



DEPARTMENT OF THE ARMY
HEADQUARTERS, 1ST ARMORED DIVISION AND FORT BLISS
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26 JAN 2022

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Command Policy Letter #15 – Immediate Command Actions in Response to Alleged Crimes Against Persons

1. References. See enclosure.

2. Purpose. This policy establishes procedures, considerations, and immediate command actions necessary to ensure good order and discipline and to promote the health and welfare of *all* Soldiers on Fort Bliss, Texas. This policy does not punish alleged offenders/victims and does not create any enforceable right for an alleged offender/victim. Additionally, this policy establishes guidelines to ensure victims of sexual assault and alleged offenders remain separated during investigations and, if applicable, subsequent disposition. These guidelines reemphasize the commitment to victim safety, wellbeing, and recovery. Commanders will ensure victims and alleged offenders are separated in a manner that reduces the likelihood of interaction between the two to the greatest extent possible—to include during the duty day, at unit functions, and after duty hours. This memorandum supersedes all other previously issued Fort Bliss regulations, circulars, and policy memoranda to the extent that they conflict with any provision contained in this policy.

3. Applicability. This policy applies to any allegation of serious misconduct where the offense involves a crime against persons, to include sexual assault crimes. This policy imposes an affirmative duty on each member of the chain of command, and military or civilian supervisory chains, to take appropriate action in accordance with the terms of this policy and applicable laws, regulations, and corresponding policies.

4. Definitions.

a. Serious Misconduct. Allegations of misconduct where, if true, a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Court-Martial (MCM).

b. Crime Against Persons. Those allegations that involve a natural person as a crime victim in accordance with Article 6b, Uniform Code of Military Justice (UCMJ).

5. Policy. Commanders are responsible for maintaining good order and discipline in their units and promoting the health and welfare of all Servicemembers under their commands. In response to any allegation of serious misconduct involving crimes

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against persons, commanders shall take the following actions as soon as possible following an incident, but in no case more than 24-hours after receiving an initial report:

a. Reporting. Commanders, in consultation with a legal advisor, shall report the allegation to the appropriate Military Criminal Investigation Organization (MCIO) in accordance with (IAW) Army Regulation (AR) 195-2, Appendix B for investigation.

b. Flag. Commanders, in consultation with a legal advisor, shall complete an appropriate flagging action IAW AR 600-8-2 for any alleged offender and maintain the flag until the matter, and any related personnel action is applicable, is resolved.

c. Military Protective Order (MPO). An MPO is a written lawful order issued by a commander that orders a Servicemember to avoid contact with those persons identified in the order. Commanders will inform alleged victims of serious misconduct of their ability to request an MPO. A commander may issue an MPO pursuant to a victim's request or—in cases where the victim does not want an MPO issued—at their own discretion. While considered, a victim's preference is not controlling and the command retains discretion to determine the best course of action to maintain good order and discipline. When a victim requests an MPO and provides sufficient information to complete the DD Form 2873 (Military Protective Order), the alleged offender's immediate command will issue the MPO, unless a written exception is granted by the alleged offender's Special Court-Martial Convening Authority (SPCMCA). Once issued, the alleged offender's immediate commander will ensure DES receives a copy of the MPO and obtain confirmation that the MPO was uploaded to the ALERTS and NCIC database IAW AR 190-45.

d. Civilian Protective Order (CPO). Commanders will take all necessary measures to enforce provisions of a properly issued CPO when the CPO pertains to a Servicemember under their command. Commanders will give a CPO the same force and effect as such an order has within the jurisdiction of the court that issued the order. Commanders will also assist Servicemembers in obtaining legal assistance and seeking a CPO when the alleged offender is not a Servicemember.

e. No-Contact Order. A no-contact order prohibits contact between individuals. Commanders may issue no-contact orders so long as they have a valid military purpose such as maintaining good order and discipline. No-contact orders should be documented in writing—there is no specific format, but the order and its acknowledgment should be clear. An expiration date should be included as a term of the order, and cancellation of the order before, or in lieu of expiration, should also be documented. Unlike MPOs, no-contact orders do not need to be uploaded to the NCIC database. A Servicemember who violates the terms of a no-contact order is subject to punishment under either Article 90 or Article 92 of the UCMJ.

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f. Conditions on Liberty. Commanders of alleged offenders will consider appropriate conditions on liberty. Commanders will issue conditions on liberty in writing and have the Servicemember acknowledge receipt. Commanders must consult with their Military Justice Advisor or Brigade Judge Advocate prior to imposing conditions on liberty. Conditions on liberty may include orders to do or refrain from doing certain acts, including reporting periodically to certain officials, not going to certain places (e.g. alleged crime scene or residence of the victim), or not associating with certain personnel (e.g. the victim or potential witnesses).

g. Small Unit Dynamics. Commanders face unique challenges to maintaining good order and discipline when the alleged offender and the victim are both in the same unit, especially at the battalion level and below. In cases where both the victim and the alleged offender are in the same battalion or below organization, commanders will take the following actions in order or precedence.

(1) Consider a Servicemember's eligibility for exceptional reassignment based on a threat to life or safety of the Servicemember or their dependents IAW AR 614-100 and AR 614-200. Eligibility requires threatened bodily harm or death *and* circumstances such that the military and civilian authorities are unable to provide for their continued safety.

(2) Establish and implement a written reprisal plan in cases where exceptional reassignment is not appropriate.

(3) Confirm a victim's eligibility and preference for an expedited transfer IAW AR 614-100 and AR 614-200. Expedited transfers are appropriate in cases where the victim feels safe but uncomfortable. In cases of sexual assault, victims retain the right to request an expedited transfer IAW established regulations.

(4) Commanders will consider the victim's preference in determining which party is moved. Thus, when an eligible victim does not request an expedited transfer, commanders will move the alleged offender to another battalion or brigade in furtherance of maintaining good order and discipline, including the enforcement of applicable terms of all MPOs, CPOs, and conditions on liberty. The SPCMCA or higher authority may approve a request to move an alleged offender, while only the GCMCA has authority to disapprove an alleged offender's move IAW the following procedures:

(a) Absent independent justification for reassignment of the alleged offender, the SPCMCA will order alleged offenders attached to other units under his or her SPCMCA, but will not lift flags and/or reassign personnel to other units unless done IAW requirements of AR 600-8-2.

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(b) In the case of allegations against officers and non-commissioned officers, a temporary suspension from duties IAW AR 623-3 should occur before any decision to attach the alleged offender to another unit within the SPCMCA.

(c) Attaching a Servicemember to another battalion IAW this paragraph is for the limited purpose of day-to-day accountability and the supervision of the alleged offender's performance of his or her full military duties. Transferred Soldiers will be detached from their parent organization and attached to the new organization. Administrative and UCMJ authority will stay with the parent organization.

(d) The SPCMCA will move an alleged offender to another battalion subject to his or her SPCMCA.

(e) In exceptional cases where attaching an alleged offender to another battalion within the same brigade is not feasible, the SPCMCA, in coordination with the G1, 1AD, will request the General Court-Martial Convening Authority attach the Soldier to an appropriate command on Fort Bliss, TX. In making the request, the SPCMCA will consider the Soldier's demographic information to include rank, MOS, duty position, assignment history, and any other relevant factors.

(f) When a Soldier is attached to a unit other than his or her unit of assignment IAW this policy, the SPCMCA will ensure that both the immediate commander and first-line supervisor of the attached Soldier conduct face-to-face health and welfare checks with the Soldier at least once every 30 days. Commanders will not attach multiple alleged offenders to the same company, troop, or battery level organization.

(g) Units unable to internally comply with this policy will coordinate with external units located on Fort Bliss to facilitate temporary transfers IAW this policy.

6. The point of contact for this policy is the Chief, Military Justice at 915-744-6949.

Encl
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SEAN C. BERNABE
Major General, USA
Commanding

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Enclosure 1 to Command Policy Letter #15 – Immediate Command Actions in
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References.

1. Manual for Courts-Martial, 2019
2. Department of Defense Instruction (DoDI) 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures, 28 Mar 13, Incorporating Change 6, 10 Nov 21
3. Army Regulation (AR) 27-10, Military Justice, 20 November 2020
4. AR 140-10, Assignments, Attachments, Details, and Transfers, 16 July 2021
5. AR 190-45, Law Enforcement Reporting, 27 September 2016
6. AR 195-2, Criminal Investigation Activities, 21 July 2020
7. AR 600-8-2, Suspension of Favorable Personnel Actions (Flag), 5 April 2021
8. AR 600-8-24, Officer Transfers and Discharges, 8 February 2020
9. AR 600-20, Army Command Policy, 24 July 2020
10. AR 614-100, Officer Assignment Policies, Details, and Transfers, 3 December 2019
11. AR 614-200, Enlisted Assignments and Utilization Management, 25 January 2019
12. AR 623-3, Evaluation Reporting System, 14 June 2019
13. AR 635-200, Active Duty Enlisted Administrative Separations, 19 December 2016