sharing on domestic abuse investigations, arrests, and prosecutions involving military personnel. The information in this section may be adapted to address additional areas of military-civil cooperation to further enhance the coordinated community response to domestic abuse.

6.1.5.1. MOUs between the installation and local civilian agencies/offices may be used to strengthen and formalize procedures for dealing with domestic abuse incidents that occur on or off the installation.

6.1.5.2. MOUs should be crafted to address issues specific to an installation and the communities surrounding it; there are, however, several issues that MOUs should address:

6.1.5.2.1. A general statement of the purpose of the MOU.

6.1.5.2.2. An explanation of jurisdictional issues that affect respective responsibilities on and off the installation.

6.1.5.2.3. Procedures for exchanging information regarding domestic abuse incidents involving active duty Service members and their family members.

6.1.5.2.4. Designation of the title of the installation office recipient of information from the local civilian office.

6.1.5.2.5. An understanding with regard to the use of facilities.

6.1.5.2.6. Meetings between the offices to review cases and MOU procedures.

6.1.5.3. Sample MOUs for use between installation criminal investigative and law enforcement organizations and legal officials, and their counterparts in the local community, are at Enclosures 4 and 5.

6.2. Law Enforcement's Role in Responding to Domestic Violence. As part of the coordinated community response to domestic abuse, law enforcement and military criminal investigative 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. Law enforcement personnel shall respond to reports of domestic violence as they would to credible reports of any other crime and shall ensure that victims are informed of available domestic abuse services. This section provides sample protocols for first responders that may be used as guidance in establishing appropriate military law enforcement or military criminal investigative organization responses to domestic violence.

6.2.1. The law enforcement or criminal investigative officer should attempt to elicit from the dispatcher all relevant information pertaining to the incident.

6.2.2. Responding law enforcement personnel should approach the scene of a domestic violence incident as one of high risk.

6.2.3. Upon arrival, law enforcement personnel should identify themselves, explain their presence, and request entry to investigate the call. If refused entry, law enforcement personnel should be persistent and seek appropriate legal advice if forced entry is contemplated.

6.2.4. Once inside, law enforcement personnel should establish control by:

6.2.4.1. Identifying potential weapons in the surroundings.

6.2.4.2. Separating the victim and the alleged suspect.

6.2.4.3. Restraining, detaining, or apprehending the alleged suspect as needed.

6.2.4.4. Assessing injuries, administering first aid, or notifying emergency medical services.

6.2.4.5. Inquiring about the alleged incident.

6.2.4.6. Identifying all occupants and witnesses on the premises.

6.2.4.7. Separating occupants and witnesses from the victim and the alleged suspect and keeping them out of hearing range.

6.2.5. Once control has been established, law enforcement personnel should:

6.2.5.1. Interview the victim and alleged suspect as fully as circumstances allow.

6.2.5.2. To the extent possible, attempt to determine the presence of risk factors as outlined in paragraph 6.6.2.

6.2.5.3. Inquire about any history of abuse or existing protective orders.

6.2.5.4. Fully investigate all alleged violations of protective orders.

6.2.5.5. Encourage the victim to seek a medical examination and arrange transport as needed.

6.2.5.6. Inquire about injuries that are concealed by clothing or otherwise not readily apparent.

6.2.5.7. Advise the victim to contact law enforcement and arrange for photographs to be taken of other injuries that become apparent in the days following the incident (bruises, for example, might appear several hours after the incident occurred or the following day).

6.2.6. Law enforcement personnel shall immediately notify FAP of the incident to prompt a thorough risk assessment and safety planning.

6.2.7. If the alleged suspect has fled the scene, attempt to get information about potential whereabouts.

6.2.8. Law enforcement personnel should interview any witnesses as fully and as soon as circumstances allow.

6.2.9. Law enforcement personnel should interview children in a manner appropriate to their age and apparent developmental level.

6.2.10. Law enforcement personnel should 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, such as weapons or torn/bloodied articles of clothing.

6.2.11. Law enforcement personnel should follow established law enforcement procedures pertaining to apprehension (for military personnel) and detention (for civilians). Law enforcement personnel should:

6.2.11.1. Comply with training on whether advisement of rights under the 5th Amendment of the Constitution of the United States (Reference (aa)) or Article 31 of the UCMJ (Chapter 47 of Reference (p)) is required.

6.2.11.2. Detain and turn over civilian suspects to DoD or local law enforcement personnel having arrest authority for further disposition.

6.2.11.3. Comply with any applicable MOUs in terms of information sharing and cooperating with civilian law enforcement agencies. (See paragraph 6.1.5.)

6.2.12. Law enforcement personnel should seek appropriate legal advice if seizure of firearms not directly tied to the incident is contemplated. (See paragraph 6.1.2. pertaining to MPOs and paragraph 6.1.4. pertaining to the Lautenberg Amendment to the Gun Control Act.)

6.2.13. If the victim has a CPO, law enforcement personnel shall take all reasonable measures necessary to ensure that a CPO is given full force and effect. (See paragraph 6.1.3. on the Armed Forces Domestic Security Act.)

6.2.13.1. An installation may have procedures in place for registering a CPO, but failure to register the order shall not be reason for law enforcement personnel, having knowledge of the order, to fail to give it full force and effect.

6.2.13.2. Law enforcement personnel shall cooperate with civilian law enforcement agencies to ensure that alleged violations of CPOs are investigated.

6.2.14. If apprehension or detention is not authorized, law enforcement personnel should explain to the victim the reasons why apprehension or detention is not going to occur.

6.2.15. 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.

6.2.15.1. Law enforcement personnel shall inform the victim of the availability of local shelter facilities, services offered through FAP, victim advocate and other domestic abuse services, and procedures for obtaining a protective order.

6.2.15.2. If the 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 to arrange transport to the shelter, as needed.

6.2.16. Law enforcement personnel shall promptly complete a detailed written report of the investigation and forward a copy to the alleged suspect's commander or when the alleged suspect is a civilian, to the local law enforcement authorities in accordance with local law enforcement requirements and procedures.

6.3. Judge Advocate's (JA) Role in Responding to Domestic Violence. As part of the coordinated community response to domestic abuse, JAs have an integral role in ensuring that victims are protected from further harm and advising commanders concerning the appropriate disposition of domestic violence offenses. JAs assigned defense counsel responsibilities should receive training appropriate for their role.

6.3.1. Available Services. JAs must ensure that victims are informed of services available to victims of domestic violence, such as the Victim Witness Assistance Program (Reference (t)) and the Transitional Compensation Program (Reference (u)).

6.3.2. Response to Domestic Violence Allegations. JAs are responsible for providing timely, informed advice to commanders regarding the response to domestic violence allegations. When advising the responsible commander regarding their response to incidents of domestic abuse, JAs shall consult with FAP and victim advocates when considering lethality risk factors. (See paragraph 6.6.2.)

6.3.3. Issuance of MPOs. JAs are responsible for advising commanders, when requested, regarding the appropriateness of issuing an MPO against an alleged military abuser. (See paragraph 6.1.2.)

6.3.4. Armed Forces Domestic Security Act. JAs shall advise the responsible commander and law enforcement personnel regarding the implications of the Armed Forces Domestic Security Act (section 1561(a) of Reference (p)). (See paragraph 6.1.3.)

6.3.5. The Domestic Violence Misdemeanor Amendment (Lautenberg) to the Gun Control Act. JAs shall advise the responsible commander and law enforcement personnel in all matters relating to the Domestic Violence Misdemeanor Amendment (Lautenberg) to the Gun Control Act (Reference (r)). (See paragraph 6.1.4.)

6.3.6. Negotiating MOUs with Civilian Offices and Agencies. SJAs shall advise the responsible commander regarding the appropriate scope and content of MOUs with civilian law enforcement agencies and district attorney's offices. (See paragraph 6.1.5.)

6.3.7. Prosecution of Domestic Violence Cases. When prosecuting domestic violence cases, JAs are responsible for working with command, law enforcement, victim advocates and others.

6.3.7.1. JAs shall advise the responsible commander of the appropriate and effective response to domestic violence, taking into account the results of risk assessments conducted by FAP and/or victim advocates. (See paragraph 6.6.2.)

6.3.7.2. JAs shall advise law enforcement personnel, as appropriate, regarding scene investigation and evidence gathering to facilitate successful prosecution of domestic violence incidents, and the appropriate scope and content of law enforcement reports of domestic violence incidents.

6.3.8. JAs shall advise health care providers, victim advocates and victim advocate supervisors on whether an exception to restricted reporting exists.

6.4. Victim Advocacy

6.4.1. General Requirements

6.4.1.1. Execution of victim advocate duties must be conducted in a manner consistent with the victim's election of restricted or unrestricted reporting.

6.4.1.2. Victims of domestic abuse who are eligible to receive military medical treatment, including those eligible on a fee-paying basis, shall have access to both immediate and ongoing victim advocacy services.

6.4.1.3. Victims who are not eligible to receive military medical treatment shall be offered FAP assessment and safety planning services and referral to civilian support services for all follow-on care.

6.4.1.4. If copies of safety plans are retained by victim advocates, they shall be kept by the victims' name or personnel identifier in an appropriate Privacy Act system of records in accordance with DoDD 5400.11 and D 5400.11-R (References (ab) and (ac)).

6.4.2. Advocacy to Individual Victims – Initial Response and Safety Planning. The domestic abuse victim advocate shall:

6.4.2.1. Ensure that the victim understands that communication with the victim advocate is voluntary.

6.4.2.2. Inform the victim of both restricted and unrestricted reporting options pursuant to Enclosure 3 of this Instruction.

6.4.2.3. Ascertain the victim's immediate needs.

6.4.2.4. Encourage the victim to seek medical consultation/examination.

6.4.2.5. Assess the situation for imminent danger of life-threatening physical harm to the victim or another person, considering the existence and frequency of the risk factors in section 6.6.2. If law enforcement has been involved, they should be consulted to determine the presence of the risk factors in section 6.6.2. If imminent danger of life-threatening physical harm to the victim or another person exists, the victim advocate shall immediately consult with a health care provider. If a victim has elected the restricted reporting option (see Enclosure 3 of this Instruction), command or law enforcement will still be notified if, based on the assessment, there is a good faith belief that there is a serious and imminent threat to the health or safety of the victim or another person.

6.4.2.6. Discuss an initial safety plan and, with the active participation of the victim, develop a plan in accordance with the safety plan, DD Form 2893, "Victim Advocate Safety Plan." Ensure that the victim understands that establishing a written safety plan is voluntary. All victims, including victims who are not eligible for military medical care, shall be provided a copy of the initial safety plan. A copy of the safety plan shall be retained by the victim advocate only when the victim is eligible for military medical care and will continue to see the advocate. In all other instances, a copy shall not be retained. The victim advocate shall inform a victim whose plan is retained by the victim advocate that the plan will be kept in a record and where the record will be located. The victim advocate shall also inform the victim that the purpose of maintaining a record is to enable the victim and the victim advocate to continue their discussion of the victim's safety, to develop the safety plan more fully, and to record services provided to the victim.

6.4.2.6.1. Victim advocates shall attempt to periodically review the victim's safety plan with the victim.

6.4.2.6.2 Prior to closure of the victim advocacy case file, the victim advocate shall attempt to assess the victim's need for additional or ongoing safety measures or clinical case staffing.

6.4.2.7. Ensure victims are aware of the legal actions available to promote their safety.

6.4.2.8. Offer victims information, as appropriate, regarding local resources for immediate safety and long-term protection and support; workplace safety; housing; childcare; legal services; clinical resources; medical services; chaplain resources; transitional compensation; and other military and civilian support services.

6.4.2.9. Facilitate victim contact with military and civilian resources, as appropriate, including shelter and safe housing resources.

6.4.3. Advocacy to Individual Victims – Ongoing Assistance. The domestic abuse victim advocate shall:

6.4.3.1. Ensure that FAP, law enforcement, and the command are aware of the victim's safety plan if the victim has elected the unrestricted reporting option.

6.4.3.2. Maintain follow-up contact with the victim as appropriate.

6.4.3.3. Develop a safety plan with the victim, if one has not already been completed, and review it periodically with the eligible victim. (See section 6.4.2.)

6.4.3.4. Support the victim in decision making by providing relevant information and discussing available options.

6.4.3.5. Assist the victim with prioritizing actions and establishing short- and long-term goals.

6.4.3.6. Support the victim in advocating on her or his own behalf.

6.4.3.7. Provide the victim comprehensive information and referral on relevant local military and civilian resources, the National Domestic Violence Hotline (1-800-799-SAFE) and Military OneSource (1-800-342-9647).

6.4.3.8. Assist the victim in gaining access to service providers and victim support resources that can help the victim explore future options and prioritize actions.

6.4.3.9. Assist the victim in contacting appropriate military and civilian legal offices for personal legal advice and assistance specific to the victim's circumstances or case, including the filing for CPOs or MPOs. The victim advocate shall not provide legal advice.

6.4.3.10. Consult and work with the Victim/Witness Liaison assigned when the military is involved in the investigation or disposition of an offense punishable under the UCMJ in accordance with Victim and Witness Assistance Procedures (Reference (ad)).

6.4.3.11. Advise the victim of FAP clinical resources.

6.4.3.12. Advise the victim of the impact of domestic abuse on children and offer referrals for assessments of the physical and mental health of involved children.

6.4.3.13. Accompany the victim to appointments and civilian and military court proceedings, as appropriate and when requested by the victim.

6.4.3.14. Provide the victim's spouse with basic information about the Transitional Compensation Program if the active duty abuser is being or may be separated from the Service due to dependent abuse and refer the victim to the Victim/Witness Liaison.

6.4.3.15. When a victim spouse decides to relocate away from the active duty abuser, provide the victim with basic information and eligibility requirements pertaining to the shipment of household goods and a vehicle at government expense according to section 406(h) of title 37 U.S.C. (Reference (ae)).

6.4.4. FAP meetings. The victim advocate shall:

6.4.4.1. Attend and participate in those portions of FAP meetings in which supportive services (including safety) and clinical treatment for the domestic abuse victim, and for any children living in the victim's home, are discussed, and only when the victim has given a signed authorization. Such meetings include FAP clinical case consultation meetings.

6.4.4.2. Collaborate with other providers of supportive services and clinical treatment to the domestic abuse victim, and for any children living in the victim's home, to ensure that the needs of the victim and such children are met.

6.4.4.3. Only disclose information pertaining to the victim to such victim, and pertaining to any children living in the victim's home to the non-abusing parent of any such children, in accordance with Reference (ac) and DoD Component implementing guidance.

6.4.4.4. Not attend those portions of FAP meetings in which assessment and clinical treatment for the alleged abuser are discussed.

6.4.5. Systems Advocacy. All domestic abuse responders shall promote a coordinated community response for the prevention of domestic abuse and for intervention when domestic abuse occurs. As a systems advocate, the victim advocate shall promote a coordinated community response for the prevention of domestic abuse and for intervention when domestic abuse occurs. However, these functions should not occur at the expense of providing direct service and support to victims. As a systems advocate, the victim advocate shall:

6.4.5.1. In collaboration with the victim advocate supervisor and FAP, conduct an ongoing assessment of the consistency and effectiveness of the Domestic Abuse Victim Advocate Program at the victim advocate's installation.

6.4.5.2. Collaborate with other agencies and activities to improve system response to, and support of, victims.

6.4.5.3. Advocate for victim services that involve the victim in the decision-making process.

6.4.6.4. Collaborate with military and civilian law enforcement and criminal investigative units in the establishment of protocol and procedures to ensure: (1) notification of

the victim advocate when such units are notified of a domestic abuse incident; (2) collaboration on safety planning and safety measures; and (3) ongoing training of military and civilian law enforcement personnel on the victim advocate's role.

6.4.5.5. Collaborate with the DoD-sponsored Medical Treatment Facility (MTF) and Dental Treatment Facility (DTF) in the establishment of protocol and procedures to ensure notification of a victim advocate for all incidents of suspected or reported domestic abuse, and the provision of ongoing training of medical/dental facility personnel on the victim advocate role.

6.4.5.6. Establish liaison with FAP intervention and prevention staff.

6.4.5.7. Establish liaison with civilian victim resources.

6.4.5.8. Actively participate as a member of the installation Family Advocacy Committee (FAC) in the development, implementation, and evaluation of installation domestic abuse policies and procedures, including MOUs, victim services contracts, and Inter-Service Support Agreements.

6.4.6. Education/Training and Public Awareness. Education, training, and public awareness are important victim advocate functions. However, these functions should not occur at the expense of providing direct service and support to victims. The victim advocate shall:

6.4.6.1. Assist in educating command and installation personnel on domestic abuse and victim advocate services.

6.4.6.2. Provide briefings on victim advocacy services to active duty personnel, the civilian spouses of active duty personnel, and DoD civilians when the latter are eligible to receive military medical treatment.

6.4.6.3. Assist in training military first responders, including law enforcement and MTF/DTF personnel, command personnel, and chaplains.

6.4.6.4. Assist in training civilian service providers about military victim issues, resources, and services.

6.4.6.5. Participate in developing and implementing public awareness campaigns on victim rights and advocacy services.

6.4.6.6. Assist in planning events for National Domestic Violence Awareness Month.

6.4.6.7. As authorized by his/her supervisor or commander, participate in private sector domestic abuse councils.

6.5. Health Care Provider's (HCP) Role in Responding to Domestic Abuse. HCPs have a critical role in identifying and assessing victims of domestic abuse. They may be the first

individuals to come into contact with a victim after a domestic abuse incident. It is essential that all health care providers understand domestic abuse and are aware of their role in responding to and reporting incidents.

6.5.1. Screening

6.5.1.1. Prior to screening, the health care provider must inform the patient of the limits of confidentiality, to include the Restricted Reporting policy at Enclosure 3, and of all reporting requirements, to include state laws and DoD and Service regulations, and must make all required reports.

6.5.1.2. Adult patients and parents/caregivers of children in pediatric care should be asked about current and past domestic abuse victimization if during screening, the provider suspects abuse.

6.5.1.3. HCPs should screen patients in private, without any friend, relative, spouse, child (unless under the age of 3) or partner in the room. Appropriate safety measures must be considered if the HCP believes the alleged abuser is present.

6.5.1.4. Interpreters (not relatives or friends of the patients) should be used whenever necessary and appropriate.

6.5.1.5. If a patient reports no current or past abuse, but the HCP has reason to believe that abuse may be occurring, the health care provider shall provide the patient with basic information about resources on the installation or in the civilian community.

6.5.2. Assessment

6.5.2.1. The initial assessment shall occur immediately following a disclosure of domestic abuse and shall be repeated or expanded upon during follow-up appointments.

6.5.2.2. When a patient discloses current abuse, the assessment should include, at a minimum, relevant risk factors in paragraph 6.6.2. Additionally, the HCP should ask the patient if the alleged abuser is in the MTF and the extent to which his/her physical/mental health is impacted by the abuse.

6.5.2.3. HCPs shall determine if the patient has already reported the abuse to an official agency and/or has made a restricted report to a specified individual.

6.5.3. Intervention. HCPs should provide basic referrals for patients to appropriate services, such as FAP, victim advocacy services, the National Domestic Violence Hotline (1-800-799-SAFE) and Military OneSource (1-800-342-9647).

6.5.4. Documentation

6.5.4.1. Documentation should be completed by a health care provider who is authorized to record information in patient records. Documentation should include:

6.5.4.1.1. Patient statements, recorded to accurately reflect the patient's own words.

6.5.4.1.2. Relevant history, including current and past incidents of abuse and their effects on the patient's health.

6.5.4.1.3. Detailed results of physical examinations, both described in writing and noted accurately on a body map.

6.5.4.1.4. Photographs when possible and with the consent of the patient.

6.5.4.1.5. Results of any laboratory or diagnostic procedures.

6.5.4.1.6. Results of assessment, intervention, and referrals.

6.5.4.1.7. Patient's selection of a reporting option.

6.5.4.2. If the patient does not disclose domestic abuse, the HCP shall document in the record that screening was conducted but the patient disclosed no abuse. If the provider suspects abuse even though the patient did not so disclose, the provider should document those concerns in the medical record (e.g., "physical findings are not congruent with history or description," "patient presents with indicators of domestic abuse") and also document any physical findings suggesting domestic abuse. Notifications in such instances should be made in accordance with DoD and Military Service policy.

6.6. FAP Responsibilities. In accordance with DoDD 6400.1, DoD 6400.1-M, and DoD 6400.1-M-1 (References (af), (ag), and (ah)), the FAP shall have primary responsibility for public awareness and education programs in the military community, for ensuring that each reported incident is assessed for risk of further domestic abuse, for ensuring that victims of domestic abuse receive a clinical assessment and supportive services, as appropriate, and for ensuring that domestic abusers receive a clinical assessment, treatment as appropriate, and ongoing treatment monitoring.

6.6.1. In conducting public awareness and education programs in the military community, the FAP shall coordinate with local civilian domestic abuse programs and with national and state civilian domestic abuse public awareness and education programs, modifying informational materials as appropriate for the military community.

6.6.2. Each incident of domestic abuse shall be assessed for risk whether or not violence was used in the incident in question. Risk assessment should include at a minimum, the existence and frequency of the following risk factors:

6.6.2.1. Access to the victim.

6.6.2.2. Victimization patterns have increased in severity or frequency.

6.6.2.3. Alleged abuser has threatened, attempted, or has a plan to kill the victim or his/her children.

6.6.2.4. Alleged abuser has threatened, attempted, or has a plan to commit suicide.

6.6.2.5. Alleged abuser has strangled the victim.

6.6.2.6. Alleged abuser has used a weapon, threatened to use a weapon, or has access to a weapon that may be used against the victim.

6.6.2.7. Victim has sustained serious injury during the abusive incidents.

6.6.2.8. History of law enforcement involvement regarding domestic abuse or other criminal behavior.

6.6.2.9. Victim has a restraining order or protection order against the alleged abuser.

6.6.2.10. Violation of a protection order by alleged abuser.

6.6.2.11. Victim is estranged, separated, or attempting to separate from the alleged abuser. Does he/she have a place to go?

6.6.2.12. Alleged abuser has stalked the victim.

6.6.2.13. Alleged abuser exhibits obsessive behavior, extreme jealousy, extreme dominance, rage, agitation, or instability.

6.6.2.14. History of drug or alcohol abuse.

6.6.2.15. Alleged abuser has forced sex on the victim.

6.6.2.16. Alleged abuser isolates the victim.

6.6.3. Clinical assessment and supportive services shall be offered to victims of domestic abuse on a voluntary basis. The FAP shall provide the victim with basic information about FAP and the availability of victim advocacy services on the installation or in the civilian community.

6.6.4. FAP shall conduct clinical assessments of alleged domestic abusers or make appropriate referrals for assessment by civilian providers.

6.6.5. If, as a result of the clinical assessment and the commander's disciplinary action or the outcome of civilian criminal proceedings, it is appropriate to provide treatment to the alleged domestic abuser, FAP shall provide appropriate treatment in accordance with FAP guidelines or make appropriate referrals for clinical treatment by civilian providers.

6.6.6. To the extent possible, FAP shall monitor the treatment of the alleged abuser and shall promptly report violations of treatment rules to the commander or the appropriate civilian authority.

6.6.7. To the extent possible, FAP shall ensure that at periodic intervals both the victim and the alleged abuser are assessed to determine the risk of re-abuse.

6.7. Chaplains. Chaplains provide unique services to the military community and to victims and alleged abusers in domestic abuse situations.

6.7.1. Victims and alleged abusers are entitled to the protections of privileged communications with a chaplain that may be protected under the Military Rules of Evidence or applicable statutes and regulations. The restricted reporting policy (see Enclosure 3) is in addition to the current protections afforded privileged communications with a chaplain under the UCMJ, and does not alter or affect those protections.

6.7.2. In recognition of this special relationship, chaplains shall be trained on the policies and procedures in this Instruction as well as military Service-specific domestic abuse policies and privileged communications.

6.7.3. Upon learning of an incident of domestic abuse, chaplains shall provide basic referrals to appropriate services, such as FAP, victim advocacy services, the National Domestic Violence Hotline (1-800-799-SAFE) and Military OneSource (1-800-342-9647).

6.8. Continuous monitoring. Clinical treatment of a person who committed domestic abuse cannot by itself ensure that domestic abuse will cease. A coordinated community approach to continuous monitoring of an abuser is required to reduce the risk of further domestic abuse. Continuous monitoring is the collective responsibility of commanders, FAP clinicians, military law enforcement personnel, installation SJAs, victim advocates, chaplains, HCPs and numerous civilian community agencies, including criminal and family court judges, court probation officials, victim witness liaisons, domestic abuse treatment providers, child protective services agencies, and battered women's shelters.

6.9. Fatality Notification and Fatality Review

6.9.1. Notification of DoD-Related Fatalities. The Military Departments and Defense Agencies/DoD Field Activities shall notify the DUSD(MC&FP) of any DoD-related fatality known or suspected to have resulted from an act of domestic violence, child abuse, or suicide related to an act of domestic violence or child abuse.

6.9.1.1. Information concerning such fatalities shall be submitted on DD Form 2901 by fax at the number provided on the form.

6.9.1.1.1. Information contained on DD Form 2901 must be coordinated with the criminal investigative organization or law enforcement agency having jurisdiction over the investigation prior to submission.

6.9.1.1.2. The name of the victim(s) and alleged abuser(s) shall not be included in item 25 of DD Form 2901.

6.9.1.2. The DUSD(MC&FP) shall retain the information in items 1 through 8 of DD Form 2901 for 2 calendar years after receipt. This information will be used to ascertain whether the appropriate Military Department has conducted the required fatality review. All remaining items on DD Form 2901 will be retained for 2 weeks after receipt to ensure that the appropriate Military Department has documented the fatality for future fatality reviews.

6.9.2. Review of DoD-Related Fatalities. The Military Departments shall conduct multidisciplinary, impartial reviews of each fatality known or suspected to have resulted from an act of domestic violence, child abuse, or suicide related to an act of domestic violence or child abuse. A fatality shall only be reviewed under this Instruction when all criminal proceedings have been completed.

6.9.2.1. Each Military Department shall establish and train a fatality review team.

6.9.2.1.1. The team shall be multidisciplinary**,** with representatives from organizations responsible for intervening with victims and abusers. At a minimum, FAP, the medical treatment facility, the SJA, law enforcement, and criminal investigative organization shall be represented.

6.9.2.1.2. The team may include appropriate civilian representatives. In such case it shall comply with the requirements of DoD Directive 5105.4 (Reference (ai)).

6.9.2.2. The team shall meet regularly in closed sessions to review fatalities for the purpose of identifying trends and patterns that may assist in developing policy recommendations that promote more effective prevention efforts and earlier and more effective interventions.

6.9.2.2.1. Team operating procedures shall be flexible enough to accommodate informal approaches that facilitate the team's work**,** including meeting on an ad hoc basis, dispensing with routine meeting minutes, and conducting preliminary reviews without benefit of key information (i.e., police report, autopsy report, or record of trial).

6.9.2.2.2. The team shall conduct a system review of each identified case by determining which organizations had contact with the deceased; what services, if any, were offered; the quality of those services; the timeline of these critical events; and whether better or different services might have prevented the death of the deceased.

6.9.2.2.3. Fatality review teams shall:

6.9.2.2.3.1. Comply with the requirements of Reference (ac) and any state law that protects the confidentiality of the identities of individuals; and

6.9.2.2.3.2. Protect the confidentiality of the deliberations and internal team documents pursuant to DoD 5400.7-R (Reference (aj)) or under any relevant state law.

6.9.2.3. Each Military Department, through its proponent offices for domestic violence and child abuse, shall forward an "Annual Report Of Fatalities" to the DUSD(MC&FP). The report shall, at a minimum, include:

6.9.2.3.1. An executive summary;

6.9.2.3.2. Information on:

6.9.2.3.2.1. The victims' sex, age, race/ethnicity, pay grade (if applicable), injuries, autopsy findings, household/family information (without identifying data), and significant medical and mental health history;

6.9.2.3.2.2. Manner of death: the legal classification, whether natural, suicide, homicide, accidental or undetermined;

6.9.2.3.2.3. The assailants' sex, age, race/ethnicity, pay grade (if applicable), and household/family information (without identifying data), prior police record, restraining order violations, and significant medical and mental health history;

6.9.2.3.2.4. Whether there had been previous violence between the victim and assailant or a previous suicide attempt, and if so, a description of such previous violence or suicide attempt;

6.9.2.3.3. Policies and practices reviewed as a result of the fatality;

6.9.2.3.4. SJA verified military and/or civilian legal dispositions of cases involving homicide;

6.9.2.3.5. System interventions and failures, if any, within the Department of Defense;

6.9.2.3.6. A discussion of significant findings; and

6.9.2.3.7. Recommendations for systemic changes, if any, within the respective Military Department.

6.9.2.4. The annual report shall be due 24 months following the end of the fiscal year in which fatalities that are the subject of the report occur, and have a due date of September 30.

6.9.2.5. Within 12 months of receiving the initial fatality review reports, and annually thereafter, the DUSD (MC&FP) shall conduct a DoD fatality review summit to respond to the findings and recommendations from the Military fatality review teams.

7. TRAINING

In addition to providing education and training to key personnel on the policies and procedures in this Instruction, the Secretaries of the Military Departments shall provide periodic, mandatory training on the topics provided in paragraphs 7.1 through 7.5 to all military personnel. To the extent possible, education and awareness activities should also target family members. The Military Departments will determine the appropriate staff to deliver this training and the venue.

7.1. Dynamics of domestic abuse.

7.2. DoD policy and Military Service-specific domestic abuse policies and procedures.

7.3. Common misconceptions associated with domestic abuse.

7.4. Beliefs, attitudes and cultural issues associated with domestic abuse.

7.5. Military and civilian domestic abuse resources.

8. INFORMATION REQUIREMENTS

8.1. The annual report to the USD(P&R) of domestic violence and child abuse fatality reviews referred to in paragraph 6.9.2. has been assigned Report Control Symbol (RCS) DD-P&R(A)2175.

8.2. The reports to the DUSD(MC&FP) of DoD-related fatalities due to domestic violence or child abuse referred to in paragraph 6.9.1. have been assigned RCS DD-P&R(Q)2052.

8.3. Reporting instructions and data elements for the “DoD Domestic Violence Database” referred to in paragraph 5.1.3. are contained in DoD 7730.47-M (Reference (x)). The information requirements for such data has been assigned RCS DD-P&R(M)1973 under DoD Directive 7730.47 (Reference (w)).

8.4. These reporting requirements have been assigned according to DoD 8910.1-M (Reference (ak)).

8.5. The Safety Plan referred to in this Instruction is exempt from licensing according to paragraph C4.4.2 of Reference (ak).

9. EFFECTIVE DATE

This Instruction is effective immediately.

Michael L. Dominguez
Principal Deputy

Enclosures- 5

E1. References
E2. Definitions
E3. Restricted Reporting for Incidents of Domestic Abuse
E4. Memorandum of Understanding Between the Installation Law Enforcement Office and Local Civilian Law Enforcement Agencies
E5. Memorandum of Understanding Between the Installation Staff Judge Advocate and the Local District Attorney's Office

E1. ENCLOSURE 1

REFERENCES, continued

(e) Under Secretary of Defense for Personnel and Readiness Memorandum, "Policy for Implementation of Domestic Violence Misdemeanor Amendment to the Gun Control Act for Civilian Personnel," November 27, 2002 (hereby canceled)
(f) Under Secretary of Defense for Personnel and Readiness Memorandum, "Domestic Abuse Victim Advocate Program," February 17, 2005 (hereby canceled)
(g) Under Secretary of Defense for Personnel and Readiness Policy Memorandum "Military Protective Orders (MPOs)," March 10, 2004 (hereby canceled)
(h) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Implementation of the Armed Forces Domestic Security Act," November 10, 2003 (hereby canceled)
(i) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Establishing Domestic Violence Memoranda of Understanding Between Military and Local Civilian Officials," January 29, 2004 (hereby canceled)
(j) Principal Deputy Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Domestic Violence Prosecution Training," March 18, 2002 (hereby canceled)
(k) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Domestic Abuse Training for Chaplains," January 29, 2004 (hereby canceled)
(l) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Domestic Abuse Response and Intervention Training for Commanding Officers and Senior Enlisted Personnel," February 3, 2004 (hereby canceled)
(m) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Establishing Protocols for Law Enforcement and Command Responses to Domestic Violence Involving Military Members on Active Duty," October 22, 2004 (hereby canceled)
(n) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Domestic Abuse Identification and Assessment Training for Health Care Providers," February 6, 2004 (hereby canceled)
(o) Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Restricted Reporting Policy for Incidents of Domestic Abuse." January 22, 2006 (hereby canceled)
(p) Sections 580(a)(4)(C), 637(a)(5), 1059, 1076, 1176(a), 1561(a), 1562, 1588, 4061, 6036, 9061, 12646(e)(1), 12686, and Chapter 47 of title 10, United States Code
(q) Section 534 of the National Defense Authorization Act of 1995, P.L. 103-337
(r) Section 922(d)(9) and 922(g)(9) of title 18, United States Code
(s) DoD Instruction 5505.3, "Initiation of Investigations by Military Criminal Investigative Organizations, " June 21, 2002
(t) DoD Directive 1030.1, "Victim Witness Assistance," April 13, 2004
(u) DoD Instruction 1342.24, "Transitional Compensation for Abused Dependents," May 23, 1995

(v) Principal Deputy Under Secretary of Defense for Personnel and Readiness Policy Memorandum, "Duration of Payment for Transitional Compensation for Abused Dependants," June 14, 2004
(w) DoD Directive 7730.47, "Defense Incident-Based Reporting System (DIBRS)," October 15, 1996
(x) DoD 7730.47-M, "Manual for the Defense Incident-Based Reporting System," July 25, 2003
(y) DoD Directive 5525.7, "Implementation of the Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes," January 22, 1985
(z) Section 2105 of title 5, United States Code
(aa) The Constitution of the United States, Amendment 5, "Trial and Punishment, Compensation for Takings"
(ab) DoDD 5400.11, "DoD Privacy Program," May 8, 2007
(ac) DoD 5400.11-R, "DoD Privacy Program," May 14, 2007
(ad) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
(ae) Section 406(h) of title 37, United States Code
(af) DoD Directive 6400.1, "Family Advocacy Program," August 23, 2004
(ag) DoD 6400.1-M, "Family Advocacy Program – Standards and Self Assessment Tool," August 20, 1992
(ah) DoD 6400.1-M-1, "Manual for Child Maltreatment and Domestic Abuse Incident Reporting System", July 2005
(ai) DoD Directive 5105.4, "DoD Federal Advisory Committee Management Program," February 10, 2003
(aj) DoD 5400.7-R, "DoD Freedom of Information Act (FOIA) Program," September 1998
(ak) DoD 8910.1-M, "Procedures for Management of Information Requirements," June 30, 1998
(al) Section 585 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106-65
(am) DoD 6025.18-R, "DoD Health Information Privacy Regulation," January 2003

E2. ENCLOSURE 2

DEFINITIONS

E2.1. Adult. For the purposes of this Instruction, an adult is a person who has either attained the age of 18 years of age or is married.

E2.2. Advocacy Services. Services that are offered to victims of domestic abuse with the goal of increasing victim safety and autonomy. Services shall include, but not necessarily be limited to, responding to victims' emergency and ongoing safety concerns and needs, providing information about programs and services available to victims and their children in both the civilian and military communities, and providing victims with ongoing support and referrals.

E2.3. Ammunition. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. However, it does not include ammunition for major military weapon systems or "crew served" military weapons systems.

E2.4. Categories of Support Available. Victims of domestic abuse who are eligible to receive military medical treatment, to include on a fee-paying basis, shall have access to both immediate and ongoing victim advocacy services. This support includes treatment and services at military treatment facilities and TRICARE services, as well as all services listed in this Instruction. Other victims are eligible for services consistent with their status.

E2.5. Child Abuse. The physical or sexual abuse, emotional abuse, or neglect of a child by a parent, guardian, foster parent, or by a caregiver, whether the caregiver is intrafamilial or extrafamilial, under circumstances indicating the child's welfare is harmed or threatened. Such acts by a sibling, other family member, or other person shall be deemed to be child abuse only when the individual is providing care under express or implied agreement with the parent, guardian, or foster parent.

E2.6. Civilian Protection Order. For the purposes of this instruction in implementation of the Armed Forces Domestic Security Act, a CPO includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including any temporary or final order issued by a civil and criminal court (other than a support or child custody order issued pursuance to State divorce and child custody laws, except to the extent that such an order is entitled to full faith and credit under other Federal law) whether obtained by filing an independent action or as a pendente lite order in another proceedings so long as any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

E2.7. Covered Communication. For the purposes of restricted reporting, an oral, written or electronic communication of personally identifiable information related to a domestic abuse

incident made by a victim to the victim advocate, the supervisor of victim advocates, or to a healthcare provider, for the purposes of receiving medical care or information, referral to service providers, advice, or safety planning. It includes a record relating to such a communication (including statements, notations or reports) but does not include statistical data that does not identify an individual.

E2.8. Crime of Domestic Violence. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "crime of domestic violence" means an offense that has as its factual basis, the use or attempted use of physical force, or threatened use of a deadly weapon; committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victims.

E2.9. Destructive device. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "destructive device" means (a) any explosive, incendiary, or poison gas bomb, grenade, mine, or any such rocket having a propellant charge of more than four ounces, or any such missile having an explosive or incendiary charge of more than one-quarter ounce, or any device similar to any of the devices described in the preceding clauses; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in (a) or (b) and from which a destructive device may be readily assembled. Provided, however, that the term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon nor shall include any device, although originally designed as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device.

E2.10. Dispose. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "dispose" means to exercise control over, to direct or to assign for use, or to alienate, bargain away, bestow, convey, exchange, give away, or transfer by authority.

E2.11. DoD Civilian Employee. An employee of the Department of Defense who is a U.S. citizen and paid from appropriated, non-appropriated, revolving, or trust funds. The terms "civilian employee" and "employee" do not include military personnel.

E2.12. DoD-related Fatality. The death of

E2.12.1. A member of a Military Department on active duty;

E2.12.2. A current or former dependent of a member of a Military Department on active duty; or

E2.12.3. A current or former intimate partner who has a child in common or has shared a common domicile with a member of a Military Department on active duty.

E2.13. Domestic Abuse. Domestic violence or a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty that is directed toward a person of the opposite sex who is:

E2.13.1. A current or former spouse.

E2.13.2. A person with whom the abuser shares a child in common; or

E2.13.3. A current or former intimate partner with whom the abuser shares or has shared a common domicile.

E2.14. Domestic Violence. An offense 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 against a person of the opposite sex, or a violation of a lawful order issued for the protection of a person of the opposite sex, who is:

E2.14.1. A current or former spouse.

E2.14.2. A person with whom the abuser shares a child in common; or

E2.14.3. A current or former intimate partner with whom the abuser shares or has shared a common domicile.

E2.15. Family Advocacy Committee (FAC). The policy making, coordination, recommending, and overseeing body for the installation FAP.

E.2.16. Family Advocacy Program (FAP). A program designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up, and reporting of family violence. FAPs consist of coordinated efforts designed to prevent and intervene in cases of family distress, and to promote healthy family life.

E2.17. Felony crime of domestic violence. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term “felony crime of domestic violence” is a “crime of domestic violence” that is classified as a felony under State or Federal law (generally, a crime punishable by a term of imprisonment that exceeds one year).

E2.18. Firearm. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term “firearm” means (a) any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; and (c) any firearm muffler or firearm silencer; or (d) any destructive device. However, it does

not include major military weapons systems or "crew served" military weapons (tanks, missiles, aircraft)

E2.19. Health care provider. Those individuals who are employed or assigned as healthcare professionals, or are credentialed to provide health care services (including clinical social workers), at a military medical or military dental treatment facility, or a military family support center, or who provide such care at a deployed location or in an official capacity. This term includes military personnel, DoD civilian employees or DoD contractor personnel.

E2.20. Homicide. The killing of one person by another, whether lawfully or unlawfully. When death is determined to be homicide, it is a death that results from intentional or grossly reckless behavior of another person or persons. The term is not synonymous with murder or other crimes, which is a legal determination. The term includes both criminal actions and excusable incidents (e.g., self-defense, law enforcement, and combat actions).

E2.21. Interstate or foreign commerce. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "interstate or foreign commerce" includes commerce between any place in a state and any place outside of that state, or within any possession of the United States or the District of Columbia, but such term does not include commerce between places within the same state but through any place outside of that state.

E2.22. Misdemeanor crime of domestic violence. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "misdemeanor crime of domestic violence" is a "crime of domestic violence" that is classified as a misdemeanor under State or Federal law (generally, a crime punishable by a maximum term of imprisonment that is one year or less).

E2.23. Possession. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "possession" includes both "active possession" and "constructive possession," whether authorized or unauthorized. Active possession of a firearm or ammunition exists when the firearm or ammunition is in the immediate possession of the person. Constructive possession exists when a person does not have actual possession but instead knowingly has the power and at a given time to exercise dominion and control over the firearm or ammunition, either directly or through others. Possession need not be exclusive but may be joint with others.

E2.24. Qualifying Conviction. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "qualifying conviction" applies to any of the following:

E2.24.1. A State or Federal conviction for a misdemeanor crime of domestic violence.

E2.24.2. A State or Federal conviction for a felony crime of domestic violence adjudged on or after November 27, 2002, as first established by USD(P&R) Directive-Type Memorandum (References (d) and (e)).

E2.24.3. Any general or special court-martial conviction for a Uniform Code of Military Justice offense that otherwise meets the elements of a crime of domestic violence, even though not classified as a misdemeanor or felony.

A person shall not be considered to have a qualifying conviction unless the convicted offender was represented by counsel, or knowingly and intelligently waived the right to counsel and, if entitled to have the case tried by jury or before court-members, the case was actually tried by a jury or court members or the person knowingly and intelligently waived the right to have the case tried by a jury or court members, and;

A person shall not be considered to have a qualifying conviction if the conviction has been expunged or set aside, or the convicted offender has been pardoned for the offense or had civil rights restored, unless the pardon, expungement, or restoration of civil rights provides that the person may not ship, transport, possess, or receive firearms.

E2.25. Reasonable cause. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "reasonable cause" means that there is reliable information that a reasonable, prudent person would rely on which makes it more likely than not that the individual has a qualifying conviction.

E2.26. Receive. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "receive" means to obtain, to take, to accept, to acquire, or to come into possession of.

E2.27. Restricted reporting. A process allowing an adult victim of domestic abuse, who is eligible to receive military medical treatment, including civilians and contractors who are eligible to receive military healthcare outside the Continental United States on a reimbursable basis**,** the option of reporting an incident of domestic abuse to a specified individual without initiating the investigative process or notification to the victim's or alleged offender's commander. Additional explanation and guidance is provided in Enclosure 3.

E2.28. Safety Planning. A process whereby a victim advocate, working with a domestic abuse victim, creates a plan, tailored to that victim's needs, concerns, and situation, that will help increase the victim's safety and help the victim to prepare for, and potentially avoid, future violence.

E2.29. Ship. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "ship" means the transportation, or the effecting of transportation, without limitation as to the means or facilities used or with respect to the person to whom any shipment is made.

E2.30. Suicide related to an act of domestic violence or child abuse. A person's intentional taking of his or her own life; (1) that is known or is reasonably suggested by the circumstances to have some connection with an act of domestic violence or child abuse he or she recently committed; or (2) that is known or is reasonably suggested by the circumstances to have some

connection with a recent act of domestic violence or child abuse in a DoD-related context in which he or she was the victim.

E2.31. Transport. For purposes of this Instruction with regard to implementing the Domestic Violence Amendment to the Gun Control Act (Reference (r)), the term "transport" means to move, convey, carry, by any means, or to deliver or receive for the purpose of movement or conveyance.

E2.32. Unrestricted reporting. A process allowing a victim of domestic abuse to report an incident using current reporting channels, e.g. chain of command, law enforcement or criminal investigative organization, and Family Advocacy Program for clinical intervention. Additional explanation and guidance is provided in Enclosure 3.

E2.33. Victim Advocate. An employee of the Department of Defense, a civilian working under contract for the Department of Defense, or a civilian providing services by means of a formal memorandum of understanding between a military installation and a local victim advocacy service agency, whose role is to provide safety planning services and comprehensive assistance and liaison to and for victims of domestic abuse, and to educate personnel on the installation regarding the most effective responses to domestic abuse on behalf of victims and at-risk family members. The advocate may also be a volunteer military member, a volunteer civilian employee of the Military Department, or staff assigned as collateral duty.

E2.34. Victim and Witness Assistance Program (VWAP). A program established by References (t) and (ad) that assists victims and witnesses of crimes punishable under the Uniform Code of Military Justice from initial contact with the program through investigation, prosecution, and confinement.

E3. ENCLOSURE 3

RESTRICTED REPORTING FOR INCIDENTS OF DOMESTIC ABUSE

E3.1. Victims of domestic abuse shall be protected, treated with dignity and respect, and provided support, advocacy, and care. DoD policy also strongly supports effective command awareness and prevention programs, and law enforcement and criminal justice activities that will maximize accountability and prosecution, as appropriate, of perpetrators of domestic abuse. To achieve these dual objectives, DoD policy prefers that personnel report suspected domestic abuse incidents promptly to activate both victims' services and accountability actions. However, a requirement that all domestic abuse incidents be reported can represent a barrier for victims hoping to gain access to medical and victim advocacy services without command or law enforcement involvement. The Department of Defense recognizes the potential impact of restricted reporting on investigations and a commander's ability to hold perpetrators accountable, and this policy decision presents the judgment that such risks have been carefully considered but were outweighed by the overall interest in providing domestic abuse victims this form of support.

E3.2. This enclosure provides guidelines for restricted reporting of incidents of domestic abuse, as defined in Enclosure 2, and implements regulations required by section 585 of Public Law 106-65 (Reference (al)). The magnitude of this change requires extensive, in-depth training for DoD personnel and specialized training for commanders, senior enlisted personnel, victim advocates, criminal investigators, law enforcement personnel, FAP personnel, chaplains, healthcare providers, and legal personnel.

E3.3. Restricted reporting is limited to adult victims of domestic abuse. Restricted reporting is defined in Enclosure 2.

E3.4. Domestic abuse often goes unreported in society at large. Although the victim's decision to report the incident is a crucial step toward holding the offender accountable following a domestic abuse incident, it can have potential serious consequences for the safety and welfare of the victim and other family members. When domestic abuse is reported to military and/or civilian authorities who fail to take appropriate action, the abuse may recur and escalate. In the military community, a victim is usually concerned that reporting will have immediate repercussions on the military career of the family-member offender, and thus affect the family's financial welfare. The result is that this potential impact may often deter the victim from seeking care at all or reporting the domestic abuse incident. Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the safety and well-being of victims and other family members. A system that affords victims access to medical and victim advocacy services without immediate command or law enforcement involvement may encourage victims to feel more comfortable and safe about reporting domestic abuse.

E3.5. In order to address these competing interests, adult victims of domestic abuse incidents will now have two reporting options: unrestricted reporting and restricted reporting. Regardless of whether the victim elects restricted or unrestricted reporting, confidentiality of medical information will be maintained in accordance with DoD 6025.18-R (Reference (am)).

E3.5.1. Unrestricted Reporting. Victims of domestic abuse who want to pursue an official command or criminal investigation of an incident should use current reporting channels, e.g., chain of command, FAP, or law enforcement. Upon notification of a reported domestic abuse incident, victim advocacy services and FAP clinical services will be offered to the victim. Additionally, at the victim's request, the healthcare provider, in coordination with criminal investigators, shall conduct any forensic medical examination deemed appropriate. Details regarding the incident will be limited to only those personnel who have a legitimate need to know.

E3.5.2. Restricted Reporting

E3.5.2.1. In cases where an adult victim instead elects restricted reporting, and discloses information to either a victim advocate, victim advocate supervisor or healthcare provider, the victim advocate, victim advocate supervisor and healthcare provider may not disclose covered communications, as defined in Enclosure 2, to either the victim's or offender's commander or to law enforcement either within or outside the Department of Defense, except as provided in the exceptions in E.3.5.3. To the extent that Sexual Assault Response Coordinators are assigned domestic abuse responsibilities, they may have access to domestic abuse restricted reporting information.

E3.5.2.2. For purposes of command responsibility and the gathering of accurate data, the victim advocate or his/her supervisor is responsible for reporting information concerning domestic abuse incidents, without information that could reasonably lead to personal identification of the victim or alleged offender, to command officials at the next FAC meeting following receipt of information about the alleged domestic abuse incident, or as directed by the commander responsible for convening the FAC. This will give the commander a clearer picture as to the number and type of domestic abuse incidents within the command, and enhance the commander's ability to provide an environment that is safe and contributes to the well-being and mission-readiness of all of its Service members.

E3.5.2.3. Restricted reporting is intended to give adult victims additional time, while benefiting from receiving relevant information and support, to make more informed decisions about reporting the domestic abuse incident to the appropriate commander. A victim who receives appropriate care and treatment, and is provided an opportunity to make an informed decision about reporting to law enforcement or command and the possibility of a criminal investigation, is more likely to develop increased trust that his or her needs are of primary concern, and therefore decide to report the domestic abuse incident to the appropriate commander or law enforcement.

E3.5.2.4. Restricted reporting allows an adult victim of domestic abuse to disclose the details of his or her abuse to specifically identified individuals and receive medical treatment and

victim advocacy services without requiring that notice be provided to the alleged offender's commander, or to the criminal investigative organization. Victims of domestic abuse who desire restricted reporting under this policy must report the abuse to one of the following specified individuals:

E3.5.2.4.1. A victim advocate;

E3.5.2.4.2. A healthcare provider, as defined in Enclosure 2; or

E3.5.2.4.3. The supervisor of a victim advocate.

E3.5.2.5. The supervisor of a victim advocate will assure the assignment of a victim advocate to assist the victim.

E3.5.2.6. HCPs will initiate the appropriate care and treatment, and will report the domestic abuse only to a victim advocate or his/her supervisor, unless otherwise permitted by this Instruction or required for any of the reasons enumerated in section E3.5.3. Additionally, in connection with an incident of domestic abuse, at the victim's discretion/request, the HCP, if appropriately trained and/or supervised, shall conduct any forensic medical examination deemed appropriate. The forensic component includes gathering information from the victim for the medical forensic history, an examination, documentation of biological and physical findings, collection of evidence from the victim, and follow-up as needed to document additional evidence. The HCP will transfer the forensic evidence, via proper evidence chain of custody procedures, to an activity designated by the Secretary of the Military Service to receive that evidence.

E3.5.2.6.1. In the absence of a DoD HCP trained to conduct an examination of this nature, the victim will be appropriately referred for the forensic medical examination.

E3.5.2.6.2. If the victim elects to receive medical care at a civilian facility, regulations governing the release of medical information at that facility apply. To the extent possible, victims should be aware of this.

E3.5.2.7. If the victim advocate is the first contact with the victim, he/she will notify his or her supervisor as soon as possible. The victim advocate will contact the victim and provide the victim accurate information about the process of restricted reporting, as compared to unrestricted reporting, and victim advocacy services.

E3.5.2.8. The victim will acknowledge in writing his or her understanding that restricted reporting may limit the government's ability to prosecute the alleged offender in a domestic abuse incident and an understanding of the reasons DoD policy favors unrestricted reporting.

E3.5.2.9. Consistent with current policy regarding privileged communications, victims may also report the abuse to a chaplain. Although a report to a chaplain is not a restricted report under this policy, it is a communication that may be protected under the Military Rules of Evidence or applicable statutes and regulations. The restricted reporting process does not affect

any privilege recognized under the Military Rules of Evidence. This restricted reporting policy is in addition to the current protections afforded privileged communications under the UCMJ, and does not alter or affect those protections.

E3.5.3. Exceptions to Confidentiality and Restricted Reporting and Limitations on Use

E3.5.3.1. In cases in which a victim elects restricted reporting, the prohibition on disclosing covered communications to the following persons or entities will be suspended when disclosure would be for the following reasons:

E3.5.3.1.1. Named individuals when disclosure is authorized by the victim in writing.

E3.5.3.1.2. Command officials or law enforcement when necessary to prevent or lessen a serious and imminent threat to the health or safety of the victim or another person.

E3.5.3.1.3. FAP and any other agencies authorized by law to receive reports of child abuse or neglect when, as a result of the victim's disclosure, the victim advocate or healthcare provider has a reasonable belief that child abuse has also occurred. However, disclosure will be limited only to information related to the child abuse.

E3.5.3.1.4. Disability Retirement Boards and officials when disclosure by a healthcare provider is required for fitness for duty for disability retirement determinations, limited to only that information which is necessary to process the disability retirement determination.

E3.5.3.1.5. Supervisors of the victim advocate or healthcare provider when disclosure is required for the supervision of direct victim treatment or services.

E3.5.3.1.6. Military or civilian courts of competent jurisdiction when a military, Federal, or State judge issues a subpoena or order for the covered communications to be presented to the court or to other officials or entities when the judge orders such disclosure.

E3.5.3.1.7. To other officials or entities when required by Federal or State statute or applicable U. S. international agreement.

E3.5.3.2. Healthcare providers may also convey to the victim's commander, if applicable, information on any possible adverse duty impact related to an active duty victim's medical condition and prognosis in accordance with DoD 6025.18-R (Reference (am)). Such circumstances, however, do not otherwise warrant an exception to policy, and therefore the specific details of the domestic abuse incident will still be treated as covered communication and may not be disclosed.

E3.5.3.3. If the victim advocate or healthcare provider believes that disclosure is warranted or required pursuant to one of the exceptions, when time permits, the victim advocate or healthcare provider shall first consult with his or her supervisor and servicing legal office or staff judge advocate prior to disclosure. When there is uncertainty or disagreement on whether

an exception applies, the matter will be brought to the attention of the installation commander for decision.

E3.5.3.4. The victim advocate or healthcare provider must also make every reasonable effort to provide the affected victim advance notice of the intention to disclose a covered communication, with a description of the information to be disclosed, the basis for disclosure, and the individual, group, or agency to which it will be disclosed. The disclosure will be limited to information necessary to satisfy the purpose of the disclosure in the event the disclosure is made under the authority of one of the stated exceptions. Further disclosure will not be made unless the domestic abuse victim authorizes the disclosure in writing.

E3.5.4. Improper disclosure of covered communications, improper release of medical information, and other violations of this policy are prohibited and may result in discipline under the UCMJ, loss of privileges, and/or other adverse personnel or administrative actions.

E3.5.5. In the event that information about a domestic abuse incident is disclosed to the commander or FAP, from a source independent of the restricted reporting avenues, law enforcement or the appropriate criminal investigative organization shall also be notified. FAP shall intervene with the family and conduct all appropriate assessments and provide all appropriate treatment. Additionally, a victim's disclosure of his or her domestic abuse to persons other than those covered by this policy may result in an investigation of the allegations by law enforcement and clinical intervention from FAP. Consistent with current policy, commanders acquiring information under these circumstances about a domestic abuse incident shall immediately notify law enforcement and FAP.

E3.6. This policy does not create any actionable rights for the alleged offender or the victim, nor constitute a grant of immunity for any actionable conduct by the alleged offender or the victim, nor create any form of evidentiary or testimonial privilege. Covered communications that have been disclosed to persons other than those specified to receive them under the protections of this restricted reporting policy, even if disclosed improperly or inadvertently, may be used in administrative, non-judicial, or judicial disciplinary proceedings.

E4. ENCLOSURE 4

SAMPLE MEMORANDUM OF UNDERSTANDING BETWEEN THE INSTALLATION LAW ENFORCEMENT OFFICE AND LOCAL CIVILIAN LAW ENFORCEMENT AGENCIES

(INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency

1. **PURPOSE**: To establish written procedures concerning the exchange of information, case investigation, cases involving civilian alleged offenders, jurisdiction and coordination of efforts and assets between the (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency in domestic abuse cases involving active duty military personnel and their family members.

2. **GENERAL**: This Memorandum of Understanding (MOU) does not create additional jurisdiction or limit or modify existing jurisdiction vested in the parties. This MOU is intended exclusively to provide guidance and documents an agreement for general support between the (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency. Nothing contained herein creates or extends any right, privilege, or benefit to any person or entity. (See United States v. Caceres, 440 U.S. 741, 1979.)

   A. [Insert paragraph here defining response and investigation jurisdiction for the (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency.]

3. **RESPONSIBILITIES:**

   A. The (CITY, COUNTY, or STATE) Law Enforcement Agency agrees to perform the following actions:

   (1) When responding to or investigating domestic abuse cases, the (CITY, COUNTY, or STATE) Law Enforcement Agency will ascertain whether the alleged offender is an active duty Service member. If the alleged offender is an active duty Service member, and subject to (2) below, the responding officer(s) will note on the top of the incident/investigation report "Copy to the (INSTALLATION) Installation Law Enforcement" and the designated Records personnel will ensure the copy is forwarded.

   (2) When responding to or investigating domestic abuse cases, the (CITY, COUNTY, or STATE) Law Enforcement Agency will ascertain whether the victim is an active duty Service member. If the victim is an active duty Service member, the responding officer(s) will seek the victim's consent to forward a copy of the

incident/investigation report to the (INSTALLATION) Law Enforcement Office so that it can be provided to the victim's commander. If the victim so consents, the responding officer(s) will note on the top of the incident/investigation report "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated Records personnel will ensure the copy is forwarded. If the victim does not consent, the responding officer(s) shall note in the body of the incident/investigation report that the victim did not consent to forwarding the report to the Installation Law Enforcement Office and shall not direct Records personnel to forward the report.

(3) When the (CITY, COUNTY, or STATE) Law Enforcement Agency receives a copy of a temporary or permanent civilian protection order (CPO) issued by a court of competent jurisdiction, the responding officer(s) will ascertain whether the alleged offender is an active duty Service member. If the alleged offender is an active Service member, and subject to (4) below, the responding officer(s) will note on the top of the CPO "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated Records personnel will ensure the copy is forwarded. **[This paragraph may not be necessary if the installation has an MOU with the local court specifying that the court will forward copies of such CPOs to the installation.]**

(4) When the (CITY, COUNTY, or STATE) Law Enforcement Agency receives a copy of a temporary or permanent civilian protection order (CPO), the responding officer(s) will ascertain whether the victim is an active duty Service member. If the victim is an active duty Service member, the responding officer(s) will seek the victim's consent to forward a copy of the CPO to the (INSTALLATION) Installation Law Enforcement Office. If the victim so consents, the responding officer(s) will note on the top of the CPO "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated Records personnel will ensure the copy is forwarded. If the victim does not consent, the responding officer(s) shall not request that a copy of the CPO be forward to the Installation Law Enforcement Office.

(5) The (CITY, COUNTY, or STATE) Law Enforcement Agency shall designate an employee from Records who will be directly responsible for forwarding copies of incident/investigation reports and CPOs to the (INSTALLATION) Installation Law Enforcement Office when directed to do so by notations at the top of the reports or CPOs. The employee shall also be responsible for receiving and processing of MPOs forwarded from the (INSTALLATION) Installation Law Enforcement Office.

(6) When the (CITY, COUNTY, or STATE) Law Enforcement Agency becomes aware of a violation of a term or provision of a Military Protective Order (MPO), the responding officer(s) shall notify the designated representative from the (INSTALLATION) Installation Law Enforcement Office of the violation.

(7) The (CITY, COUNTY, or STATE) Law Enforcement Agency shall provide the (INSTALLATION) Installation Law Enforcement Office with an area for Installation Law Enforcement investigators to conduct interviews of active duty Service members and their family members who are involved in domestic abuse incidents.

(8) The (CITY, COUNTY, or STATE) Law Enforcement Agency will, when appropriate, conduct joint investigations with the (INSTALLATION) Installation Law Enforcement Office if incidents of domestic abuse involve active duty Service members and their family members.

(9) When the victim in a domestic abuse incident has been identified as an active duty Service member or a Service member's family member, the (CITY, COUNTY, or STATE) Law Enforcement Agency responding officer(s) shall provide the victim with basic information, acquired from the Installation Law Enforcement Office (below), about installation resources available to domestic abuse victims.

(10) As new law enforcement officers begin duty with the (CITY, COUNTY, or STATE) Law Enforcement Agency, their immediate supervisor will provide them with copies of this MOU and basic instruction for effectuating the provisions of this MOU.

B. The (INSTALLATION) Installation Law Enforcement Office agrees to perform the following actions:

(1) The (INSTALLATION) Installation Law Enforcement Office shall designate an individual to act as liaison to the (CITY, COUNTY, or STATE) Law Enforcement Agency and to receive copies of incident/investigation reports stemming from an incident occurring off of the installation and CPOs involving active duty Service members and their family members.

(2) Upon receipt of a copy of an incident/investigation report stemming from incidents occurring off of the installation or a CPO involving an active duty Service member and his/her family member, the (INSTALLATION) Installation Law Enforcement Office shall immediately notify the Service member’s commander.

(3) When the (INSTALLATION) Installation Law Enforcement Office receives a copy of an MPO issued by a Service member’s commander, and if that Service member is living off of the installation, the (INSTALLATION) Installation Law Enforcement office shall forward a copy of the MPO to the (CITY, COUNTY, or STATE) Law Enforcement Agency with jurisdiction over the area in which the Service member resides.

(4) The (INSTALLATION) Installation Law Enforcement Office shall provide the (CITY, STATE, OR COUNTY) Police Department with an area for Police

Department officers or investigators to conduct interviews of active duty Service members and their family members who are involved in domestic abuse incidents.

(5) The (INSTALLATION) Installation Law Enforcement office will, when appropriate, conduct joint investigations with the (CITY, COUNTY, or STATE) Law Enforcement Agency if incidents of domestic abuse involve active duty Service members and their family members.

(6) The (INSTALLATION) Installation Law Enforcement Office will assist the (CITY, COUNTY, or STATE) Law Enforcement Agency when investigating cases that occurred off base by providing information such as medical records, service records, and incident/investigation reports from incidents occurring under the jurisdiction of the Installation Law Enforcement Office in accordance with the provisions of the Privacy Act, 5 USC 552a.

(7) The (INSTALLATION) Installation Law Enforcement Office shall provide the (CITY, COUNTY, or STATE) Law Enforcement Agency with basic information, in the form of quick reference cards or brochures, about installation resources available to domestic abuse victims.

(8) **[Insert a paragraph here stating proper installation procedure for responding to domestic abuse incidents occurring on the installation involving civilian alleged offenders.]**

(9) As new personnel begin duty with the (INSTALLATION) Installation Law Enforcement office, their immediate supervisor will provide them with copies of this MOU and basic instructions on implementing the provisions of this MOU.

4. EFFECTIVE ADMINISTRATION AND EXECUTION OF THIS MOU:

A. This MOU shall be reviewed annually and shall remain in full force and effect until specifically abrogated by one of the parties to this agreement with sixty (60) days notice to the other party.

B. Effective execution of this agreement can only be achieved through continuing communication and dialog between the parties. It is the intent of this MOU that channels of communication will be used to resolve questions, misunderstandings or complaints that may arise that are not specifically addressed in this MOU.

C. Personnel from the (INSTALLATION) Installation Law Enforcement Office and from the (CITY, COUNTY, or STATE) Law Enforcement Agency shall meet, as necessary and appropriate, to discuss open cases involving active duty Service members and to share information regarding reciprocal investigations.

E5. ENCLOSURE 5

SAMPLE MEMORANDUM OF UNDERSTANDING BETWEEN THE INSTALLATION STAFF JUDGE ADVOCATE AND THE LOCAL DISTRICT ATTORNEY'S OFFICE

(INSTALLATION) Staff Judge Advocate (**SJA) and**
(COUNTY/CITY) District Attorney's (DA) Office

1. **PURPOSE**: To establish written procedures concerning the exchange of information, case investigation and prosecution, and coordination of efforts and assets between the (INSTALLATION) SJA and the (COUNTY/CITY) DA in domestic abuse cases involving active duty military personnel assigned to the (INSTALLATION) and their family members.

2. **GENERAL**: This Memorandum of Understanding (MOU) does not create additional jurisdiction or limit or modify existing jurisdiction vested in the parties. This MOU is intended exclusively to provide guidance documenting an agreement for general support between the (INSTALLATION) SJA and the (COUNTY/CITY) DA. Nothing contained herein creates or extends any right, privilege, or benefit to any person or entity. (See United States v. Caceres, 440 U.S. 741, 1979).

   A. [Insert paragraph here defining jurisdiction for both the (INSTALLATION) SJA and (COUNTY/CITY) DA.]

3. **RESPONSIBILITIES:**

   A. The (COUNTY/CITY) DA agrees to perform the following actions:

   (1) When the victim in a domestic abuse incident has been identified as an active duty Service member or a family member of such a member, the (COUNTY/CITY) DA shall provide the victim with basic information, acquired from the Installation SJA (below), about (INSTALLATION) resources available to domestic abuse victims.

   (2) When investigating or prosecuting domestic abuse cases, the (COUNTY/CITY) District Attorney (DA) shall determine whether the alleged offender is an active duty Service member assigned to (INSTALLATION). If the alleged offender is an active duty member assigned to (INSTALLATION), the DA shall contact the (INSTALLATION) SJA to inform the SJA of the pending investigation or prosecution. Upon request, the DA shall forward copies of relevant police reports, civil protection orders, and any orders specifying pre-trial conditions to the SJA.

   (3) When investigating a domestic abuse case involving an active duty member assigned to (INSTALLATION) who is alleged to be the offender, the DA shall

consult with the SJA with respect to prosecution of the individual under the appropriate state law or under the Uniform Code of Military Justice (UCMJ).

(4) During the course of the DA's investigation or prosecution of a crime of domestic abuse allegedly committed by an active duty Service member assigned to (INSTALLATION), the DA shall keep the SJA informed of the status of the case through regular contacts. The DA shall notify the SJA specifically of any changes in confinement status or pre-trial release conditions.

(5) When, after consultation, the SJA and the DA have determined that the alleged offender will be subject to procedures under the UCMJ, the DA shall cooperate during the investigation and disciplinary action to the greatest extent possible by sharing information and facilitating the interviewing of witnesses.

(6) As new attorneys begin working in the (COUNTY/CITY) DA, their immediate supervisor will provide them with copies of this MOU and basic instruction for executing the provisions of this MOU.

B. The (INSTALLATION) SJA agrees to perform the following actions:

(1) The (INSTALLATION) SJA shall provide the (COUNTY/CITY) DA with basic information, in the form of quick reference cards or brochures, about installation resources available to domestic abuse victims.

(2) When investigating a domestic abuse case involving an active duty member assigned to (INSTALLATION) who is alleged to be the offender, the SJA shall, in cases where the state has jurisdiction, consult with the local DA to determine whether the individual will be prosecuted under the appropriate state law or whether the command will pursue disciplinary action under the UCMJ.

(3) Upon request, the SJA shall forward copies of relevant police incident reports and military protection orders to the DA.

(4) When, after consultation, the DA and the SJA have decided that the alleged offender will be prosecuted under state law, the SJA shall cooperate during the investigation and prosecution to the greatest extent possible by sharing information and facilitating the interviewing of witnesses.

(5) As new personnel begin duty with the (INSTALLATION) SJA, their immediate supervisor will provide them with copies of this MOU and basic instructions on executing the provisions of this MOU.

4. EFFECTIVE ADMINISTRATION AND EXECUTION OF THIS MOU:

A. This MOU shall be reviewed annually and shall remain in full force and effect until specifically abrogated by one of the parties to this agreement with sixty (60) days notice to the other party.

B. Effective execution of this agreement can only be achieved through continuing communication and dialog between the parties. It is the intent of this MOU that communication will be used to resolve questions, misunderstandings or complaints that may arise that are not specifically addressed in this MOU.

C. Personnel from the (INSTALLATION) SJA and from the (COUNTY/CITY) DA's Office shall meet, as necessary and appropriate, to discuss open cases involving active duty Service members and to review and revise provisions of this MOU.