

Headquarters
United States Forces, Korea
Unit # 15237
APO AP 96205-5237

United States Forces Korea
Regulation 40-216

10 December 2009

Medical Services

REFERRAL OF PERSONNEL FOR MENTAL HEALTH EVALUATION

***This regulation supersedes USFK Regulation 40-216, 15 July 1999.**

FOR THE COMMANDING GENERAL:

JOSEPH F. FIL JR.
Lieutenant General, USA
Chief of staff

OFFICIAL:



GARRIE BARNES
Chief of Publications and
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Summary. This regulation describes procedures for referring personnel for psychiatric or other mental health evaluations.

Applicability. This regulation is applicable to all United States Forces Korea personnel including civilian employees, who either directly refer or encourage individuals to seek mental health evaluations.

Supplementation. Supplementation of this regulation and issuance of command and local forms are prohibited unless prior approval is obtained from HQ USFK, (FKSG-PM), Unit #15237, APO AP 96205-5237.

Internal Controls. This regulation does not contain management control procedures.

Forms. USFK forms are available at <http://www.usfk.mil/usfk/>.

Records Management. Records created as a result of processes prescribed by this regulation must be identified, maintained and disposed of according to AR 25-400-2. Record titles and descriptions are available on the Army Records Information System website at <https://www.arims.army.mil>.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to the Commander, USFK, ATTN: FKSG-PM Unit #15237, APO AP 96205-5237.

Distribution. Electronic Media Only (EMO).

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Glossary

1. Purpose

This regulation describes procedures for referring personnel for psychiatric or other mental health evaluations.

2. References

Required and related publications are listed in Appendix A.

3. Explanation of Abbreviations

Abbreviations used in this regulation are explained in the glossary.

4. Responsibilities

Referral sources will be knowledgeable of policies contained in this regulation and will ensure compliance with the referral procedures outlined herein.

5. Procedures

a. Referrals. Prior to referral of personnel for mental health evaluation, the commanding officer or supervisor shall consult with a mental healthcare provider, or if not available, another healthcare provider. For non-emergency referrals, the commanding officer shall forward to the commanding officer of the Medical Treatment Facility or clinic a memorandum (Appendix D) formally requesting a mental health evaluation.

(1) Individuals referred by any element of command, unless otherwise required by law or regulation, will be referred utilizing USFK Form 229-E (Notice of Involuntary Referral for Mental Health Evaluation) (Appendix B).

(2) Self referrals are accepted and strongly encouraged; no USFK Form 229-E from the individual's command or a medical facility is required for evaluation for self-referred personnel.

(3) Persons referred through medical channels should be referred electronically if possible using an electronic consultation form, or if needed utilizing SF Form 513 (Consultation Sheet).

(4) For emergencies, referral for a mental health evaluation shall be made as soon as practical. Prior to transporting a service member, or shortly thereafter, the commanding officer will consult with the mental healthcare provider. The commanding officer shall forward a memorandum by fax and/or overnight mail documenting the information discussed.

(5) Referral of authorized United States civil service personnel (e.g., Department of Defense, Department of the Army, Department of the Air Force, and Department of the Navy employees) will be made in accordance with applicable regulations and negotiated agreements.

(6) Commanders should utilize the 10-point checklist for properly referring personnel for mental health evaluations (Appendix C).

b. Substance Abuse. Cases involving alcohol or drug abuse will be referred to the servicing alcohol and substance abuse program.

c. Administrative actions.

(1) Mental health evaluations for administrative elimination or other personnel actions will be processed in accordance with the applicable branch service regulations.

(2) The unit commander must ensure that an appropriate mental status evaluation is obtained IAW AR 635-200 or service specific guidance when an enlisted person is to be processed for separation.

(3) The servicing medical treatment facility will perform the medical examination, and if required, the mental status examination IAW AR 635-200 or service specific guidance. A qualified mental healthcare provider (psychiatrist, a doctoral-level clinical psychologist, or a doctoral-level clinical social worker) will perform the mental status examination. Except as specified below, referral to a psychiatrist will be made only when--

(a) Requested specifically by the service member.

(b) Deemed appropriate by the examining physician.

(c) Requested specifically by the commander who recommended separation or by the board considering separation action

6. Psychiatric Hospitalization of Nonmilitary Patients and Psychiatric Treatment For Family Members For Chronic Mental Disease

a. Treatment for nonmilitary patients (as defined in AR 40-3) and treatment for patients who are family members of military personnel for chronic mental disease is not available at military hospitals in Korea. Treatment for these categories of beneficiaries for chronic mental disorders may be available through host nation medical services.

b. Nonmilitary patients may not be hospitalized involuntarily or without their consent. However, in emergency cases (e.g., when patients are mentally ill to the extent they are dangerous to themselves or others), nonmilitary persons may be detained temporarily without their consent. In such cases, the medical facility commander will notify the office of the Judge Advocate, Headquarters, United States Forces Korea, (and the servicing civilian personnel office in cases involving United States civilian employees). The Judge Advocate will coordinate through the American Consul, Seoul, the disposition of the matter with officials of the Republic of Korea.

Appendix A References

Section I. Required Publications

AR 40-3 (Medical, Dental and Veterinary Care). Cited in paragraph 6a.

AR 635-200 (Active Duty Administrative Separations). Cited in paragraph 5c(2) & (3).

DODD 6490.1 (Mental Health Evaluations of Members of the Armed Forces). Cited in appendix B and appendix D.

DODD 7050.6 (Military Whistleblower Protection). Cited in appendix D.

Public Law 102-484, Section 546 (National Defense Authorization Act for Fiscal Year 1993). Cited in appendix D.

Section II. Related Publications

AFR 36-2 (Procedures for 'Administrative Separation of Officers)

AFR 36-1 2 (Administrative Separation of Commissioned Officers)

AFR 39-1 0 (Administrative Separation of Airmen-Enlisted Personnel)

AFR 27-1 0 (Military Justice)

AFR 40-21 6 (Neuropsychiatry and Mental Health)

AFR 40-501 (Standards of Medical Fitness)

AR 600-85 (Army Substance Abuse Program)

AR 635-10 (Processing Personnel for Separation).

COMNAVMEDCOMIST 191 O.3B (Command Naval Medical Instruction).

FPM 339 (Qualification Requirements (Medical)).

FPM 792 (Federal Employee Health and Counseling Programs).

FPM 831 (Retirement).

NAVILPERSCOMINST 191 0.1 B (Navy Military Personnel Command Instruction).

Appendix B. USFK Form 229-E, Notice of Involuntary Referral for Mental Health Evaluation

NOTICE OF INVOLUNTARY REFERRAL FOR MENTAL HEALTH EVALUATION		DATE: _____
(USFK REG 40-216)		
FROM: Commander _____	FOR: _____	
<p>PURPOSE: DoD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," requires a commander to consult with a mental healthcare provider before referring a service member for a mental health evaluation. The Directive also requires a commander to provide the service member written notice of the mental health referral and written notice of important rights. This form provides the required notifications.</p>		
SECTION I - TO BE COMPLETED BY THE COMMANDER AND SERVICE MEMBER		
<p>1. You are directed to report to the Mental Health Clinic, located at _____ _____ for a mental health evaluation.</p>		
<p>2. The following is a brief factual description of the behavior and/or verbal expressions which led me to determine a mental health evaluation is necessary: _____ _____ _____</p>		
<p>3. The name(s) of the mental health professionals with whom I have consulted before making this referral is/are as follows (a mental health care professional is defined as a psychiatrist or clinical psychologist, a person with a doctorate in a clinical social work, or a psychiatric clinical nurse specialist with appropriate credentials who is properly privileged to conduct mental health evaluations for DoD activities): _____</p>		
<p>4. The positions and telephone numbers of authorities who can assist you are (Commanders shall provide the proper phone numbers):</p> <p>Defense Attorney: _____ Inspector General: _____</p> <p>Chaplain: _____ Mental Health Clinic: _____</p>		
<p>5. You will be provided with a copy of this referral which includes the rights to which you are entitled.</p>		
<p>6. In accordance with DoD Directive 6490.1, dated 1 October 1997, other than in an emergency, you have the following rights: (Commanders should read these rights to the service member. The service member should initial each block.)</p> <p style="margin-left: 40px;">a. _____ Upon your request and at no cost to you, an attorney who is a member of the Armed Forces or employed by the DoD, and who is designated to provide advice under this section, shall advise you of the ways in which you may seek redress. You may also seek the assistance of a civilian attorney at no cost to the government.</p> <p style="margin-left: 40px;">b. _____ If you allege to an Inspector General (IG) that you were referred for a mental health evaluation in violation of this Directive or implementing Directives, the DoD IG, shall conduct or oversee an investigation of the allegation.</p>		

Appendix B. USFK Form 229-E, Notice of Involuntary Referral for Mental Health Evaluation (Reverse page)

c. _____ You have the right to be evaluated by a mental health professional of your own choosing, if reasonably available. Any such evaluation, including an evaluation by a mental health professional who is not an employee of the DoD, shall be conducted within a reasonable period of time after you are referred for an evaluation and shall be at your own expense.

d. _____ No person may restrict you in communicating with an IG, attorney, Member of Congress, or others about your referral for a mental health evaluation. This provision does not apply to a communication that is unlawful, such as a threat.

e. _____ In situations other than emergencies, you shall have at least two (2) business days before a scheduled mental health evaluation to meet with an attorney, IG, Chaplain, and/or other appropriate party. If I believe your condition requires that a mental health evaluation occur sooner, I shall state the reasons in writing as part of the request for consultation. Such statement **[is] [is not]** attached.

f. _____ If you are aboard a naval vessel or in circumstances related to your military duties that make compliance with any of the procedures above impractical, I shall prepare a memorandum stating the reasons for the inability to comply with such procedures. Such memorandum **[is] [is not]** attached.

7. _____ You acknowledge notification of the above stated rights and receipt of a copy of this form by signing below.

SECTION II - TO BE COMPLETED BY THE SERVICE MEMBER

1. _____ I **[do] [do not]** request **[military counsel of my own choice] [civilian counsel at my own expense]**. **[I request to receive consultation from _____, if reasonably available.]**

2. _____ I **[do] [do not]** request to be evaluated by a mental health professional of my own choice. **[I request to be evaluated by _____, if reasonably available.]**

**ADDITIONAL COMMENTS BY COMMANDER OR SERVICE MEMBER
(MUST INCLUDE TYPE OF CHAPTER OR SCHOOL EVALUATION NEEDED)**

SIGNATURE OF COMMANDER AND DATE:

SIGNATURE OF SERVICE MEMBER AND DATE

Appendix C

10-Point Checklist for Properly Referring Personnel for Mental Health Evaluations

C-1. _____ Are you referring a member for a mental health evaluation as a reprisal for making or preparing a lawful communication to a member of Congress, any appropriate authority in the chain of command of the member, an IG, or a member of a DOD audit, inspection, investigation, or law enforcement organization? **(Commanders must not make such reprisals, because violators are subject to punishment under the UCMJ or regulations governing civilian disciplinary or adverse actions.)**

C-2. _____ Is this an emergency mental health evaluation referral? (Contact a mental healthcare provider ASAP and send a memorandum to the mental healthcare provider by fax and overnight mail. Emergencies include suicidal, homicidal, delusional, and/or dangerous patients).

C-3. _____ Does the purpose for this non-emergency mental health evaluation fall into one of the categories that does not entail the notice requirement (USFK Form 229-E)? If so, prepare USFK Form 229-E and contact the mental healthcare provider for consultation and scheduling of an evaluation.

C-4. _____ Before you go any further, read for yourself the USFK Form 229-E for written notice of referral outlined in a two (2) page "Notice of Involuntary Referral for Mental Health Evaluation" (App 6) published in USFK Regulation 40-216.

C-5. _____ Have you consulted with a mental healthcare provider before referring a member for a mental health evaluation? (Was the person a "qualified" mental healthcare provider)?

C-6. _____ Have you written a memorandum to the commanding officer of the Medical Treatment Facility or clinic (App D).

C-7. _____ Have you scheduled the mental health appointment at least two (2) business days out? You must allow the member to meet with an attorney, IG, chaplain, or other appropriate party. If you believe the condition requires a mental health evaluation sooner, you must state the reasons in writing as part of the request for consultation.

C-8. _____ Administer the two (2) page "Notice of Involuntary Referral for Mental Health Evaluation" (USFK Form 229-E) to the member, properly reading and completing all appropriate blocks. Provide a copy of all documentation to the member.

a. Upon the member's request, an attorney who is a member of the Armed Forces or employed by DOD and who is designated to provide advice under the directive, must be provided to advise the member of the ways in which he or she may seek redress.

b. The member also has the right to be evaluated by a mental healthcare provider of their own choosing if reasonably available. Any such evaluation, including an evaluation by a mental healthcare provider who is not an employee of DOD, shall be conducted within a reasonable period of time after referral for evaluation and shall be at the member's own expense.

c. No person may restrict the member from communicating with an IG, attorney, member of Congress, or others about referral for a mental health evaluation. This provision does not apply to a communication which is unlawful. **(Violators are subject to punishment under the UCMJ or regulations governing civilian disciplinary or adverse actions.)**

C-9._____ Are the rules impractical? If the service member is in circumstances related to the member's military duties that make compliance with any of the procedures required in the directive impractical (any procedure outlined on page 1 or 2 of USFK Form 229-E), you must prepare a memorandum stating the reasons for the inability to comply with such procedures and give the member a copy.

C-10._____ Contact your servicing Staff Judge Advocate Administrative Law office or IG with any questions.

**Appendix D
Commanding Officer Request For Routine (Non-Emergency) Mental Health Evaluation**

Unit Letterhead

(Office Symbol) _____(Date)

MEMORANDUM THRU _____
(Unit Commander)

FOR _____
(Name of Medical Treatment Facility (MTF) or Clinic)

SUBJECT: Command Referral for Mental Health Evaluation of _____

(Service Member Rank, Name, Branch of Service, and SSN)

1. References:

a. DOD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997.

b. DOD Instructions 6490.4, "Requirements for Mental Health Evaluations of Member of the Armed Forces," August 28, 1997.

c. Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 1992.

d. DOD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995.

2. In accordance with references (a) through (d), I hereby request a formal mental health evaluation of _____ (Rank and Name of Service Member)

3. _____ (Rank and Name of Service Member) has _____ (years) and _____ (months) active duty service and has been assigned to my command since _____ (date). Armed Services Vocational Aptitude Battery (ASVAB) scores upon enlistment were: _____ (list scores). Past average performance marks have ranged from _____ to _____ (give numerical scores). Legal action is/is not currently pending against the service member. _____ (If charges are pending, list dates and UCMJ articles). Past legal actions include:
(List dates, charges, non judicial punishments (NJPs), and/or findings of Courts Martial).

4. I have forwarded to the Service Member a memorandum that advises _____ (Rank and Name of Service Member) of his (or her) rights. This memorandum also states the reasons for this referral, the name of the mental health care provider(s) with whom I consulted, and the names and telephone numbers of judge advocates, DOD attorneys and/or Inspectors General who may advise and assist him (or her). A copy of this memorandum is attached for your review.

(Office Symbol)

SUBJECT: Command Referral for Mental Health Evaluation of _____

5. _____ (Rank and Name Service Member) has been scheduled for an evaluation by _____ (Rank and Name of mental healthcare provider) at _____ (name of MTF or clinic) on _____ (date) at _____ (time).

6. Should you wish additional information, you may contact _____ (rank and name of the designated point of contact) at _____ (telephone number).

7. Please provide a summary of your finding and recommendations to me as soon as they are available.

Unit Commander

Attachment:
As stated