



UNDER SECRETARY OF DEFENSE
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PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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SUBJECT: Establishing Domestic Violence Memoranda of Understanding Between
Military and Local Civilian Officials

This directive-type memorandum provides guidance for establishing key and essential coordination between military and local civilian officials with respect to domestic violence. Attachments 1 and 2 provide guidance and sample formats for establishing memoranda of understanding with civilian law enforcement officials and district attorneys, respectively. The attachments can also be adapted to address additional areas of civil-military cooperation.

It is the policy of the DoD that law enforcement and legal officials, at military installations, shall seek to establish formal memoranda of understanding with their counterparts in the local community to improve information sharing on domestic violence investigations, arrests, and prosecutions involving military personnel.

This memorandum is effective immediately. A DoD Directive incorporating the contents of this memorandum shall be issued within 180 days.

David S. C. Chu

Attachments:
As stated



Attachment 1

Developing a Memorandum of Understanding Between the Installation Law Enforcement Office and Local Civilian Law Enforcement Agencies

When domestic violence incidents occur on the installation, military entities, such as the Law Enforcement Office, the Family Advocacy Program (FAP), and the medical treatment facility (MTF), have established procedures mandating notifications, sharing of information and specific steps to take in responding to these incidents. However, active duty Service members and their families often live in civilian communities surrounding their installations. When an incident occurs in the civilian community, local law enforcement generally responds, conducts the investigation, and prepares the incident report.

Although some installation law enforcement offices have developed working relationships with their civilian law enforcement counterparts, these informal relationships can be difficult to maintain due to staff turnover, especially within the installation law enforcement office. Installations are often surrounded by multiple jurisdictions, making it even more difficult to maintain open and regular communications with numerous local law enforcement agencies. Furthermore, the civilian local law enforcement agency may not have a formal internal policy dictating steps to take when either the victim or the alleged offender is an active duty member.

Given these obstacles to successful informal working relationships and procedures, a Memorandum of Understanding (MOU) between the installation and local civilian law enforcement agencies can improve the sharing of information and strengthen and formalize procedures for dealing with domestic violence incidents that occur off the installation. MOUs can be used to clarify jurisdictional issues for the investigation of incidents, to define the mechanism whereby local law enforcement reports involving active duty members will be forwarded to the appropriate installation law enforcement office, to encourage the local law enforcement agency to refer victims of domestic violence to the installation FAP office or victim advocate, and, generally, to foster cooperation and collaboration between the installation and local civilian agencies.

Although MOUs can be crafted to address issues specific to an installation and the communities surrounding it, there are several issues that MOUs should address:

- A general statement of the purpose of the MOU.
- An explanation of jurisdictional issues that affect respective responsibilities for responding to and investigating incidents occurring on and off of the installation. (This section should also address jurisdictional issues that arise when a civilian order of protection is violated on military property, *see Section 1561a of title 10, United States Code.*)
- Procedures for responding to a domestic violence incident that occurs on the installation involving a civilian alleged offender.

- Procedures for transmitting incident/investigation reports of domestic violence involving active duty Service members from local civilian law enforcement agencies to the installation law enforcement office.
- Procedures for transmitting civilian protection orders (CPOs) involving active duty Service members from local law enforcement agencies to the installation law enforcement office. [If the installation has an MOU with the local court responsible for issuing protection orders, the installation can, alternatively, include procedures for transmitting copies of those orders to the installation law enforcement office in that MOU.]
- Designation of the title of the installation law enforcement recipient of such information from the local law enforcement agency.
- Procedures for transmitting military protection orders (MPOs), from the installation law enforcement office to the local civilian law enforcement agency with jurisdiction over the area in which the Service member resides. [Although the local civilian law enforcement agency will not be able to enforce the MPO, it can contact the installation law enforcement office when it learns of a violation.]
- Designation of the title of the local law enforcement agency recipient of domestic violence and CPO information from the installation law enforcement office.
- Respective responsibilities for providing information to domestic violence victims regarding installation resources when either the victim or the alleged offender is an active duty member.
- Sharing of information and facilities during the course of an investigation.
- Regular meetings between the local civilian law enforcement agency and the installation law enforcement office to review cases and MOU procedures.

The following sample Memorandum of Understanding contains provisions that could be used or modified by installations to meet specific needs. Since both jurisdictional issues and installation standing procedures on dealing with civilians alleged to have committed offenses on the installation vary widely, this sample does not include specific provisions on those two areas.

**Memorandum of Understanding Between
(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 violence 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 violence 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, 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 violence 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 civil 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, 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 civil 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 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 military protection orders (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 an 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 violence 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 violence involve active duty Service members and their family members.
- (9) When the victim in a domestic violence incident has been identified as an active duty Service member or a family member of one, 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 violence 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 Command.
- (3) When the (INSTALLATION) Installation Law Enforcement Office receives a copy of an MPO from a Service member's Command, 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 violence 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 violence 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 violence victims.
- (8) **[Insert a paragraph here stating proper installation procedure for responding to domestic violence 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 effectuating 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 dialogue 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.

Attachment 2

Developing a Memorandum of Understanding Between the Installation Staff Judge Advocate and the Local District Attorney's Office

In many domestic violence cases involving Service members and their families, there is overlapping criminal jurisdiction. For an offense committed off the installation by a military member, the local District Attorney (DA) and the military both have jurisdiction to prosecute the case, but only the DA has jurisdiction over offenses committed by a civilian family member. In the case of offenses committed on the installation, the command always has jurisdiction over military personnel, and depending on the installation, the local DA will either share jurisdiction over military personnel with the command and over civilian personnel with the U.S. Attorney or have no jurisdiction over military personnel and civilians. When the local DA has no jurisdiction on an installation, only the U.S. Attorney may prosecute civilians who commit offenses there. When there is overlapping jurisdiction, who prosecutes a particular case or class of cases is a matter of formal or informal agreement.

While some installations have entered into formal agreements with local DAs on exercising overlapping criminal jurisdiction, others have only developed informal working relationships. These informal relationships can be difficult to maintain due to staff turnover. Installations are often surrounded by multiple jurisdictions, making it even more difficult to maintain open and regular communications with numerous local district attorney offices. Furthermore, these civilian agencies may not have a formal internal policy dictating steps to take when either the victim or the alleged offender is an active duty member.

Given these obstacles to successful informal working relationships and procedures, a formal Memorandum of Understanding (MOU) between the installation staff judge advocate (SJA) and local DA's office can improve the sharing of information and strengthen procedures for dealing with domestic violence incidents, MOUs can be used to:

- (1) clarify jurisdictional issues for the investigation and prosecution of incidents,
- (2) define the mechanism whereby local law enforcement reports, civilian protection orders (CPOs) or court orders defining pre-trial conditions for active duty members will be forwarded on to the appropriate installation SJA, and,
- (3) foster cooperation and collaboration between the installation and local civilian agencies.

Although MOUs can be crafted to address issues specific to an installation and the communities surrounding it, there are several issues that MOUs should address:

- A general statement of the purpose of the MOU.
- An explanation of jurisdictional issues that affect respective responsibilities for investigating and prosecuting incidents occurring on and off of the installation.

- Procedures for transmitting police reports, CPOs and orders defining pretrial conditions from the district attorney to the SJA regarding domestic violence incidents involving active duty service members.
- Designation of the title of the installation legal office (such as the SJA) recipient of such information from the local DAs office.
- Procedures for providing, upon request, a history of domestic violence incidents involving specific active duty Service members to the DAs office.
- Exchange information and facilities during the course of an investigation and prosecution.
- Regular meetings between the DA and the SJA to review cases and MOU procedures.

The following sample Memorandum of Understanding contains provisions that could be used or modified by installations to meet specific needs. Since both jurisdictional issues and installation standing procedures on dealing with civilians alleged to have committed offenses on the installation vary widely, this sample does not include specific provisions on those two points.

**Memorandum of Understanding Between
(INSTALLATION) SJA and
(COUNTY/CITY) District Attorney's 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) District Attorney (DA) in domestic violence 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 and documents 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 violence incident has been identified as an active duty Service member or a family member of one, the (COUNTY/CITY) DA shall provide the victim with basic information, acquired from the Installation SJA (below), about (INSTALLATION) resources available to domestic violence victims.
 - (2) When investigating or prosecuting domestic violence cases, the (COUNTY/CITY) 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 violence case involving an active duty Service 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 violence 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 violence victims.
- (2) When investigating a domestic violence 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 dialogue 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.