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solely on the fact that they have been titled or indexed due to a criminal investigation.''

§ 635.14 Release of law enforcement information furnished by foreign governments or international organizations.

(a) Information furnished by foreign governments or international organizations is subject to disclosure, unless exempted by 32 CFR part 518 and 32 CFR part 505, federal statutes or executive orders.

(b) Release of U.S. information (classified military information or controlled unclassified information) to foreign governments is accomplished per AR 380–10 (available at *http://www.apd.army.mil/pdffiles/r380__10.pdf*).

Subpart C—Offense Reporting

§ 635.15 DA Form 4833 (Commander's Report of Disciplinary or Administrative Action) for Civilian Subjects.

Civilian Subjects titled by Army Law Enforcement. PM/DES and USACIDC will complete and submit disposition reports to USACRC for civilian subjects, not subject to the UCMJ, who are titled by Army law enforcement. PM/DES and USACIDC will complete the DA Form 4833 and submit the form to USACRC for these subjects. PM/DES and USACIDC will not include these completed DA Form 4833 for civilian personnel in reporting compliance statistics for commanders. This ensures records of dispositions of civilian subjects titled by military LE are available in CJIS to support NCIC background checks for firearms purchases, employment, security clearances etc.

§ 635.16 Fingerprint Card and Final Disposition Report Submission Requirements.

(a) *General.* This paragraph implements DoDI 5505.11, Fingerprint Card and Final Disposition Report Submission Requirements, which prescribes procedures for Army LE to report offender criminal history data, by submitting FBI Form FD 249 (Suspect Fingerprint Card) to USACRC. USACRC forwards this data to the Criminal Justice Information Services (CJIS) division of the FBI for inclusion in the Next Generation Identification Database. This paragraph does not eliminate other requirements to provide criminal history data, including those concerning the DIBRS.

(b) Installation PM/DES will submit offender criminal history data to USACRC, based on a probable cause standard determined in conjunction with the servicing SJA or legal advisor for all civilians investigated for offenses equivalent to those listed in DoDI 5505.11. This includes foreign nationals, persons serving with or accompanying an armed force in the field in time of declared war or contingency operations, and persons subject to Public Law 106–523 in accordance with DoDI 5525.11 (Available at *http://www.dtic.mil/whs/directives/corres/pdf/552511p.pdf*), Criminal Jurisdiction Over Civilians Employed By or Accompanying the Armed Forces Outside the United States, Certain Service Members, and Former Service Members.

(c) For purposes of this paragraph commanders will notify their installation PMO/DES when they become aware that a non-DoD and/or foreign LE organization has initiated an investigation against a Soldier, military dependent, or DoD civilian employee or contractor, for the equivalent of an offense listed in DoDI 5525.11 (available at *http://www.dtic.mil/whs/directives/corres/pdf/552511p.pdf*), Enclosure 2, or punishable pursuant to the U.S.C.

§ 635.17 Release of domestic incidents reports to the Army Family Advocacy Program (FAP).

(a) Installation PM/DES will comply with the reporting requirements set forth in AR 608–18 (available at *http://www.apd.army.mil/pdffiles/r608__18.pdf*).

(b) In addition to substantiated incidents of domestic violence, installation PM/DES will notify the Family Advocacy Program Manager (FAPM) and Social Work Services (SWS) of all incidents in which a preponderance of indicators reveal a potential risk of reoccurrence and increasing severity of maltreatment which could lead to domestic violence or child abuse. Installation PM/DES will ensure these notifications are recorded in the official military police journal in ALERTS. This is to:

(1) Establish a history of incidents that indicate an emerging pattern of risk of maltreatment/victimization to Soldiers and or Family members. See AR 608–18 for incidents that define maltreatment.

(2) Develop a trend history of unsubstantiated–unresolved incidents in order to prevent possible violence or maltreatment from occurring.

[80 FR 28549, May 19, 2015, as amended at 81 FR 17386, Mar. 29, 2016]

§ 635.18 Domestic violence.

(a) Responding to incidents of domestic violence requires a coordinated effort by LE, medical, and social work personnel, to include sharing information and records as permitted by law and regulation. AR 608–18, Chapter 3, contains additional information about domestic violence and protective orders. AR 608–18, Glossary, Section II refers to domestic violence as including the use, attempted use, or threatened use of force or violence against a person or a violation of a lawful order issued for the protection of a person, who is:

(1) A current or former spouse;

(2) A person with whom the abuser shares a child in common; or

(3) A current or former intimate partner with whom the abuser shares or has shared a common domicile.

(b) All domestic violence incidents will be reported to the local installation PMO/DES.

§ 635.19 Protection Orders.

(a) A DD Form 2873, Military Protective Order (MPO) is a written lawful order issued by a commander that orders a Soldier to avoid contact with those persons identified in the order. MPOs may be used to facilitate a ''cooling-off'' period following domestic violence and sexual assault incidents, to include incidents involving children. The commander should provide a written copy of the order within 24 hours of its issuance to the person with whom the member is ordered not to have contact and to the installation LE activity.

(b) *Initial notification.* In the event a MPO is issued against a Soldier and any individual involved in the order does not reside on a Army installation at any time during the duration of the MPO, the installation PMO/DES will notify the appropriate civilian authorities (local magistrate courts, family courts, and local police) of:

(1) The issuance of the protective order;

(2) The individuals involved in the order;

(3) Any change made in a protective order;

(4) The termination of the protective order.

(c) A Civilian Protective Order (CPO) is an order issued by a judge, magistrate or other authorized civilian official, ordering an individual to avoid contact with his or her spouse or children. Pursuant to the Armed Forces Domestic Security Act, 10 U.S.C. 1561a, a CPO has the same force and effect on a military installation as such order has within the jurisdiction of the court that issued the order.

§ 635.20 Establishing Memoranda of Understanding.

(a) Coordination between military law enforcement personnel and local civilian law enforcement personnel is essential to improve information sharing, especially concerning investigations, arrests, and prosecutions involving military personnel. PM/DES or other law enforcement officials shall seek to establish formal Memoranda of Understanding (MOU) with their civilian counterparts to establish or improve the flow of information between their agencies, especially in instances involving military personnel. 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 service 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 Family Advocacy office or victim advocate, and to foster cooperation and collaboration between the installation law enforcement agency and local civilian agencies.

(b) Installation commanders are authorized to contract for local, state, or

federal law enforcement services (enforcement of civil and criminal laws of the state) from civilian police departments. (Section 120 of the Water Resources Development Act of 1976). Section 120(a) of the Water Resources Development Act of 1976 authorizes the Secretary of the Army, acting through the Chief of Engineers, to contract with States and their political subdivisions for the purpose of obtaining increased law enforcement services at water resource development projects under the jurisdiction of the Secretary of the Army to meet needs during peak visitation periods.

(c) MOUs will address the following issues at a minimum:

(1) A general statement of the purpose of the MOU.

(2) An explanation of jurisdictional issues that affect respective responsibilities to and investigating incidents occurring on and off the installation. This section should also address jurisdictional issues when a civilian order of protection is violated on military property (see 10 U.S.C. 1561a).

(3) Procedures for responding to incidents that occur on the installation involving a civilian alleged offender.

(4) Procedures for local law enforcement to immediately (within 4 hours) notify the installation law enforcement office of incidents/investigations involving service members.

(5) Procedures for transmitting incident/investigation reports and other law enforcement information involving active duty service members from local civilian law enforcement agencies to the installation law enforcement office.

(6) Notification that a Solider is required to register as a sex offender either as the result of military judicial proceedings or civilian judicial proceedings.

(7) Procedures for transmitting civilian protection orders (CPOs) issued by civilian courts or magistrates involving active duty service members from local law enforcement agencies to the installation law enforcement office.

(8) Designation of the title of the installation law enforcement recipient of such information from the local law enforcement agency.

(9) 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 any person named in the order resides.

(10) Designation of the title of the local law enforcement agency recipient of domestic violence and CPO information from the installation law enforcement agency.

(11) Respective responsibilities for providing information to victims regarding installation resources when either the victim or the alleged offender is an active duty service member.

(12) Sharing of information and facilities during the course of an investigation in accordance with the Privacy Act of 1974 (see 5 U.S.C. 552a(b)(7)).

(13) Regular meetings between the local civilian law enforcement agency and the installation law enforcement office to review cases and MOU procedures.

§ 635.21 Suspicious Activity Reporting (SAR).

(a) The Army will use eGuardian to report, share and analyze unclassified suspicious activity information regarding potential threats or suspicious activities affecting DoD personnel, facilities, or forces in transit in both CONUS and OCONUS. USACIDC is the Army's eGuardian program manager.

(b) eGuardian is the Federal Bureau of Investigation's (FBI) sensitive-but-unclassified web-based platform for reporting, and in some instances, sharing, suspicious activity and threat related information with other federal, state, tribal, and territorial law enforcement and force protection entities. Information entered into eGuardian by the Army may be either shared with all eGuardian participants or reported directly to the FBI. All information entered into eGuardian by the Army will comply with the policy framework for the system and any existing agency agreements, which incorporate privacy protections. Analysis of SARs will assist CRIMINTEL analysts and commanders in mitigating potential threats and vulnerabilities, and developing annual threat assessments.

(c) Any concerned soldier or citizen can submit a SAR to the nearest installation PMO/DES, CI or CID office. The receiving office will then be responsible for reviewing the information and determining whether it is appropriate for submission into eGuardian.

Subpart D—Victim and Witness Assistance Procedures

§ 635.22 Procedures.

(a) As required by DoDD 1030.01 (Available at *http://www.dtic.mil/whs/directives/corres/pdf/103001p.pdf*), Army personnel involved in the detection, investigation, and prosecution of crimes must ensure that victims and witnesses rights are protected. Victim's rights include-

(1) The right to be treated with fairness, dignity, and a respect for privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial, or for other good cause.

(5) The right to confer with the attorney for the Government in the case.

(6) The right to restitution, if appropriate.

(7) The right to information regarding conviction, sentencing, imprisonment, and release of the offender from custody.

(b) [Reserved]

Subpart E—National Crime Information Center Policy

§ 635.23 Standards.

The use of NCIC is limited to authorized criminal justice purposes such as, stolen vehicle checks or wants and warrants. Subject to FBI regulations and policy, NCIC checks of visitors to a military installation may be authorized by the Installation/Garrison Commander as set forth in DoD 5200.08–R (Available at *http://www.dtic.mil/whs/directives/corres/pdf/520008r.pdf*) and DoDI 5200.08 (Available at *http://www.dtic.mil/whs/directives/corres/pdf/520008p.pdf*). Visitors to Army installations are non-DoD affiliated personnel.

PART 637—MILITARY POLICE INVESTIGATION

Subpart A—Investigations

Sec.

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Subpart B [Reserved]

AUTHORITY: 28 U.S.C. 534 note, 42 U.S.C. 10601, 18 U.S.C. 922, 42 U.S.C. 14071, 10 U.S.C. 1562, 10 U.S.C. Chap. 47.

SOURCE: 70 FR 36029, June 22, 2005, unless otherwise noted.

Subpart A—Investigations

§ 637.1 General.

(a) Military Police Investigators (MPI) and Department of the Army Civilian (DAC) detectives/investigators fulfill a special need for an investigative element within the military police to investigate many incidents, complaints, and matters not within U.S. Army Criminal Investigation Command (USACIDC) jurisdiction, but which cannot be resolved immediately through routine military police operations. Investigative personnel are assets of the installation or activity commander, under the supervision of the