

SUBCHAPTER I—LAW ENFORCEMENT AND CRIMINAL INVESTIGATIONS

PART 630 [RESERVED]

PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARDS AND OFF-INSTALLATION LIAISON AND OPERATIONS

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APPENDIX A TO PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARD PROCEDURES GUIDE

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Subpart A—General

§ 631.1 Purpose.

This part prescribes uniform policies and procedures for the establishment, and operation of the following:

(a) Armed Forces Disciplinary Control Boards (AFDCB).

(b) Off-installation liaison and operations.

§ 631.2 Applicability.

This part applies to the following:

(a) Active U.S. Armed Forces personnel of the Army, Air Force, Navy, and Marine Corps, and the Coast Guard wherever they are stationed.

(b) U.S. Armed Forces Reserve personnel only when they are performing Federal duties or engaging in activities directly related to performing a Federal duty or function.

(c) National Guard personnel only when called or ordered to active duty in a Federal status within the meaning of Title 10, United States Code.

§ 631.3 Supervision.

The following will develop and have staff supervision over AFDCB and off-installation enforcement policies.

(a) The Office of the Provost Marshal General (OPMG), Headquarters, Department of the Army (HQDA). This official serves as the proponent for this part, and has primary responsibility for its content.

(b) U.S. Air Force Director of Security Forces and Force Protection, Department of the Air Force.

(c) Director, Naval Criminal Investigative Service.

(d) Commandant of the Marine Corps.

(e) Commandant of the Coast Guard.

(f) Installation commanders are authorized to convene joint service boards within their Army Regulation (AR) 5-9 area of responsibility.

§ 631.4 Exceptions.

Requests for exceptions to policies contained in this part will be forwarded to HQDA (DAPM-MPD-LE), Washington, DC 20310-2800.

Subpart B—Armed Forces Disciplinary Control Boards

§ 631.5 General.

AFDCBs may be established by installation, base, or station commanders to advise and make recommendations to commanders on matters concerning eliminating conditions, which adversely affect the health, safety, welfare, morale, and discipline of the Armed Forces.

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(a) For the Army, routine off-limits actions must be processed by an AFDCB following the procedures in §631.11.

(b) Coast Guard commanders must have written authorization from the Commandant (G-WP) prior to establishing an AFDCB.

§631.6 Responsibilities.

(a) Regional Directors of the Army Installation Management Agency, Air Force commanders, Navy regional commanders, Marine Corps commanders, and Coast Guard commanders will—

(1) Determine level and degree of participation by subordinate commanders in joint Service boards, when appropriate.

(2) Resolve differences among subordinate commanders regarding board areas of responsibility, and the designation of sponsoring commanders.

(3) Evaluate board recommendations, and actions from subordinate sponsoring commanders.

(4) Forward recommendations to HQDA, OPMG (DAPM-MPD-LE), WASH DC 20310-2800, regarding circumstances that require Service headquarters action or programs having widespread applicability.

(5) Ensure that subordinate commanders assess the availability of drug abuse paraphernalia in the vicinity of Department of Defense (DOD) installations through their AFDCBs, according to DOD Directive 1010.4. Coast Guard commanders should refer to COMDTINST M1000.6 series, chapter 20, for guidance on Coast Guard substance abuse policies.

(b) Military installation commanders for off-installation enforcement actions will—

(1) Conduct off-installation operations as authorized by law and Service policy.

(2) Coordinate off-installation operations with other Service commanders, as applicable, for uniformity of effort, and economy of resources.

(3) Assist Federal, State, and local law enforcement agencies within the limits imposed by law and DOD policy.

(c) Sponsoring commanders will provide administrative support for AFDCB programs to include the following—

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(1) Promulgating implementing directives, and convening the board.

(2) Providing a recorder for the board.

(3) Providing copies of the minutes of board meetings to other Service commanders who are represented on the board, and to other AFDCBs as appropriate.

(4) Approving or disapproving the minutes, and recommendations of the board, and making appropriate distribution, as required.

(5) Publishing lists of “off-limits” establishments and areas.

(6) Ensuring that responsible individuals are notified of any unfavorable actions being contemplated or taken regarding their establishments per Annex A of appendix A of this part.

(7) Distributing pertinent information to the following—

(i) All units within their jurisdictional area.

(ii) Units stationed in other areas whose personnel frequent their area of jurisdiction.

(8) Ensuring that procedures are established to inform all Service personnel, including those who may be visiting or are in a travel status, of off-limits restrictions in effect within the respective AFDCB’s jurisdictional area.

§631.7 Composition of boards.

(a) Boards should be structured according to the needs of the command, with consideration given to including representatives from the following functional areas—

(1) Law enforcement.

(2) Legal counsel.

(3) Health.

(4) Environmental protection.

(5) Public affairs.

(6) Equal opportunity.

(7) Fire and safety.

(8) Chaplains’ service.

(9) Alcohol and drug abuse.

(10) Personnel and community activities.

(11) Consumer affairs.

(b) Sponsoring commanders will designate a board president, and determine by position which board members will be voting members. Such designations will be included in a written agreement establishing the board.

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§ 631.8 Participation by civil agencies.

(a) Civil agencies or individuals may be invited to board meetings as observers, witnesses or to provide assistance where they possess knowledge or information pertaining to problem areas within the board's jurisdiction.

(b) Announcements and summaries of board results may be provided to appropriate civil agencies.

§ 631.9 Duties and functions of boards.

The AFDCBs will—

(a) Meet as prescribed by appendix A of this part.

(b) Receive reports, and take appropriate action on conditions in their area of responsibility relating to any of the following—

- (1) Disorders and lack of discipline.
- (2) Prostitution.
- (3) Sexually transmitted disease.
- (4) Liquor violations.
- (5) Racial and other discriminatory practices.
- (6) Alcohol and drug abuse.
- (7) Drug abuse paraphernalia.
- (8) Criminal or illegal activities involving cults or hate groups.
- (9) Illicit gambling.
- (10) Areas susceptible to terrorist activity.
- (11) Unfair commercial or consumer practices.
- (12) Other undesirable conditions deemed unsafe which may adversely affect the health and well being of military personnel or their families.

(c) Report to all major commanders in the board's area of responsibility—

- (1) Conditions cited in paragraph (b) of this section.
- (2) Recommended action as approved by the board's sponsoring commander.

(d) Coordinate with appropriate civil authorities on problems or adverse conditions existing in the board's area of jurisdiction.

(e) Make recommendations to commanders in the board's area of jurisdiction concerning off-installation procedures to prevent or control undesirable conditions.

§ 631.10 Administration.

(a) Commanders are authorized to acquire, report, process, and store information concerning persons and organizations, whether or not affiliated with

DoD, according to the applicable Service parts of the sponsoring commander, which—

(1) Adversely affect the health, safety, morale, welfare, or discipline of service members regardless of status.

(2) Describes crime conducive conditions where there is a direct Service interest.

(b) Boards will function under the supervision of a president (§ 631.7(b)).

(c) Certain expenses incurred by Service members in the course of an official board investigation or inspection may be reimbursable per appropriate Service finance parts or instructions. Requests for reimbursement will be submitted through the sponsoring commander.

(d) Records of board proceedings will be maintained as prescribed by records management policies, and procedures of the sponsoring commander's Service.

§ 631.11 Off-limits establishments and areas.

(a) The establishment of off-limits areas is a function of Command. It may be used by commanders to help maintain good order and discipline, health, morale, safety, and welfare of service members. Off-limits action is also intended to prevent service members from being exposed to or victimized by crime-conducive conditions. Where sufficient cause exists, commanders retain substantial discretion to declare establishments or areas temporarily off-limits to personnel of their respective commands in emergency situations. Temporary off-limits restrictions issued by commanders in an emergency situation will be acted upon by the AFDCB as a first priority. As a matter of policy, a change in ownership, management, or name of any off-limits establishment does not, in and of itself, revoke the off-limits restriction.

(b) Service members are prohibited from entering establishments or areas declared off-limits according to this part. Violations may subject the member to disciplinary action per applicable Service parts, and the Uniform Code of Military Justice (UCMJ). Family members of service members and others associated with the Service or installation should be made aware of

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off-limits restrictions. As a general policy, these establishments will not be visited by Service law enforcement personnel unless specifically determined by the installation commander that visits or surveillance are warranted.

(c) Prior to initiating AFDCB action, installation commanders will attempt to correct adverse conditions or situations through the assistance of civic leaders or officials.

(d) Prior to recommending an off-limits restriction, the AFDCB will send a written notice (certified mail-return receipt requested) to the individual or firm responsible for the alleged condition or situation. The AFDCB will specify in the notice a reasonable time for the condition or situation to be corrected, along with the opportunity to present any relevant information to the board. If subsequent investigation reveals that the responsible person has failed to take corrective action, the board will recommend the imposition of the off-limits restriction.

(e) A specified time limit will not be established when an off-limits restriction is invoked. The adequacy of the corrective action taken by the responsible individual will be the determining factor in removing an off-limits restriction.

(f) A person whose establishment or area has been declared off-limits may at any time petition the president of the board to remove the off-limits restriction. The petition will be in writing and will include a detailed report of action taken to eliminate the condition or situation that caused imposition of the restriction. The president of the AFDCB may direct an investigation to determine the status of corrective actions noted in the petition. The board will either recommend removal or continuation of the off-limits restriction to the local sponsoring commander based on the results of the investigation.

(g) Off-limits procedures to be followed by the boards are in appendix A of this part. In the United States, off-limits signs will not be posted on civilian establishments by U.S. military authorities.

(h) In areas Outside of the Continental United States (OCONUS), off-limits and other AFDCB procedures

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must be consistent with existing Status of Forces Agreements (SOFAs).

Subpart C—Off-Installation Operations (Military Patrols and Investigative Activities) and Policy

§ 631.12 Objectives.

The primary objectives of off-installation operations are to—

(a) Render assistance and provide information to Service members.

(b) Preserve the safety, and security of service members.

(c) Preserve good order and discipline among Service members and reduce off-installation incidents and offenses.

(d) Maintain effective cooperation with civil authorities, and community leaders.

§ 631.13 Applicability.

This subpart is not applicable to the U.S. Coast Guard.

§ 631.14 Army policy.

(a) Soldiers, military and/or Department of the Army Civilian (DAC) police performing off-installation operations must be thoroughly familiar with applicable agreements, constraints of the Posse Comitatus Act (18 U.S.C. 1385) in the Continental United States (CONUS) and United States-host nation agreements in areas OCONUS.

(b) Military and/or DAC police assigned to off-installation operations have the sole purpose of enforcing parts, and orders pertaining to persons subject to their jurisdiction.

(c) Military and/or DAC police accompanying civilian law enforcement officers remain directly responsible to, and under the command of, U.S. Army superiors. Military and DAC police may come to the aid of civilian law enforcement officers to prevent the commission of a felony or injury to a civilian law enforcement officer.

(d) Regional Directors of the Army Installation Management Agency (IMA), Commander, Army Materiel Command (AMC), and Commander, Army Test and Evaluation Command (ATEC) may authorize subordinate

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commanders to establish off-installation operations within the limits imposed by higher authority, the Posse Comitatus Act (18 U.S.C. 1385) in CONUS, and United States-host nation agreements in OCONUS areas—

(1) To assist Federal, State, and local law enforcement agencies.

(2) In conjunction with military activities.

(3) To safeguard the health and welfare of Soldiers.

(4) When the type of offenses or the number of Soldiers frequenting an area is large enough to warrant such operations.

(e) The constraints on the authority of Soldiers and/or DAC police to act off-Installation, (Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in OCONUS areas) and the specific scope of off-installation operations will be clearly delineated in all authorizations for off-installation operations. Off-installation operations will be coordinated with the local installation commander through the Staff Judge Advocate (SJA), or higher authority, and appropriate civilian law enforcement agencies.

§ 631.15 Air Force policy.

(a) Airmen, military and/or Department of the Air Force Civilian (DAFC) police performing off-installation operations must be thoroughly familiar with applicable agreements, constraints of the Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in areas OCONUS.

(b) Military and/or DAFC police assigned to off-installation operations have the sole purpose of enforcing parts, and orders pertaining to persons subject to their jurisdiction.

(c) Military and/or DAFC police accompanying civilian law enforcement officers remain directly responsible to, and under the command of, U.S. Air Force superiors. Military and DAFC police may come to the aid of civilian law enforcement officers to prevent the commission of a felony or injury to a civilian law enforcement officer.

(d) Air Force commanders may authorize subordinate commanders to establish off-installation operations

within the limits imposed by higher authority, the Posse Comitatus Act (18 U.S.C. 1385) in CONUS, and United States-host nation agreements in OCONUS areas—

(1) To assist Federal, State, and local law enforcement agencies.

(2) In conjunction with military activities.

(3) To safeguard the health and welfare of Airmen.

(4) When the type of offenses or the number of Airmen frequenting an area is large enough to warrant such operations.

(e) The constraints on the authority of Airmen and/or DAFC police to act off-installation, (Posse Comitatus Act (18 U.S.C. 1385) in CONUS and United States-host nation agreements in OCONUS areas) and the specific scope of off-installation operations will be clearly delineated in all authorizations for off-installation operations. Off-installation operations will be coordinated with the local installation commander through the Staff Judge Advocate (SJA), or higher authority, and appropriate civilian law enforcement agencies.

§ 631.16 Navy policy.

The following policies apply to off-installation operations—

(a) Article 1630-020, MILPERSMAN revised August 2002, and Navy Parts, Article 0922 concerning the establishment and operation of a shore patrol.

(b) In accordance with SECNAV 1620.7A, Navy Absentee Collection Units collect, and process apprehended absentees and deserters, escort apprehended absentees, and deserters to their parent commands or to designated processing activities, escort prisoners between confinement facilities, and provide liaison with civilian law enforcement authorities.

(c) Navy personnel will be thoroughly familiar with all applicable agreements and Implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States-host nation agreements in OCONUS areas, as applicable.

(d) Within CONUS. (1) Installation Commanders may request authority

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from their Regional Commander, to establish off-installation operations—

(i) To assist Federal, State, and local law enforcement agencies within the limits imposed by higher authority and the Posse Comitatus Act (18 U.S.C. 1385).

(ii) In conjunction with military operations.

(iii) To safeguard the health, and welfare of Naval personnel.

(iv) When the type of offenses or the number of service members frequenting an area is large enough to warrant such operation.

(2) Constraints on the authority of military personnel to act off-installation (Posse Comitatus Act (18 U.S.C. 1385) and the specific scope of the authority will be clearly delineated in all authorizations for off-installation operations.

(e) Within OCONUS, off-installation operations will be kept at the minimum needed for mission accomplishment. Installation commanders may authorize off-installation operations as required by local conditions and customs, as long as they are conducted in accordance with applicable treaties and SOFAs.

(f) Off-installation operations will be coordinated with the local installation commander through the JAG or higher authority, and local law enforcement authorities.

(g) Security personnel selected for off-installation operations must—

(1) Have mature judgment and law enforcement experience.

(2) Be thoroughly familiar with all applicable agreements and implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States Host Nation agreements in OCONUS area, as applicable.

(h) Security personnel accompanying civilian police during off-installation operations do so only to enforce parts and orders pertaining to persons subject to their jurisdiction. Security personnel assigned off-installation operations remain directly responsible to, and under the command of their Navy superiors when accompanying civilian police. Security personnel performing such duties may come to the aid of ci-

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vilian police in order to prevent the commission of a felony or injury to a civilian police officer.

(i) Civilian police and court liaison may be established with concurrence of the Naval Criminal Investigative Service and is encouraged particularly when the intent is to reduce mishaps.

§ 631.17 Marine Corps policy.

(a) Within CONUS. (1) Commanders may request authority from Headquarters, Marine Corps (Code POS), to establish off-installation operations—

(i) To assist Federal, State, and local law enforcement agencies within the limits imposed by higher authority and the Posse Comitatus Act (18 U.S.C. 1385).

(ii) In conjunction with military operations.

(iii) To safeguard the health, and welfare of Marines.

(iv) When the type of offenses or the number of service members frequenting an area is large enough to warrant such operations.

(2) Constraints on the authority of military personnel to act off-installation (Posse Comitatus Act (18 U.S.C. 1385)) and the specific scope of the authority will be clearly delineated in all authorizations for off-installation operations.

(b) Within OCONUS, off-installation operations will be kept at the minimum needed for mission accomplishment. Installation commanders may authorize off-installation operations as required by local conditions and customs, as long as they are conducted in accordance with applicable treaties and SOFAs.

(c) Off-installation operations will be coordinated with the local installation commander through the SJA, or higher authority, and local law enforcement authorities.

(d) Marines selected for off-installation operations must—

(1) Have mature judgment and law enforcement experience.

(2) Be thoroughly familiar with all applicable agreements and implementing standard operating procedures, to include the constraints of the Posse Comitatus Act (18 U.S.C. 1385), in CONUS and United States-host nation

agreements in OCONUS areas, as applicable.

(e) Marines accompanying civilian police during off-installation operations do so only to enforce parts and orders pertaining to persons subject to their jurisdiction. Marines assigned off-installation operations remain directly responsible to, and under the command of their Marine superiors when accompanying civilian police. Marines performing such duties may come to the aid of civilian police in order to prevent the commission of a felony or injury to a civilian police officer.

(f) Procedures for absentee and deserter collection units to accept an active-duty absentee or deserter from civilian authorities may be established.

(g) Civilian police and civil court liaison may be established.

§ 631.18 Operations.

When an incident of substantial interest to the Service, involving Service property or affiliated personnel, occurs off-installation, the Service law enforcement organization exercising area responsibility will—

(a) Obtain copies of civilian law enforcement reports for processing or forwarding according to applicable Service parts.

(b) Return apprehended persons to representatives of their Service as soon as practicable.

APPENDIX A TO PART 631—ARMED FORCES DISCIPLINARY CONTROL BOARD PROCEDURES GUIDE

A-1. *Purpose.* This guide prescribes procedures for the establishment, operation, and coordination of AFDCBs. AFDCB proceedings are not adversarial in nature.

A-2. *Meetings.*

a. The board will meet quarterly. The commander establishing the AFDCB may specify whether the meetings will be open or closed. If not specified, the decision is at the discretion of the president of the board. Normally proceedings are closed, but may be opened to the public when circumstances warrant.

b. Special meetings may be called by the president of the board. Except by unanimous consent of members present, final action will be taken only on the business for which the meeting was called.

c. A majority of voting members constitutes a quorum for board proceedings.

A-3. *AFDCB composition.* Voting members will be selected per section 631.7.

A-4. *Attendance of observers or witnesses.*

a. The board may invite individual persons or organization representatives as witnesses or observers if they are necessary or appropriate for the conduct of board proceedings. The below listed authorities may assist in addressing installation or command concerns or issues.

(1) Federal, State, and local judicial, legislative, and law enforcement officials.

(2) Housing part and enforcement authorities.

(3) Health, and social service authorities.

(4) Environmental protection authorities.

(5) Alcoholic beverage control authorities.

(6) Equal employment opportunity authorities.

(7) Consumer affairs advocates.

(8) Chamber of Commerce representatives.

(9) Public works or utility authorities.

(10) Local fire marshal, and public safety authorities.

(11) State and local school board or education officials.

(12) Any other representation deemed appropriate by the sponsoring command such as, news media, union representatives, and so forth.

b. Invited witnesses and observers will be listed in the minutes of the meeting.

A-5. *Appropriate areas for board consideration.*

a. Boards will study and take appropriate action on all reports of conditions considered detrimental to the good order and discipline, health, morale, welfare, safety, and morals of Armed Forces personnel. These adverse conditions include, but are not limited to, those identified in § 631.9.

b. The board will immediately forward to the local commander reported circumstances involving discrimination based on race, color, sex, religion, age, or national origin.

A-6. *Off-limit procedures.*

a. Off-limits restrictions should be invoked only when there is substantive information indicating that an establishment or area frequented by Armed Forces personnel presents conditions, which adversely affect their health, safety, welfare, morale, or morals. It is essential that boards do not act arbitrarily. Actions must not be of a punitive nature. Boards should work in close cooperation with local officials and proprietors of business establishments, and seek to accomplish their mission through mutually cooperative efforts. Boards should encourage personal visits by local military, and civilian enforcement or health officials to establishments considered below standard. AFDCBs should point out unhealthy conditions or undesirable practices to establishment owners or operators to produce the desired corrective action.

b. In cases involving discrimination, the board should not rely solely on letters written by the Equal Opportunity Office, and Military Affairs Committee or investigations of alleged racial discrimination.

c. If the board decides to attempt to investigate or inspect an establishment, the president or a designee will prepare, and submit a report of findings, and recommendations at the next meeting. This procedure will ensure complete, and documented information concerning questionable adverse conditions.

d. When the board concludes that conditions adverse to Armed Forces personnel do exist, the owner or manager will be sent a letter of notification (Annex A). This letter will advise him or her to raise standards by a specified date, and, if such conditions or practices continue, off-limits proceedings will be initiated. Any correspondence with the individuals responsible for adverse conditions, which may lead to off-limits action, will be by certified mail.

e. If a proprietor takes remedial action to correct undesirable conditions previously noted the board should send a letter of appreciation (Annex B) recognizing this cooperation.

f. If undesirable conditions are not corrected, the proprietor will be invited to appear before the AFDCB to explain why the establishment should not be placed off-limits (Annex C). Any proprietor may designate in writing a representative to appear before the board in his or her behalf.

g. In cases where proprietors have been invited to appear before the board, the president of the board will perform the following—

- (1) Prior to calling the proprietor—
 - (a) Review the findings and decision of the previous meeting.
 - (b) Call for inspection reports.
 - (c) Allow those present to ask questions, and discuss the case.
- (2) When the proprietor or his or her representative is called before the board—
 - (a) Present the proprietor with a brief summary of the complaint concerning the establishment.
 - (b) Afford the proprietor an opportunity to present matters in defense.
 - (c) Invite those present to question the proprietor. After the questioning period, provide the proprietor an opportunity to make a final statement before being dismissed.
- (3) Deliberations on recommended actions will be in closed session, attended only by board members.

h. The board should recommend an off-limits restriction only after the following:

- (1) The letter of notification (Annex A) has been sent.
- (2) An opportunity for the proprietor to appear before the board has been extended.
- (3) Further investigation indicates that improvements have not been made.

i. The minutes will indicate the AFDCB's action in each case. When a recommendation is made to place an establishment off-limits, the minutes will show the procedural steps followed in reaching the decision.

j. Recommendations of the AFDCB will be submitted to the sponsoring commander for consideration. The recommendations will then be forwarded to other installation commanders who are represented on the board (Annex D). If no objection to the recommendations is received within 10 days, the sponsoring commander will approve or disapprove the recommendations and forward the decision to the AFDCB president.

k. Upon approval of the AFDCB's recommendations, the president will write the proprietor that the off-limits restriction has been imposed (Annex E).

l. A time limit should not be specified when an off-limits restriction is revoked. The adequacy of the corrective action taken by the proprietor of the establishment must be the determining factor in removing the off-limits restriction.

m. Military authorities may not post off-limits signs or notices on private property.

n. In emergencies, commanders may temporarily declare establishments or areas off-limits to service members subject to their jurisdiction. The circumstances for the action will be reported as soon as possible to the commander sponsoring the board. Detailed justification for this emergency action will be provided to the board for its deliberations.

o. Appropriate installation commanders will publish a list of off-limits establishments and areas using command and media channels.

A-7. Removal of off-limits restrictions.

a. Removal of an off-limits restriction requires AFDCB action. Proprietors of establishments declared off-limits should be advised that they may appeal to the appropriate AFDCB at any time. In their appeal they should submit the reason why the restriction should be removed. A letter of notification for continuance of the off-limits restriction should be sent to the proprietor if the AFDCB does not remove the off-limits restriction (Annex F). The proprietor may appeal to the next higher commander if not satisfied with continuance after exhausting all appeals at the local sponsoring commander level. Boards should make at least quarterly inspections of off-limits establishments. A statement that an inspection has been completed should be included in AFDCB minutes.

b. When the board learns that the proprietor has taken adequate corrective measures, the AFDCB will take the following actions:

- (1) Discuss the matter at the next meeting and make an appropriate recommendation.

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(2) Forward a recommendation for removal of the off-limits restriction to the sponsoring commander. If approved, a letter removing the restriction (Annexes G & H) will be sent to the proprietor.

(3) The minutes will reflect action taken.

A-8. Duties of the AFDCB president.

The president of the AFDCB will—

a. Schedule and preside at all AFDCB meetings.

b. Provide an agenda to each voting member at least 72 hours prior to the meeting.

c. Ensure records, minutes, and correspondence are prepared, distributed, and maintained per §631.10(d).

A-9. Commanders.

The installation commander, and commanders within an AFDCB's area of responsibility must be thoroughly acquainted with the mission and services provided by AFDCBs. AFDCB members should keep their respective commanders informed of command responsibilities pertaining to AFDCB functions and actions.

A-10. Public affairs.

a. Due to the sensitive nature of the subject matter, there will not be a media release in connection with AFDCB meetings. However, any AFDCB proceeding, which is open to the public, will also be open to representatives of the news media. Representatives of the news media will be considered observers, and will not participate in matters considered by the AFDCB. Members of the news media may be invited to participate in an advisory status in coordination with the public affairs office.

b. News media interviews and releases will be handled through the public affairs office according to applicable Service parts.

A-11. Minutes.

a. Minutes will be prepared in accordance with administrative formats for minutes of meetings prescribed by the Service of the sponsoring commander (Annex I). The written minutes of AFDCB meetings will constitute the official record of the AFDCB proceedings. Verbatim transcripts of board meetings are not required. The reasons for approving or removing an off-limits restriction, to include a complete address of the establishment or area involved, should be indicated in the order of business. In addition, the AFDCB's action will be shown in the order or sequence of actions taken. A change in the name of an establishment or areas in an off-limits restriction will also be included.

b. Distribution of the minutes of AFDCB meetings will be limited to the following—

(1) Each voting member, sponsoring command, and commands and installations represented by the board.

(2) Each civilian and military advisory member, if deemed appropriate.

(3) Civilian and Government agencies within the State in which member installations

are located having an interest in the functions of the board, if appropriate.

c. AFDCB minutes are subject to release and disclosure in accordance with applicable Service parts and directives.

d. Minutes and recommendations of the board will be forwarded to the sponsoring commander for approval.

ANNEX A—LETTER OF NOTIFICATION

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir:

This letter is to inform you that it has come to the attention of the Armed Forces Disciplinary Control Board (AFDCB) that certain conditions reported at your establishment may adversely affect the (health, safety, or welfare) of members of the Armed Forces.

The AFDCB is initiating action to determine whether your establishment (area) should be placed off-limits to members of the Armed Forces if (cite conditions) are not corrected by (date).

A representative of the AFDCB will visit your establishment to determine if steps have been taken to correct the conditions outlined above.

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

(NOTE: Use certified mail, return receipt requested if mailed.)

ANNEX B—LETTER OF APPRECIATION

(Letterhead)

(Appropriate AFDCB)

Proprietor

Dear Sir:

This is in reference to my letter of (date) concerning the condition(s) reported at your establishment which adversely affected the health and welfare of members of the Armed Forces.

The Board appreciates your action(s) to correct the condition(s) previously noted and does not contemplate further action with respect to this specific matter.

Your continued cooperation is solicited.

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX C—LETTER OF INVITATION

(Letterhead)

Proprietor

Dear Sir:

This is in reference to my letter of (date) concerning the condition reported at your establishment which adversely affects the (health, safety, or welfare) of members of the Armed Forces. Information has been received by the board which indicates you have not taken adequate corrective action to eliminate the reported condition.

Reports presented to the Armed Forces Disciplinary Control Board (AFDCB) indicate (list and describe conditions).

You are advised that the AFDCB will initiate action to determine whether your establishment should be declared off-limits to members of the Armed Forces.

You may appear in person, with or without counsel, before the AFDCB at its next scheduled meeting on (date, time, and place). At that time you will have the opportunity to refute the allegation(s), or to inform the board of any remedial action(s) you have taken or contemplate taking to correct the condition. It is requested that you inform the President, of the AFDCB if you plan to attend.

Any questions regarding this matter may be addressed to the President, Armed Forces Disciplinary Control Board, (address). Every effort will be made to clarify the matter for you.

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

(NOTE: Send certified mail, return receipt requested if mailed.)

ANNEX D—AFDCB OFF-LIMITS APPROVAL LETTER

(Letterhead)

Office Symbol

MEMORANDUM FOR (Commanders of Supported Installations)

SUBJECT: Establishments or Areas Recommended for Off-Limits Designation

1. On (date), the Armed Forces Disciplinary Control Board (AFDCB) recommended imposition of the following off-limits restrictions: (name and address of establishment)

2. Commanders furnishing AFDCB representatives are requested to provide any comments within 10 days as to whether (name of establishment or area) should be placed off-limits.

3. A copy of the AFDCB minutes and recommendation is enclosed.

FOR THE (SPONSORING) COMMANDER:

Encl

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX E—LETTER OF DECLARATION OF OFF-LIMITS

Proprietor

Dear Sir:

This letter is to inform you that your establishment has been declared off-limits to members of the Armed Forces effective (date). Members of the Armed Forces are prohibited from entering your establishment (premises) as long as this order is in effect. This action is being taken because of (state the conditions) which are detrimental to the (health or welfare) of members of the Armed Forces.

This restriction will remain in effect indefinitely in accordance with established Armed Forces policy. Removal of the restriction will be considered by the Armed Forces Disciplinary Control Board upon presentation of information that satisfactory corrective action has been taken.

Correspondence appealing this action may be submitted to the President, Armed Forces Disciplinary Control Board, (cite address).

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX F—AFDCB LETTER OF NOTIFICATION OF CONTINUANCE OF OFF-LIMITS RESTRICTIONS AFTER APPEARANCE BEFORE THE AFDCB

(Letterhead)

Proprietor

Dear Sir:

The Armed Forces Disciplinary Control Board (AFDCB) did not favorably consider your request for removal of the off-limits restriction now in effect at your establishment.

This decision does not preclude further appeals or appearances before the AFDCB at any of its scheduled meetings. Correspondence pertaining to this matter should be addressed to the President, Armed Forces Disciplinary Control Board, (cite address).

Sincerely,

John J. Smith,

Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX G—AFDCB LETTER OF REMOVAL OF OFF-LIMITS RESTRICTION

(Letterhead)

Proprietor

Department of the Army, DoD

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Dear Sir:

This letter is to inform you that the off-limits restriction against (name of establishment) is removed effective (date). Members of the Armed Forces are permitted to patronize your establishment as of that date.

The corrective actions taken in response to the concerns of the Armed Forces Disciplinary Control Board are appreciated.

Sincerely,
John J. Smith,
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX H—AFDCB NOTIFICATION OF REMOVAL OF OFF-LIMITS RESTRICTION

(Letterhead)

Proprietor

Dear Sir:

This letter is to inform you that your request for removal of the off-limits restriction now in effect at (name of establishment) was favorably considered by the Armed Forces Disciplinary Control Board (AFDCB).

This restriction will be removed effective (date). Members of the Armed Forces will be permitted to patronize your establishment as of that date.

The corrective actions taken in response to the concerns of the AFDCB are appreciated.

Sincerely,
John J. Smith,
Colonel, U.S. Army, President, Armed Forces Disciplinary Control Board.

ANNEX I—FORMAT FOR AFDCB MEETING MINUTES

(Letterhead)

MEMORANDUM FOR

SUBJECT: Armed Forces Disciplinary Control Board

1. Pursuant to authority contained in AR 190-24/AFI 31-213/ OPNAVINST 1620.2A/MCO 1620.2C/and COMDTINST 1620.1D, Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations, the (area) Armed Forces Disciplinary Control Board convened at (place), (date)

2. The following voting members were present: (List names, titles, and addresses.)

3. The following military members were present: (List names, titles, and addresses.)

4. The following civilian advisory members were present: (List names, titles, and addresses.)

5. Order of business:

- a. Call to order.
- b. Welcome.
- c. Introduction of members and guests.
- d. Explanation of purpose of board.
- e. Reading of minutes.
- f. Unfinished or continuing business.

g. New business (subparagraph as necessary).

h. Recommendations.

(1) List of areas and establishments being placed in an off-limits restriction.

Include complete name and address (or adequate description of an area) of any establishment listed.

(2) List of areas and establishments being removed from off-limits restrictions. Include complete name and address (or adequate description of an area) of any establishment listed.

(3) Other matters or problems of mutual concern.

i. Time, date, and place for next board meeting.

j. Adjournment of the board.

(Board Recorder's Name)
(Rank, Branch of Service), Recorder, Armed Forces Disciplinary Control Board

Approved:

(Board President's Name)
(Rank, Branch of Service) President, Armed Forces Disciplinary Control Board

(NOTE: The minutes of the board proceedings will be forwarded by official correspondence from the board president to the sponsoring commander for approval of the board's recommendations. By return endorsement, the sponsoring commander will either approve or disapprove the board's recommendations.)

PART 632—USE OF FORCE BY PERSONNEL ENGAGED IN LAW ENFORCEMENT AND SECURITY DUTIES

- Sec.
- 632.1 Purpose.
- 632.2 Applicability.
- 632.3 Policy.
- 632.4 Deadly force.
- 632.5 Use of firearms.
- 632.6 Administrative instructions.

AUTHORITY: 10 U.S.C. 3012.

SOURCE: 48 FR 17074, Apr. 21, 1983, unless otherwise noted.

§ 632.1 Purpose.

This regulation implements DOD Directive 5210.65. It sets uniform policy for use of force by DA law enforcement and security personnel.

§ 632.2 Applicability.

(a) This regulation applies to all DA including Army National Guard and Army Reserve and civilian personnel engaged in law enforcement or security duties, and those civilian contract

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guard personnel performing security duties. These duties include guarding U.S. Military prisoners and interior guard duties.

(b) Except for personnel guarding U.S. military prisoners, this regulation does not apply to persons assigned to—

(1) A wartime combat zone.

(2) A non-wartime hostile fire area.

(3) Duties with the U.S. Secret Service.

(4) Civil disturbance control. (See para 4-12, FM 19-15.)

§ 632.3 Policy.

(a) Law enforcement and security personnel will use force only when they cannot fulfill their duties without it. They will use the minimum force needed; only as a last resort will they use deadly force. (See §§ 632.3(c), 632.4, and 632.5.)

(b) Commanders are encouraged to substitute nonlethal devices (such as night sticks) for firearms when adequate for law enforcement and security personnel to safely fulfill their duties.

(c) In evaluating the degree of force needed for specific law enforcement or security situations, consider these options:

(1) Verbal persuasion.

(2) Unarmed defense techniques.

(3) Chemical aerosol irritant projectors (M36). (May be subject to host nation or local restrictions.)

(4) MP club.

(5) MP working dogs.

(6) Deadly force. (§632.4)

(d) Entrapment, *i.e.*, inducing someone to commit an offense in order to prosecute that person, is not permitted in law enforcement or security duties.

(e) Use MP working dogs in accordance with the provisions of AR 190-12. Release dogs only if a lesser measure of force would not be effective.

(1) Releasing a sentry dog to apprehend a suspect is a greater measure of force than releasing a patrol dog.

(2) Before releasing a military dog for attack, give a challenge or order to halt.

§ 632.4 Deadly force.

(a) Deadly force is destructive physical force directed against a person or persons (e.g., firing a lethal weapon). Use it only in extreme need, when all

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lesser means have failed or cannot reasonably be used. Use deadly force for one or more of the following reasons only:

(1) In self-defense, when in imminent danger of death or serious injury.

(2) To protect property related to national security, when reasonably necessary to prevent—

(i) Threatened theft, damage, or espionage aimed at property or information specified by a commander or other competent authority as vital to national security. (See paragraph (b) of this section.)

(ii) Actual theft, damage, or espionage aimed at property or information which, though not vital, is substantially important to national security. (See paragraph (b) of this section.)

(iii) Escape of an individual whose unauthorized presence near property or information vital to national security is a reasonable threat of theft, sabotage, or espionage.

(3) To prevent actual theft or sabotage of property (such as operable weapons or ammunition) which could cause deadly harm to others in the hands of an unauthorized person.

(4) To prevent serious offenses against a person or persons (e.g., armed robbery, rape, or violent destruction of property by arson, bombing).

(5) To apprehend a suspect believed to have committed any of the types of offenses named in paragraphs (a) (2), (3), and (4) of this section.

(6) To prevent the escape of a prisoner (when authorized by a commander or other competent authority and reasonably necessary).

(7) To obey lawful orders from higher authority governed by this regulation.

(b) A commander or other competent authority will specify that property or information is—

(1) Vital to national security only when its loss, damage, or compromise would seriously harm national security or an essential national defense mission.

(2) Substantially important to national security based on the mission and the material or information required to perform it.

(c) To comply with local law or international agreement or arrangements, a

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commander may impose further restrictions on using deadly force. (Restrictions should not unduly compromise U.S. security interests).

(d) Security criteria and standards for protection of nuclear weapons (paragraph (c) of this section AR 50-5-1) and for chemical agents (paragraph (c) of this section AR 50-6-1) also apply.

§ 632.5 Use of firearms.

(a) If it becomes necessary to use a firearm in any of the circumstances described in § 632.4 of this part, observe the following precautions when possible:

(1) Give an order to halt before firing.
(2) Do not fire if shots are likely to harm innocent bystanders.

(3) Since warning shots could harm innocent bystanders, avoid firing them. However, when lesser degrees of force have failed, the law enforcement or security person may judge that warning shots would help to control the situation without using deadly force. If able to avoid hazards to innocent persons in these cases, fire warning shots.

(4) Aim to disable. At times it may be difficult to fire with enough precision to ensure disabling rather than killing. If the use of firearms are otherwise authorized by this regulation, such circumstances will not rule out their use.

§ 632.6 Administrative instructions.

(a) Commanders will ensure that all persons assigned to law enforcement, security, or US military prisoners' guard duties will, before performing these duties—

(1) Receive instructions on regulations regarding use of force.

(2) Show knowledge and skill in the use of—

(i) Unarmed defense techniques.

(ii) MP club.

(iii) Individual chemical aerosol irritant projectors.

(iv) Their assigned firearms.

(b) Commanders will also—

(1) Provide periodic refresher training to ensure continued proficiency and updated knowledge in these skills. (Include applicable host nation requirements.)

(2) Require MPs with law enforcement duties to qualify yearly with their assigned handguns.

(3) Require interior guards to receive instructions regarding use of force. (Give periodic refresher training to ensure continued familiarity with regulations.)

(c) Requirements concerning use of the MP club and chemical aerosol irritant projectors apply only when these weapons are issued items or are carried on duty.

(d) FM 19-5 contains procedures and methods for using unarmed defense techniques and the MP club.

PART 633—INDIVIDUAL REQUESTS FOR ACCESS OR AMENDMENT OF CID REPORTS OF INVESTIGATION

Sec.

633.11 Access to CID reports.

633.12 Amendment to CID reports.

633.13 Submission of requests.

AUTHORITY: Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012.

SOURCE: 44 FR 44156, July 27, 1979, unless otherwise noted.

§ 633.11 Access to CID reports.

All requests for access to CID reports made under the Privacy or Freedom of Information Acts will be processed in accordance with AR 340-21 and AR 340-17, respectively.

§ 633.12 Amendment to CID reports.

USACIDC reports of investigation (ROI) are exempt from the amendment provisions of the Privacy Act and AR 340-21. Requests for amendment will be considered only under the provisions of this regulation. Requests to amend USACIDC reports will be granted only if the individual submits new, relevant and material facts that are determined to warrant their inclusion in or revision of the ROI. The burden of proof is on the individual to substantiate the request. Requests to delete a person's name from the title block will be granted only if it is determined that there is not probable cause to believe that the individual committed the offense for which he or she is listed as a subject. It is emphasized that the decision to list a person's name in the title

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block of a USACIDC report of investigation is an investigative determination that is independent of whether or not subsequent judicial, nonjudicial or administrative action is taken against the individual. Within these parameters, any changes in the ROI rest within the sole discretion of the Commanding General. USACIDC, whose decision will constitute final action on behalf of the Secretary of the Army with respect to this regulation.

§ 633.13 Submission of requests.

Requests for access to, or amendment of, USACIDC investigative reports will be forwarded to the Director, U.S. Army Crime Records Center (CICR-FP), 6010 6th Street, Fort Belvoir, VA 22060-5585.

[74 FR 8215, Feb. 24, 2009]

PART 634—MOTOR VEHICLE TRAFFIC SUPERVISION

Subpart A—Introduction

- Sec.
- 634.1 Purpose.
- 634.2 References.
- 634.3 Explanation of abbreviations and terms.
- 634.4 Responsibilities.
- 634.5 Program objectives.

Subpart B—Driving Privileges

- 634.6 Requirements for driving privileges.
- 634.7 Stopping and inspecting personnel or vehicles.
- 634.8 Implied consent.
- 634.9 Suspension or revocation of driving or privately owned vehicle registration privileges.
- 634.10 Remedial driver training programs.
- 634.11 Administrative due process for suspensions and revocations.
- 634.12 Army administrative actions against intoxicated drivers.
- 634.13 Alcohol and drug abuse programs.
- 634.14 Restoration of driving privileges upon acquittal of intoxicated driving.
- 634.15 Restricted driving privileges or probation.
- 634.16 Reciprocal state-military action.
- 634.17 Extensions of suspensions and revocations.
- 634.18 Reinstatement of driving privileges.

Subpart C—Motor Vehicle Registration

- 634.19 Registration policy.

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- 634.20 Privately owned vehicle operation requirements.
- 634.21 Department of Defense Form 2220.
- 634.22 Termination or denial of registration.
- 634.23 Specified consent to impoundment.

Subpart D—Traffic Supervision

- 634.24 Traffic planning and codes.
- 634.25 Installation traffic codes.
- 634.26 Traffic law enforcement principles.
- 634.27 Speed-measuring devices.
- 634.28 Traffic accident investigation.
- 634.29 Traffic accident investigation reports.
- 634.30 Use of traffic accident investigation report data.
- 634.31 Parking.
- 634.32 Traffic violation reports.
- 634.33 Training of law enforcement personnel.
- 634.34 Blood alcohol concentration standards.
- 634.35 Chemical testing policies and procedures.
- 634.36 Detection, apprehension, and testing of intoxicated drivers.
- 634.37 Voluntary breath and bodily fluid testing based on implied consent.
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- 634.39 Testing at the request of the apprehended person.
- 634.40 General off installation traffic activities.
- 634.41 Compliance with State laws.
- 634.42 Civil-military cooperative programs.

Subpart E—Driving Records and the Traffic Point System

- 634.43 Driving records.
- 634.44 The traffic point system.
- 634.45 Point system application.
- 634.46 Point system procedures.
- 634.47 Disposition of driving records.

Subpart F—Impounding Privately Owned Vehicles

- 634.48 General.
- 634.49 Standards for impoundment.
- 634.50 Towing and storage.
- 634.51 Procedures for impoundment.
- 634.52 Search incident to impoundment based on criminal activity.
- 634.53 Disposition of vehicles after impoundment.

Subpart G—List of State Driver's License Agencies

- 634.54 List of State Driver's License Agencies.

AUTHORITY: 10 U.S.C. 30112(g); 5 U.S.C. 2951; Pub. L. 89-564; 89-670; 91-605; and 93-87.

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SOURCE: 70 FR 18969, Apr. 12, 2005, unless otherwise noted.

Subpart A—Introduction

§ 634.1 Purpose.

(a) This subpart establishes policy, responsibilities, and procedures for motor vehicle traffic supervision on military installations in the continental United States (CONUS) and overseas areas. This includes but is not limited to the following:

(1) Granting, suspending, or revoking the privilege to operate a privately owned vehicle (POV).

(2) Registration of POVs.

(3) Administration of vehicle registration and driver performance records.

(4) Driver improvement programs.

(5) Police traffic supervision.

(6) Off-installation traffic activities.

(b) Commanders in overseas areas are authorized to modify these policies and procedures in the following instances:

(1) When dictated by host nation relationships, treaties, and agreements.

(2) When traffic operations under military supervision necessitate measures to safeguard and protect the morale, discipline, and good order in the Services.

§ 634.2 References.

Required and related publications along with prescribed and referenced forms are listed in Appendix A, AR 190-5.

§ 634.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this subpart are explained in the Glossary of AR 190-5. It is available on the internet at: www.usapa.army.mil.

§ 634.4 Responsibilities.

(a) *Departmental.* The Provost Marshal General, Headquarters, Department of the Army (HQDA); Director, Naval Criminal Investigative Service, U.S. Navy (USN); Headquarters, Air Force Security Forces Center; Headquarters, U.S. Marine Corps (USMC); Staff Director, Command Security Office, Headquarters, Defense Logistics Agency (DLA), and Chief, National Guard Bureau will—

(1) Exercise staff supervision over programs for motor vehicle traffic supervision.

(2) Develop standard policies and procedures that include establishing an automated records program on traffic supervision.

(3) Maintain liaison with interested staff agencies and other military departments on traffic supervision.

(4) Maintain liaison with departmental safety personnel on traffic safety and accident reporting systems.

(5) Coordinate with national, regional, and state traffic officials and agencies, and actively participate in conferences and workshops sponsored by the Government or private groups at the national level.

(6) Help organize and monitor police traffic supervision training.

(7) Maintain liaison with the Department of Transportation (DOT) and other Federal departments and agencies on the National Highway Safety Program Standards (NHSPS) and programs that apply to U.S. military traffic supervision.

(8) Participate in the national effort to reduce intoxicated driving.

(b) *All major commanders.* Major commanders of the Army, Navy, Air Force, Marine Corps, and DLA will—

(1) Manage traffic supervision in their commands.

(2) Cooperate with the support programs of state and regional highway traffic safety organizations.

(3) Coordinate regional traffic supervision activities with other major military commanders in assigned geographic areas of responsibility.

(4) Monitor agreements between installations and host state authorities for reciprocal reporting of suspension and revocation of driving privileges.

(5) Participate in state and host nation efforts to reduce intoxicated driving.

(6) Establish awards and recognition programs to recognize successful installation efforts to eliminate intoxicated driving. Ensure that criteria for these awards are positive in nature and include more than just apprehensions for intoxicated driving.

(7) Modify policies and procedures when required by host nation treaties or agreements.

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(c) *Major Army commanders.* Major Army commanders will ensure subordinate installations implement all provisions of this part.

(d) *Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC).* The CG, TRADOC will ensure that technical training for functional users is incorporated into service school instructional programs.

(e) *Installation or activity commander, Director of Military Support and State Adjutant General.* The installation or activity commander (for the Navy, the term installation shall refer to either the regional commander or installation commanding officer, whoever has ownership of the traffic program) will—

(1) Establish an effective traffic supervision program.

(2) Cooperate with civilian police agencies and other local, state, or federal government agencies concerned with traffic supervision.

(3) Ensure that traffic supervision is properly integrated in the overall installation traffic safety program.

(4) Actively participate in Alcohol Safety Action Projects (ASAP) in neighboring communities.

(5) Ensure that active duty Army law enforcement personnel follow the provisions of AR 190-45 in reporting all criminal violations and utilize the Centralized Police Operations Suite (COPS) to support reporting requirements and procedures. Air Force personnel engaged in law enforcement and adjudication activities will follow the provisions of AFI 31-203 in reporting all criminal and traffic violations, and utilized the Security Forces Management Information Systems (SFMIS) to support reporting requirements and procedures.

(6) Implement the terms of this part in accordance with the provisions of the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71.

(7) Revoke driving privileges in accordance with this part.

(f) *Installation law enforcement officer.* The installation law enforcement officer will—

(1) Exercise overall staff responsibility for directing, regulating, and controlling traffic, and enforcing laws

and regulations pertaining to traffic control.

(2) Assist traffic engineering functions at installations by participating in traffic control studies designed to obtain information on traffic problems and usage patterns.

(g) *Safety officer.* Safety officers will participate in and develop traffic accident prevention initiatives in support of the installation traffic safety program.

(h) *Facility engineer (public works officer at Navy installations).* The facility engineer, engineer officer or civil engineer at Air Force installations, in close coordination with the law enforcement officer, will—

(1) Perform that phase of engineering concerned with the planning, design, construction, and maintenance of streets, highways, and abutting lands.

(2) Select, determine appropriate design, procure, construct, install, and maintain permanent traffic and parking control devices in coordination with the law enforcement officer and installation safety officer.

(3) Ensure that traffic signs, signals, and pavement markings conform to the standards in the current Manual on Uniform Traffic Control Devices for Streets and Highways.

(4) Ensure that planning, design, construction, and maintenance of streets and highways conform to the NHSPS as implemented by the Army.

(i) *Traffic engineer.* The traffic engineer, in close coordination with the law enforcement officer, will:

(1) Conduct formal traffic engineering studies.

(2) Apply traffic engineering measures, including traffic control devices, to reduce the number and severity of traffic accidents. (If there is no installation traffic engineer, installation commanders may request these services through channels from the Commander, Military Surface Deployment and Distribution Command, 200 Stovall Street, Alexandria, VA 22332).

(j) *Army Alcohol and Drug Control Officer (ADCO).* The ADCO will provide treatment and education services to personnel with alcohol or drug abuse problems.

(k) *Navy Substance Abuse Rehabilitation Program (SARP) Directors*. These directors will—

(1) Supervise the alcohol/drug rehabilitation services to personnel with alcohol or drug abuse problems.

(2) Provide remedial/motivational education for all persons identified as alcohol or drug abusers who are evaluated as not dependent on alcohol or drugs and who have been referred to level one rehabilitation by their commands.

(1) *Marine Corps Substance Abuse Program Officer*. This officer will provide alcohol/drug education, treatment, and rehabilitation services to personnel with alcohol/drug abuse problems.

(m) *DLA Employee Assistance Program Officer*. This officer will provide alcohol/drug counseling and referral services to identified personnel with alcohol/drug abuse problems in accordance with procedures prescribed by the Labor Relations Officer, Office of Human Resource, HQ DLA.

(n) *Alcohol/Drug Abuse Prevention Treatment (ADAPT) program*. Air Force Commanders will refer personnel identified with alcohol/drug abuse problems to this program in accordance with established procedures.

§ 634.5 Program objectives.

(a) The objectives of motor vehicle traffic supervision are to assure—

(1) Safe and efficient movement of personnel and vehicles.

(2) Reduction of traffic deaths, injuries, and property damage from traffic accidents. Most traffic accidents can be prevented. Investigation of motor vehicle accidents should examine all factors, operator status, vehicle condition, and supervisory control measures involved.

(3) Integration of installation safety, engineering, legal, medical, and law enforcement resources into the installation traffic planning process.

(4) Removal of intoxicated drivers from installation roadways.

(b) [Reserved]

Subpart B—Driving Privileges

§ 634.6 Requirements for driving privileges.

(a) Driving a Government vehicle or POV on military installations is a privilege granted by the installation commander. Persons who accept the privilege must—

(1) Be lawfully licensed to operate motor vehicles in appropriate classifications and not be under suspension or revocation in any state or host country.

(2) Comply with laws and regulations governing motor vehicle operations on any U. S. military installation.

(3) Comply with installation registration requirements in subpart C of this part. Vehicle registration is required on all Army installations through use of the Vehicle Registration System (VRS). Vehicle registration is required on all Air Force and DLA installations and as directed by the Chief, National Guard Bureau.

(4) Possess, while operating a motor vehicle and produce on request by law enforcement personnel, the following:

(i) Proof of vehicle ownership or state registration if required by the issuing state or host nation.

(ii) A valid state, host nation, overseas command, or international driver's license and/or OF 346 (U.S. Government Motor Vehicle Operator's Identification Card), as applicable to the class vehicle to be operated, supported by a DD Form 2A (U.S. Armed Forces Identification Card), Common Access Card (CAC) or other appropriate identification for non-Department of Defense (DOD) civilians.

(iii) A valid record of motor vehicle safety inspection, as required by the state or host nation and valid proof of insurance if required by the state or locality.

(iv) Any regulatory permits, or other pertinent documents relative to shipping and transportation of special cargo.

(v) When appropriate, documents that establish identification and status of cargo or occupants.

(vi) Proof of valid insurance. Proof of insurance consists of an insurance card, or other documents issued by the

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insurance company, that has a policy effective date and an expiration date.

(b) Operators of Government motor vehicles must have proof of authorization to operate the vehicle.

§ 634.7 Stopping and inspecting personnel or vehicles.

(a) Government vehicles may be stopped by law enforcement personnel on military installations based on the installation commander's policy.

(1) In overseas areas, Government vehicles may be stopped on or off installations as determined by host nation agreement and command policy.

(2) Stops and inspections of vehicles at installation gates or entry points and in restricted areas will be conducted according to command policy.

(b) Stops and inspections of POVs within the military installation, other than at restricted areas or at an installation gate, are authorized only when there is a reasonable suspicion of criminal activity, or of a violation of a traffic regulation or of the installation commander's policy. Marine Corps users will be guided by publication of Marine Corps order and Military Rules of Evidence 311-316 and local command regulations. DLA users, see DLAR 5700.7.

(c) At the time of stop, the driver and occupants may be required to display all pertinent documents, including but not limited to:

(1) DD Form 2A.

(2) Documents that establish the identity and status of civilians; for example, Common Access Card (CAC), DD Form 1173 (Uniformed Services Identification and Privilege Card), DA Form 1602 (Civilian Identification), AF Form 354 (Civilian Identification Card), DD Form 2 (Armed Forces of the United States Identification Card), post pass, national identity card, or other identification.

(3) Proper POV registration documents.

(4) Host nation vehicle registration documents, if applicable.

(5) Authorization to operate a Government vehicle, if applicable.

(6) Drivers license or OF 346 valid for the particular vehicle and area of operation.

(7) Proof of insurance.

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§ 634.8 Implied consent.

(a) *Implied consent to blood, breath, or urine tests.* Persons who drive on the installation shall be deemed to have given their consent to evidential tests for alcohol or other drug content of their blood, breath, or urine when lawfully stopped, apprehended, or cited for any offense allegedly committed while driving or in physical control of a motor vehicle on military installations to determine the influence of intoxicants.

(b) *Implied consent to impoundment.* Any person granted the privilege to operate or register a motor vehicle on a military installation shall be deemed to have given his or her consent for the removal and temporary impoundment of the POV when it is parked illegally, or for unreasonable periods, as determined by the installation commander or applicable authority, interfering with military operations, creating a safety hazard, disabled by accident, left unattended in a restricted or controlled area, or abandoned. Such persons further agree to reimburse the United States for the cost of towing and storage should their motor vehicle be removed or impounded. Existence of these conditions will be determined by the installation commander or designee.

(c) Any person who operates, registers, or who is in control of a motor vehicle on a military installation involved in a motor vehicle or criminal infraction shall be informed that notice of the violation of law or regulation will be forwarded to the Department of Motor Vehicles (DMV) of the host state and/or home of record for the individual, and to the National Register, when applicable.

§ 634.9 Suspension or revocation of driving or privately owned vehicle registration privileges.

The installation commander or designee may for cause, or any lawful reason, administratively suspend or revoke driving privileges on the installation. The suspension or revocation of installation driving privileges or POV registrations, for lawful reasons unrelated to traffic violations or safe vehicle operation, is not limited or restricted by this part.

(a) *Suspension.* (1) Driving privileges are usually suspended when other measures fail to improve a driver's performance. Measures should include counseling, remedial driving training, and rehabilitation programs if violator is entitled to the programs. Driving privileges may also be suspended for up to 6 months if a driver continually violates installation parking regulations. The commander will determine standards for suspension based on frequency of parking violations and publish those standards. Aboard Navy installations, any vehicle parked in a fire lane will be towed at the owner's expense. Any vehicle parked without authorization in an area restricted due to force protection measures may subject the driver to immediate suspension by the installation commanding officer. Vehicle will be towed at the owner/operator's expense.

(2) The installation commander has discretionary power to withdraw the authorization of active duty military personnel, DOD civilian employees, and nonappropriated funds (NAF) employees, contractors and subcontractors to operate Government vehicles.

(3) Immediate suspension of installation or overseas command POV driving privileges pending resolution of an intoxicated driving incident is authorized for active duty military personnel, family members, retired members of the military services, DOD civilian personnel, and others with installation or overseas command driving privileges, regardless of the geographic location of the intoxicated driving incident. Suspension is authorized for non-DOD affiliated civilians only with respect to incidents occurring on the installation or in areas subject to military traffic supervision. After a review of available information as specified in §634.11, installation driving privileges will be immediately suspended pending resolution of the intoxicated driving accident in the following circumstances:

(i) Refusal to take or complete a lawfully requested chemical test to determine contents of blood for alcohol or other drugs.

(ii) Operating a motor vehicle with a blood alcohol content (BAC) of .08 percent by volume (.08 grams per 100 milliliters) or higher or in violation of the

law of the jurisdiction that is being assimilated on the military installation.

(iii) Operating a motor vehicle with a BAC of 0.05 percent by volume but less than 0.08 percent blood alcohol by volume in violation of the law of the jurisdiction in which the vehicle is being operated if the jurisdiction imposes a suspension solely on the basis of the BAC level (as measured in grams per 100 milliliters).

(iv) On an arrest report or other official documentation of the circumstances of an apprehension for intoxicated driving.

(b) *Revocation.* (1) The revocation of installation or overseas command POV driving privileges is a severe administrative measure to be exercised for serious moving violations or when other available corrective actions fail to produce the desired driver improvement. Revocation of the driving privilege will be for a specified period, but never less than 6 months, applies at all military installations, and remains in effect upon reassignment.

(2) Driving privileges are subject to revocation when an individual fails to comply with any of the conditions requisite to the granting privilege (see §634.6). Revocation of installation driving and registration privileges is authorized for military personnel, family members, civilian employees of DOD, contractors, and other individuals with installation driving privileges. For civilian guests, revocation is authorized only with respect to incidents occurring on the installation or in the areas subject to military traffic supervision.

(3) Driving privileges will be revoked for a mandatory period of not less than 1 year in the following circumstances:

(i) The installation commander or designee has determined that the person lawfully apprehended for driving under the influence refused to submit to or complete a test to measure the alcohol content in the blood, or detect the presence of any other drug, as required by the law of the jurisdiction, or installation traffic code, or by Service directive.

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(ii) A conviction, nonjudicial punishment, or a military or civilian administrative action resulting in the suspension or revocation of driver's license for intoxicated driving. Appropriate official documentation of such conviction is required as the basis for revocation.

(4) When temporary suspensions under paragraph (a)(3) of this section are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full driving privileges may have been restored pending resolution of charges. (Example: privileges were initially suspended on January 1, 2000 for a charge of intoxicated driving with a BAC of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on February 1 pending resolution of the charge. On March 1, 2000, the driver was convicted for intoxicated driving. The mandatory 1-year revocation period will consist of January 2000 plus March 2000 through January 2001, for a total of 12 months with no installation driving privileges).

(c) Army provost marshals will use the automated VRS to develop and maintain records showing that an individual's driving privileges have been revoked.

§ 634.10 Remedial driver training programs.

(a) Navy activities will comply with OPNAVINST 5100.12 Series, and Marine Corps activities with current edition of MCO 5100.19C for establishment of remedial training programs.

(b) Installation commanders may establish a remedial driver-training program to instruct and educate personnel requiring additional training. Personnel may be referred to a remedial program on the basis of their individual driving history or incidents requiring additional training. The curriculum should provide instruction to improve driving performance and compliance with traffic laws.

(c) Installation commanders may schedule periodic courses, or if not practical, arrange for participation in courses conducted by local civil authorities.

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(d) Civilian personnel employed on the installation, contractor employees, and family members of military personnel may attend remedial courses on the installation, or similar courses off the installation which incur no expense to the government.

§ 634.11 Administrative due process for suspensions and revocations.

(a) Individual Services will promulgate separate regulations establishing administrative due process procedures for suspension or revocation of driving privileges. The procedures in paragraphs (b) and (c) of this section apply to actions taken by Army commanders with respect to Army military personnel and family members and to civilian personnel operating motor vehicles on Army installations. For Marine Corps users, the provisions of this section apply. For Air Force users, a preliminary suspension for intoxicated driving remains in effect until the installation commander makes a final decision. Requested hearings must take place within a reasonable period, which is determined by the installation commander.

(b) For offenses other than intoxicated driving, suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers that person an administrative hearing. Suspension or revocation will take place 14 calendar days after written notice is received unless the affected person makes an application for a hearing within this period. Such application will stay the pending suspension or revocation for a period of 14 calendar days.

(1) If, due to action by the government, a hearing is not held within 14 calendar days, the suspension will not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the 14-day period, the suspension or revocation will become effective immediately on receipt of notice that the request for continuance has been granted, and

remain in force pending a hearing at a scheduled hearing date.

(2) If it is determined as a result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective when the person receives the written notification of such action. In the event that written notification cannot be verified, either through a return receipt for mail or delivery through command channels, the hearing authority will determine the effective date on a case-by-case basis.

(3) If the revocation or suspension is imposed after such hearing, the person whose driving privilege has been suspended or revoked will have the right to appeal or request reconsideration. Such requests must be forwarded through command channels to the installation commander within 14 calendar days from the date the individual is notified of the suspension or revocation resulting from the administrative hearing. The suspension or revocation will remain in effect pending a final ruling on the request. Requests for restricted privileges will be considered per § 634.15.

(4) If driving privileges are temporarily restored (*i.e.*, for family hardship) pending resolution of charges, the period of revocation (after final authority determination) will still total the mandatory 12 months. The final date of the revocation will be adjusted to account for the period when the violator's privileges were temporarily restored, as this period does not count towards the revocation time.

(c) For drunk driving or driving under the influence offenses, reliable evidence readily available will be presented promptly to an individual designated by the installation commander for review and authorization for immediate suspension of installation driving privileges.

(1) The reviewer should be any officer to include GS-11 and above, designated in writing by the installation or garrison commander whose primary duties are not in the field of law enforcement.

(2) Reliable evidence includes witness statements, military or civilian police report of apprehension, chemical test results if completed, refusal to consent to complete chemical testing, video-

tapes, statements by the apprehended individual, field sobriety or preliminary breath tests results, and other pertinent evidence. Immediate suspension should not be based solely on published lists of arrested persons, statements by parties not witnessing the apprehension, or telephone conversations or other information not supported by documented and reliable evidence.

(3) Reviews normally will be accomplished within the first normal duty day following final assembly of evidence.

(4) Installation commanders may authorize the installation law enforcement officer to conduct reviews and authorize suspensions in cases where the designated reviewer is not reasonably available and, in the judgment of the installation law enforcement officer, such immediate action is warranted. Air Force Security Forces personnel act in an advisory capacity to installation commanders. Review by the designated officer will follow as soon as practical in such cases. When a suspension notice is based on the law enforcement officer's review, there is no requirement for confirmation notice following subsequent review by the designated officer.

(5) For active duty military personnel, final written notice of suspension for intoxicated driving will be provided to the individual's chain of command for immediate presentation to the individual. Air Force Security Forces provide a copy of the temporary suspension to the individual at the time of the incident or may provide a copy of the final determination at the time of the incident, as pre-determined by the final action authority.

(6) For civilian personnel, written notice of suspension for intoxicated driving will normally be provided without delay via certified mail. Air Force Security Forces personnel provide a copy of the temporary suspension to the individual at the time of the incident or may provide a copy of the final determination at the time of the incident, as pre-determined by the final action authority. If the person is employed on the installation, such notice will be forwarded through the military or civilian supervisor. When the notice of suspension is forwarded through the

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supervisor, the person whose privileges are suspended will be required to provide written acknowledgment of receipt of the suspension notice.

(7) Notices of suspension for intoxicated driving will include the following:

(i) The fact that the suspension can be made a revocation under § 634.9(b).

(ii) The right to request, in writing, a hearing before the installation commander or designee to determine if post driving privileges will be restored pending resolution of the charge; and that such request must be made within 14 calendar days of the final notice of suspension.

(iii) The right of military personnel to be represented by counsel at his or her own expense and to present evidence and witnesses at his or her own expense. Installation commanders will determine the availability of any local active duty representatives requested.

(iv) The right of Department of Defense civilian employees to have a personal representative present at the administrative hearing in accordance with applicable laws and regulations.

(v) Written acknowledgment of receipt to be signed by the individual whose privileges are to be suspended or revoked.

(8) If a hearing is requested, it must take place within 14 calendar days of receipt of the request. The suspension for intoxicated driving will remain in effect until a decision has been made by the installation commander or designee, but will not exceed 14 calendar days after the hearing while awaiting the decision. If no decision has been made by that time, full driving privileges will be restored until such time as the accused is notified of a decision to continue the suspension.

(9) Hearing on suspension actions under § 634.9(a) for drunk or impaired driving pending resolution of charges will cover only the following pertinent issues of whether—

(i) The law enforcement official had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle under the influence of alcohol or other drugs.

(ii) The person was lawfully cited or apprehended for a driving under the influence offense.

(iii) The person was lawfully requested to submit his or her blood, breath, or urine in order to determine the content of alcohol or other drugs, and was informed of the implied consent policy (consequences of refusal to take or complete the test).

(iv) The person refused to submit to the test for alcohol or other drug content of blood, breath, or urine; failed to complete the test; submitted to the test and the result was .08 or higher blood alcohol content, or between .05 and .08 in violation of the law of the jurisdiction in which the vehicle is being operated if the jurisdiction imposes a suspension solely on the basis of the BAC level; or showed results indicating the presence of other drugs for an on-post apprehension or in violation of State laws for an off-post apprehension.

(v) The testing methods were valid and reliable and the results accurately evaluated.

(10) For revocation actions under § 634.9(b) (3) for intoxicated driving, the revocation is mandatory on conviction or other findings that confirm the charge. (Pleas of nolo contendere are considered equivalent to guilty pleas).

(i) Revocations are effective as of the date of conviction or other findings that confirm the charges. Test refusal revocations will be in addition to any other revocation incurred during a hearing. Hearing authority will determine if revocations for multiple offenses will run consecutively or concurrently taking into consideration if offenses occurred on same occasion or different times, dates. The exception is that test refusal will be one year automatic revocation in addition to any other suspension.

(ii) The notice that revocation is automatic may be placed in the suspension letter. If it does not appear in the suspension letter, a separate letter must be sent and revocation is not effective until receipt of the written notice.

(iii) Revocations cancel any full or restricted driving privileges that may have been restored during suspension and the resolution of the charges. Requests for restoration of full driving privileges are not authorized.

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(11) The Army Vehicle Registration System will be utilized to maintain infractions by individuals on Army installations.

§ 634.12 Army administrative actions against intoxicated drivers.

Army commanders will take appropriate action against intoxicated drivers. These actions may include the following:

(a) A written reprimand, administrative in nature, will be issued to active duty Soldiers in the cases described in this paragraph (a). Any general officer, and any officer frocked to the grade of brigadier general, may issue this reprimand. Filing of the reprimand will be in accordance with the provisions of AR 600-37.

(1) Conviction by courts-martial or civilian court or imposition of non-judicial punishment for an offense of drunk or impaired driving either on or off the installation.

(2) Refusal to take or failure to complete a lawfully requested test to measure alcohol or drug content of the blood, breath, or urine, either on or off the installation, when there is reasonable belief of driving under the influence of alcohol or drugs.

(3) Driving or being in physical control of a motor vehicle on post when the blood alcohol content is 0.08 percent or higher, irrespective of other charges, or off post when the blood alcohol content is in violation of the law of the State involved.

(4) Driving, or being in physical control of a motor vehicle, either on or off the installation, when lawfully conducted chemical tests reflect the presence of illegal drugs.

(b) Review by the commander of the service records of active duty soldiers apprehended for offenses described in paragraph (a) of this section to determine if the following action(s) should be taken—

(1) Administrative reduction per AR 600-8-19, or

(2) Bar to reenlistment per AR 601-280, or

(3) Administrative separation per AR 635-200.

§ 634.13 Alcohol and drug abuse programs.

(a) Commanders will refer military personnel suspected of drug or alcohol abuse for evaluation in the following circumstances:

(1) Behavior indicative of alcohol or drug abuse.

(2) Continued inability to drive a motor vehicle safely because of alcohol or drug abuse.

(b) The commander will ensure military personnel are referred to the installation alcohol and drug abuse program or other comparable facilities when they are convicted of, or receive an official administrative action for, any offense involving driving under the influence. A first offender may be referred to treatment if evidence of substance abuse exists in addition to the offense of intoxicated driving. The provisions of this paragraph do not limit the commander's prerogatives concerning other actions that may be taken against an offender under separate Service/Agency policies (Army, see AR 600-85. Marine Corps, see MCO P1700.24B).

(c) Active duty Army personnel apprehended for drunk driving, on or off the installation, will be referred to the local Army Substance Abuse Program (ASAP) for evaluation within 14 calendar days to determine if the person is dependent on alcohol or other drugs which will result in enrollment in treatment in accordance with AR 600-85. A copy of all reports on military personnel and DOD civilian employees apprehended for intoxicated driving will be forwarded to the installation alcohol and drug abuse facility.

(d) Active duty Navy personnel apprehended for drunk driving on or off the installation will be screened by the respective SARP facility within 14 calendar days to determine if the individual is dependent on alcohol or other drugs. Active duty Marines apprehended for intoxicated driving, on or off the installation, will be referred to interview by a Level II substance abuse counselor within 14 calendar days for evaluation and determination of the appropriate level of treatment required. Subsequent to this evaluation,

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the Marine will be assigned to the appropriate treatment programs as prescribed by MCO P1700.24B.

(e) The Services/Agencies may develop preventive treatment and rehabilitative programs for civilian employees with alcohol-related problems.

(f) Army supervisors of civilian employees apprehended for intoxicated driving will advise employees of ASAP services available. Civilian employees apprehended for intoxicated driving while on duty will be referred to the ASAP or comparable facility for evaluation in accordance with AR 600-85. Army commanders will ensure that sponsors encourage family members apprehended for drunk driving seek ASAP evaluation and assistance.

(g) Navy and DLA civilian personnel charged with intoxicated driving will be referred to the Civilian Employee Assistance Program in accordance with 5 CFR part 792. Such referral does not exempt the employee from appropriate administrative or disciplinary actions under civilian personnel regulations.

(h) Marine Corps civilian employees charged with intoxicated driving, on or off the installation, will be referred to the Employee Assistance Program as prescribed by MCO P1700.24B. Marine family members charged with intoxicated driving, on or off the installation, will be provided assistance as addressed in MCO P1700.24B. Such referral and assistance does not exempt the individual from appropriate administrative or disciplinary action under current civilian personnel regulations or State laws.

(i) For the Army, DLA, and the Marine Corps, installation driving privileges of any person who refuses to submit to, or fails to complete, chemical testing for blood-alcohol content when apprehended for intoxicated driving, or convicted of intoxicated driving, will not be reinstated unless the person successfully completes either an alcohol education or treatment program sponsored by the installation, state, county, or municipality, or other program evaluated as acceptable by the installation commander.

(j) Active duty Air Force personnel apprehended for drunk driving, on or off the installation, will be referred by their respective chain of command to

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the Air Force Substance Abuse office for evaluation in accordance with AFI 44-121/Alcohol Drug Abuse & Treatment Program, and local policies within seven days.

(k) Local installation commanders will determine if active duty Air Force personnel involved in any alcohol incident will immediately be subjected to a urinalysis for drug content. If consent is not given for the test, a command-directed test will be administered in accordance with local policies.

§ 634.14 Restoration of driving privileges upon acquittal of intoxicated driving.

The suspension of driving privileges for military and civilian personnel shall be restored if a final disposition indicates a finding of not guilty, charges are dismissed or reduced to an offense not amounting to intoxicated driving, or where an equivalent determination is made in a nonjudicial proceeding. The following are exceptions to the rule in which suspensions will continue to be enforced.

(a) The preliminary suspension was based on refusal to take a BAC test.

(b) The preliminary suspension resulted from a valid BAC test, (unless disposition of the charges was based on invalidity of the BAC test). In the case of a valid BAC test, the suspension will continue, pending completion of a hearing as specified in § 634.11. In such instances, the individual will be notified in writing that the suspension will continue and of the opportunity to request a hearing within 14 calendar days.

(1) At the hearing, the arrest report, the commander's report of official disposition, information presented by the individual, and such other information as the hearing officer may deem appropriate will be considered.

(2) If the hearing officer determines by a preponderance of evidence that the individual was engaged in intoxicated driving, the revocation will be for 1 year from the date of the original preliminary suspension.

(c) The person was driving or in physical control of a motor vehicle while under a preliminary suspension or revocation.

(d) An administrative determination has been made by the state or host nation licensing authority to suspend or revoke driving privileges.

(e) The individual has failed to complete a formally directed substance abuse or driver's training program.

§ 634.15 Restricted driving privileges or probation.

(a) For the Navy, Air Force, Marine Corps, and DLA, the installation commander, or his or her designee may modify a suspension or revocation of driving privileges in certain cases per paragraph (d) of this section.

(b) Army requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to the installation commander or designee, except for intoxicated driving cases, which must be referred to the General Court Martial Convening Authority. Withdrawal of restricted driving privileges is within the installation commander's discretion.

(c) Probation or restricted driving privileges will not be granted to any person whose driver license or right to operate motor vehicles is under suspension or revocation by a state, Federal, or host nation licensing authority. Prior to application for probation or restricted driving privileges, a state, Federal, or host nation driver's license or right to operate motor vehicles must be reinstated. The burden of proof for reinstatement of driving privileges lies with the person applying for probation or restricted driving privileges. Revocations for test refusals shall remain.

(d) The installation commander or designee may grant restricted driving privileges or probation on a case-by-case basis provided the person's state or host nation driver's license or right to operate motor vehicles remains valid to accommodate any of the following reasons:

(1) Mission requirements.

(2) Unusual personal or family hardships.

(3) Delays exceeding 90 days, not attributed to the person concerned, in the formal disposition of an apprehension or charges that are the basis for any type of suspension or revocation.

(4) When there is no reasonably available alternate means of transportation to officially assigned duties. In this instance, a limited exception can be granted for the sole purpose of driving directly to and from the place of duty.

(e) The terms and limitations on a restricted driving privilege (for example, authorization to drive to and from place of employment or duty, or selected installation facilities such as hospital, commissary, and other facilities) will be specified in writing and provided to the individual concerned. Persons found in violation of the restricted privilege are subject to revocation action as prescribed in § 634.9.

(f) The conditions and terms of probation will be specified in writing and provided to the individual concerned. The original suspension or revocation term in its entirety may be activated to commence from the date of the violation of probation. In addition, separate action may be initiated based on the commission of any traffic, criminal, or military offense that constitutes a probation violation.

(g) DOD employees and contractors, who can demonstrate that suspension or revocation of installation driving privileges would constructively remove them from employment, may be given a limiting suspension/revocation that restricts driving on the installation or activity (or in the overseas command) to the most direct route to and from their respective work sites (5 U.S.C. 2302(b) (10)). This is not to be construed as limiting the commander from suspension or revocation of on-duty driving privileges or seizure of OF 346, even if this action would constructively remove a person from employment in those instances in which the person's duty requires driving from place to place on the installation.

§ 634.16 Reciprocal state-military action.

(a) Commanders will recognize the interests of the states in matters of POV administration and driver licensing. Statutory authority may exist within some states or host nations for reciprocal suspension and revocation of driving privileges. See subpart D of this part for additional information on exchanging and obtaining information

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with civilian law enforcement agencies concerning infractions by Armed Service personnel off post. Installation commanders will honor the reciprocal authority and direct the installation law enforcement officer to pursue reciprocity with state or host nation licensing authorities. Upon receipt of written or other official law enforcement communication relative to the suspension/revocation of driving privileges, the receiving installation will terminate driving privileges as if violations occurred within its own jurisdiction.

(b) When imposing a suspension or revocation for an off-installation offense, the effective date should be the same as civil disposition, or the date that state or host-nation driving privileges are suspended or revoked. This effective date can be retroactive.

(c) If statutory authority does not exist within the state or host nation for formal military reciprocity, the procedures below will be adopted:

(1) Commanders will recognize official documentation of suspensions/revocations imposed by state or host nation authorities. Administrative actions (suspension/revocations, or if recognized, point assessment) for moving traffic violations off the installation should not be less than required for similar offenses on the installation. When notified by state or host nation authorities of a suspension or revocation, the person's OF 346 may also be suspended.

(2) In CONUS, the host and issuing state licensing authority will be notified as soon as practical when a person's installation driving privileges are suspended or revoked for any period, and immediately for refusal to submit to a lawful BAC test. The notification will be sent to the appropriate state DMV(s) per reciprocal agreements. In the absence of electronic communication technology, the appropriate state DMV(s) will be notified by official certified mail. The notification will include the basis for the suspension/revocation and the BAC level if applicable.

(d) OCONUS installation commanders must follow provisions of the applicable Status of Forces Agreement (SOFA), the law of the host nation concerning reciprocal suspension and rev-

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ocation, and other international agreements. To the extent an agreement concerning reciprocity may be permitted at a particular overseas installation, the commander must have prior authorization to negotiate and conclude such an international agreement in accordance with applicable international agreements, DODD 5530.3, International Agreements, June 87, and other individual Service instructions.

§ 634.17 Extensions of suspensions and revocations.

(a) Driving in violation of a suspension or revocation imposed under this part will result in the original period of suspension or revocation being increased by 2 years. In addition, administrative action may be initiated based on the commission of any traffic, criminal, or military offenses, for example, active duty military personnel driving on the installation in violation of a lawful order.

(b) For each subsequent determination within a 5-year period that revocation is authorized under § 634.9, military personnel, DOD civilians, contractors and NAF employees will be prohibited from obtaining or using an OF 346 for 6 months for each such incident. A determination whether DOD civilian personnel should be prohibited from obtaining or using an OF 346 will be made in accordance with the laws and regulations applicable to civilian personnel. This does not preclude a commander from imposing such prohibition for a first offense, or for a longer period of time for a first or subsequent offense, or for such other reasons as may be authorized.

(c) Commanders may extend a suspension or revocation of driving privileges on personnel until completion of an approved remedial driver training course or alcohol or drug counseling programs after proof is provided.

(d) Commanders may extend a suspension or revocation of driving privileges on civilian personnel convicted of intoxicated driving on the installation until successful completion of a state or installation approved alcohol or drug rehabilitation program.

(e) For Navy personnel for good cause, the appropriate authority may

withdraw the restricted driving privilege and continue the suspension or revocation period (for example, driver at fault in the traffic accident, or driver cited for a moving violation).

§ 634.18 Reinstatement of driving privileges.

Reinstatement of driving privileges shall be automatic, provided all revocations applicable have expired, proper proof of completion of remedial driving course and/or substance abuse counseling has been provided, and reinstatement requirements of individual's home state and/or state the individual may have been suspended in, have been met.

Subpart C—Motor Vehicle Registration

§ 634.19 Registration policy.

(a) Motor vehicles will be registered according to guidance in this part and in policies of each Service and DLA. A person who lives or works on an Army, DLA, Air Force, Navy, or Marine Corps installation, or Army National Guard of the U.S. (ARNGUS) facility, or often uses the facilities is required to register his or her vehicle. Also, individuals who access the installation for regular activities such as use of medical facilities and regular recurring activities on the installation should register their vehicles according to a standard operating procedure established by the installation commander. The person need not own the vehicle to register it, but must have a lease agreement, power of attorney, or notarized statement from the owner of the vehicle specifying the inclusive dates for which permission to use the vehicle has been granted.

(b) Vehicles intended for construction and material handling, or used solely off the road, are usually not registered as motor vehicles. Installation commanders may require registration of off-road vehicles and bicycles under a separate local system.

(c) Commanders can grant limited temporary registration for up to 30 days, pending permanent registration, or in other circumstances for longer terms.

(d) Except for reasons of security, all installations and activities of the Services and DLA within the United States and its territories with a vehicle registration system will use and honor the DD Form 2220, (Department of Defense Registration Decal). Registration in overseas commands may be modified in accordance with international agreements or military necessity.

(e) Army Installation commanders will establish local visitor identification for individuals who will be on installation for less than 30 days. The local policy will provide for use of temporary passes that establish a start and end date for which the pass is valid. Army installation commanders must refer to AR 190-16 Chapter 2 for guidance concerning installation access control. (Air Force, see AFI 31-204). Other Armed Services and DLA may develop and issue visitor passes locally.

(f) The conditions in § 634.20 must be met to operate a POV on an Army and DLA Installation. Other Armed Services that do not require registration will enforce § 634.20 through traffic enforcement actions. Additionally, failure to comply with § 634.20 may result in administrative suspension or revocation of driving privileges.

§ 634.20 Privately owned vehicle operation requirements.

Personnel seeking to register their POVs on military installations within the United States or its territories and in overseas areas will comply with the following requirements. (Registration in overseas commands may be modified in accordance with international agreements or military necessity.)

(a) Possess a valid state, overseas command, host nation or international drivers license (within appropriate classification), supported by DD Form 2, or other appropriate identification for DOD civilians, contractors and retirees. DA Form 1602, Civilian Identification Card, is limited for identification on Army installations only.

(b) Possess a certificate of state registration as required by the state in which the vehicle is registered.

(c) Comply with the minimum requirements of the automobile insurance laws or regulations of the state or host nation. In overseas commands

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where host nation laws do not require minimum personal injury and property damage liability insurance, the major overseas commander will set reasonable liability insurance requirements for registration and/or operation of POVs within the confines of military installations and areas where the commander exercises jurisdiction. Prior to implementation, insurance requirements in host states or nations should be formally coordinated with the appropriate host agency.

(d) Satisfactorily complete a safety and mechanical vehicle inspection by the state or jurisdiction in which the vehicle is licensed. If neither state nor local jurisdiction requires a periodic safety inspection, installation commanders may require and conduct an annual POV safety inspection; however, inspection facilities must be reasonably accessible to those requiring use. Inspections will meet minimum standards established by the National Highway Traffic Safety Administration (NHTSA) in 49 CFR 570.1 through 570.10. Lights, turn signals, brake lights, horn, wipers, and pollution control devices and standards in areas where applicable, should be included in the inspection. Vehicles modified from factory standards and determined unsafe may be denied access and registration.

(e) Possess current proof of compliance with local vehicle emission inspection if required by the state, and maintenance requirements.

(f) Vehicles with elevated front or rear ends that have been modified in a mechanically unsafe manner are unsafe and will be denied registration. 49 CFR 570.8 states that springs shall not be extended above the vehicle manufacturer's design height.

§ 634.21 Department of Defense Form 2220.

(a) *Use.* DD Form 2220 will be used to identify registered POVs on Army, Navy, Air Force, Marine Corps, and DLA installations or facilities. The form is produced in single copy for conspicuous placement on the front of the vehicle only (windshield or bumper). If allowed by state laws, the decal is placed in the center by the rear view mirror or the lower portion of the driver's side windshield. The requirement

to affix the DD Form 2220 to the front windshield or bumper of registered vehicles is waived for General Officers and Flag Officers of all Armed Services, Armed Service Secretaries, Political Appointees, Members of Congress, and the Diplomatic Corps.

(1) Each Service and DLA will procure its own forms and installation and expiration tabs. For the Army, the basic decal will be ordered through publications channels and remain on the vehicle until the registered owner disposes of the vehicle, separates from active duty or other conditions specified in paragraph (a)(2) of this section. Air Force, DLA, and Army retirees may retain DD Form 2220. Army retirees are required to follow the same registration and VRS procedures as active duty personnel. Upon termination of affiliation with the service, the registered owner or authorized operator is responsible for removing the DD Form 2220 from the vehicle and surrender of the decal to the issuing office. Army installation commanders are responsible for the costs of procuring decals with the name of their installation and related expiration tabs. Air Force installations will use the installation tag (4" by 1/2") to identify the Air Force Installation where the vehicle is registered. Air Force personnel may retain the DD Form 2220 upon reassignment, retirement, or separation provided the individual is still eligible for continued registration, the registration is updated in SFMIS, and the installation tab is changed accordingly. Position the decal directly under the DD Form 2220.

(2) For other Armed Services and DLA, DD Form 2220 and installation and expiration tabs will be removed from POV's by the owner prior to departure from their current installation, retirement, or separation from military or government affiliation, termination of ownership, registration, liability insurance, or other conditions further identified by local policy.

(b) *Specifications.* (1) DD Form 2220 and installation and expiration tabs will consist of international blue borders and printing on a white background. Printer information will include the following:

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(i) Form title (Department of Defense Registered Vehicle).

(ii) Alphanumeric individual form identification number.

(iii) DOD seal.

(2) Name of the installation will be specified on a separate tab abutting the decal. Each Service or DLA may choose optional color codes for the registrant. Army and installations having vehicle registration programs will use the following standard color scheme for the installation tab:

(i) Blue-officers.

(ii) Red-enlisted.

(iii) Green DA civilian employees (including NAF employees).

(iv) Black-contractor personnel and other civilians employed on the installation. White will be used for contract personnel on Air Force installations.

(3) An expiration tab identifying the month and year (6-2004), the year (2000) or simply "00" will be abutted to right of the decal. For identification purposes, the date of expiration will be shown in bold block numbers on a lighter contrasting background such as traffic yellow, lime, or orange.

(4) DD Form 2220 and any adjoining tabs will be theft resistant when applied to glass, metal, painted, or rubberized surfaces and manufactured so as to obliterate or self destruct when removal is attempted. Local policy guided by state or host nation laws will specify the exact placement of DD Form 2220.

(5) For Navy and Marine Corps military personnel the grade insignia will be affixed on placards, approximately 5 inches by 8 inches in size, and placed on the driver's side dashboard. Placards should be removed from view when the vehicle is not located on a military installation.

§ 634.22 Termination or denial of registration.

Installation commanders or their designated representatives will terminate POV registration or deny initial registration under the following conditions (decal and tabs will be removed from the vehicle when registration is terminated):

(a) The owner fails to comply with the registration requirements.

(b) The owner sells or disposes of the POV, is released from active duty, separated from the Service, or terminates civilian employment with a military Service or DOD agency. Army and Air Force personnel on a permanent change of station will retain the DD Form 2220 if the vehicle is moved to their new duty station.

(c) The owner is other than an active duty military or civilian employee and discontinues regular operations of the POV on the installation.

(d) The owner's state, overseas command, or host nation driver's license is suspended or revoked, or the installation driving privilege is revoked. Air Force does not require removal of the DD Form 2220 when driving privileges are suspended for an individual. When vehicle registration is terminated in conjunction with the revocation of installation driving privileges, the affected person must apply to re-register the POV after the revocation expires. Registration should not be terminated if other family members having installation driving privileges require use of the vehicle.

§ 634.23 Specified consent to impoundment.

Personnel registering POVs on DOD installations must consent to the impoundment policy. POV registration forms will contain or have appended to them a certificate with the following statement: "I am aware that (insert number and title of separate Service or DLA directive) and the installation traffic code provide for the removal and temporary impoundment of privately owned motor vehicles that are either parked illegally, or for unreasonable periods, interfering with military operations, creating a safety hazard, disabled by accident, left unattended in a restricted or control area, or abandoned. I agree to reimburse the United States for the cost of towing and storage should my motor vehicle(s), because of such circumstances, be removed and impounded."

Subpart D—Traffic Supervision**§ 634.24 Traffic planning and codes.**

(a) Safe and efficient movement of traffic on an installation requires traffic supervision. A traffic supervision program includes traffic circulation planning and control of motor vehicle traffic; publication and enforcement of traffic laws and regulations; and investigation of motor vehicle accidents.

(b) Installation commanders will develop traffic circulation plans that provide for the safest and most efficient use of primary and secondary roads. Circulation planning should be a major part of all long-range master planning at installations. The traffic circulation plan is developed by the installation law enforcement officer, engineer, safety officer, and other concerned staff agencies. Highway engineering representatives from adjacent civil communities must be consulted to ensure the installation plan is compatible with the current and future circulation plan of the community. The plan should include the following:

(1) Normal and peak load routing based on traffic control studies.

(2) Effective control of traffic using planned direction, including measures for special events and adverse road or weather conditions.

(3) Point control at congested locations by law enforcement personnel or designated traffic directors or wardens, including trained school-crossing guards.

(4) Use of traffic control signs and devices.

(5) Efficient use of available parking facilities.

(6) Efficient use of mass transportation.

(c) Traffic control studies will provide factual data on existing roads, traffic density and flow patterns, and points of congestion. The installation law enforcement officer and traffic engineer usually conduct coordinated traffic control studies to obtain the data. Accurate data will help determine major and minor routes, location of traffic control devices, and conditions requiring engineering or enforcement services.

(d) The (Military) Surface Deployment and Distribution Command

Transportation Engineering Agency (SDDCTEA) will help installation commanders solve complex highway traffic engineering problems. SDDCTEA traffic engineering services include—

(1) Traffic studies of limited areas and situations.

(2) Complete studies of traffic operations of entire installations. (This can include long-range planning for future development of installation roads, public highways, and related facilities.)

(3) Assistance in complying with established traffic engineering standards.

(e) Installation commanders should submit requests for traffic engineering services in accordance with applicable service or agency directives.

§ 634.25 Installation traffic codes.

(a) Installation or activity commanders will establish a traffic code for operation of motor vehicles on the installation. Commanders in overseas areas will establish a traffic code, under provisions of this part, to the extent military authority is empowered to regulate traffic on the installation under the applicable SOFA. Traffic codes will contain the rules of the road (parking violations, towing instructions, safety equipment, and other key provisions). These codes will, where possible, conform to the code of the State or host nation in which the installation is located. In addition, the development and publication of installation traffic codes will be based on the following:

(1) Highway Safety Program Standards (23 U.S.C. 402).

(2) Applicable portions of the Uniform Vehicle Code and Model Traffic Ordinance published by the National Committee on Uniform Traffic Laws and Ordinances.

(b) The installation traffic code will contain policy and procedures for the towing, searching, impounding, and inventorying of POVs. These provisions should be well publicized and contain the following:

(1) Specific violations and conditions under which the POV will be impounded and towed.

(2) Procedures to immediately notify the vehicle owner.

(3) Procedures for towing and storing impounded vehicles.

(4) Actions to dispose of the vehicle after lawful impoundment.

(5) Violators are responsible for all costs of towing, storage and impounding of vehicles for other than evidentiary reasons.

(c) Installation traffic codes will also contain the provisions discussed as follows: (Army users, see AR 385-55).

(1) *Motorcycles and mopeds.* For motorcycles and other self-propelled, open, two-wheel, three-wheel, and four-wheel vehicles powered by a motorcycle-type engine, the following traffic rules apply:

(i) Headlights will be on at all times when in operation.

(ii) A rear view mirror will be attached to each side of the handlebars.

(iii) Approved protective helmets, eye protection, hard-soled shoes, long trousers and brightly colored or reflective outer upper garment will be worn by operators and passengers when in operation.

(2) *Restraint systems.* (i) Restraint systems (seat belts) will be worn by all operators and passengers of U.S. Government vehicles on or off the installation.

(ii) Restraint systems will be worn by all civilian personnel (family members, guests, and visitors) driving or riding in a POV on the installation.

(iii) Restraint systems will be worn by all military service members and Reserve Component members on active Federal service driving or riding in a POV whether on or off the installation.

(iv) Infant/child restraint devices (car seats) will be required in POVs for children 4 years old or under and not exceeding 45 pounds in weight.

(v) Restraint systems are required only in vehicles manufactured after model year 1966.

(3) *Driver distractions.* Vehicle operators on a DoD Installation and operators of Government owned vehicles shall not use cell phones unless the vehicle is safely parked or unless they are using a hands-free device. The wearing of any other portable head-phones, earphones, or other listening devices (except for hand-free cellular phones) while operating a motor vehicle is prohibited. Use of those devices impairs driving and masks or prevents recognition of emergency signals,

alarms, announcements, the approach of vehicles, and human speech. DoD Component safety guidance should note the potential for driver distractions such as eating and drinking, operating radios, CD players, global positioning equipment, etc. Whenever possible this should only be done when the vehicle is safely parked.

(d) Only administrative actions (reprimand, assessment of points, loss of on-post driving privileges, or other actions) will be initiated against service members for off-post violations of the installation traffic code.

(e) In States where traffic law violations are State criminal offenses, such laws are made applicable under the provisions of 18 U.S.C. 13 to military installations having concurrent or exclusive Federal jurisdiction.

(f) In those States where violations of traffic law are not considered criminal offenses and cannot be assimilated under 18 U.S.C., DODD 5525.4, enclosure 1 expressly adopts the vehicular and pedestrian traffic laws of such States and makes these laws applicable to military installations having concurrent or exclusive Federal jurisdiction. It also delegates authority to installation commanders to establish additional vehicular and pedestrian traffic rules and regulations for their installations. Persons found guilty of violating the vehicular and pedestrian traffic laws made applicable on the installation under provisions of that directive are subject to a fine as determined by the local magistrate or imprisonment for not more than 30 days, or both, for each violation. In those States where traffic laws cannot be assimilated, an extract copy of this paragraph (f) and a copy of the delegation memorandum in DODD 5525.4, enclosure 1, will be posted in a prominent place accessible to persons assigned, living, or working on the installation.

(g) In those States where violations of traffic laws cannot be assimilated because the Federal Government's jurisdictional authority on the installation or parts of the installation is only proprietary, neither 18 U.S.C. 13 nor the delegation memorandum in DoDD

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5525.4, enclosure 1, will permit enforcement of the State's traffic laws in Federal courts. Law enforcement authorities on those military installations must rely on either administrative sanctions related to the installation driving privilege or enforcement of traffic laws by State law enforcement authorities.

§ 634.26 Traffic law enforcement principles.

(a) Traffic law enforcement should motivate drivers to operate vehicles safely within traffic laws and regulations and maintain an effective and efficient flow of traffic. Effective enforcement should emphasize voluntary compliance by drivers and can be achieved by the following actions:

(1) Publishing a realistic traffic code well known by all personnel.

(2) Adopting standard signs, markings, and signals in accordance with NHSPS and the Manual on Uniform Traffic Control Devices for Streets and Highways.

(3) Ensuring enforcement personnel establish courteous, personal contact with drivers and act promptly when driving behavior is improper or a defective vehicle is observed in operation.

(4) Maintaining an aggressive program to detect and apprehend persons who drive while privileges are suspended or revoked.

(5) Using sound discretion and judgment in deciding when to apprehend, issue citations, or warn the offender.

(b) Selective enforcement will be used when practical. Selective enforcement deters traffic violations and reduces accidents by the presence or suggested presence of law enforcement personnel at places where violations, congestion, or accidents frequently occur. Selective enforcement applies proper enforcement measures to traffic congestion and focuses on selected time periods, conditions, and violations that cause accidents. Law enforcement personnel use selective enforcement because that practice is the most effective use of resources.

(c) Enforcement activities against intoxicated driving will include—

(1) Detecting, apprehending, and testing persons suspected of driving under the influence of alcohol or drugs.

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(2) Training law enforcement personnel in special enforcement techniques.

(3) Enforcing blood-alcohol concentration standards. (See § 634.34).

(4) Denying installation driving privileges to persons whose use of alcohol or other drugs prevents safe operation of a motor vehicle.

(d) Installation officials will formally evaluate traffic enforcement on a regular basis. That evaluation will examine procedures to determine if the following elements of the program are effective in reducing traffic accidents and deaths:

(1) Selective enforcement measures;

(2) Suspension and revocation actions; and

(3) Chemical breath-testing programs.

§ 634.27 Speed-measuring devices.

Speed-measuring devices will be used in traffic control studies and enforcement programs. Signs may be posted to indicate speed-measuring devices are being used.

(a) *Equipment purchases.* Installations will ensure operators attend an appropriate training program for the equipment in use.

(b) *Training and certification standards.* (1) The commander of each installation using traffic radar will ensure that personnel selected as operators of such devices meet training and certification requirements prescribed by the State (or SOFA) in which the installation is located. Specific information on course dates, costs, and prerequisites for attending may be obtained by contacting the State agency responsible for police traffic radar training.

(2) Installation commanders located in States or overseas areas where no formal training program exists, or where the military personnel are unable or ineligible to participate in police traffic radar training programs, may implement their own training program or use a selected civilian institution or manufacturer's course.

(3) The objective of the civilian or manufacturer-sponsored course is to improve the effectiveness of speed enforcement through the proper and efficient use of speed-measurement radar.

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On successful completion, the course graduate must be able to—

(i) Describe the association between excessive speed and accidents, deaths, and injuries, and describe the traffic safety benefits of effective speed control.

(ii) Describe the basic principles of radar speed measurement.

(iii) Identify and describe the Service's policy and procedures affecting radar speed measurement and speed enforcement.

(iv) Identify the specific radar instrument used and describe the instrument's major components and functions.

(v) Demonstrate basic skills in checking calibration and operating the specific radar instrument(s).

(vi) Demonstrate basic skills in preparing and presenting records and courtroom testimony relating to radar speed measurement and enforcement.

(c) *Recertification.* Recertification of operators will occur every 3 years, or as prescribed by State law.

§ 634.28 Traffic accident investigation.

Installation law enforcement personnel must make detailed investigations of accidents described in this section:

(a) Accidents involving Government vehicles or Government property on the installation involving a fatality, personal injury, or estimated property damage in the amount established by separate Service/DLA policy. (Minimum damage limits are: Army, \$1,000; Air Force, as specified by the installation commander; Navy and Marine Corps, \$500.) The installation motor pool will provide current estimates of the cost of repairs. Investigations of off-installation accidents involving Government vehicles will be made in cooperation with the civilian law enforcement agency.

(b) POV accidents on the installation involving a fatality, personal injury, or when a POV is inoperable as a result of an accident.

(c) Any accident prescribed within a SOFA agreement.

§ 634.29 Traffic accident investigation reports.

(a) *Accidents requiring immediate reports.* The driver or owner of any vehicle involved in an accident, as described in § 634.28, on the installation, must immediately notify the installation law enforcement office. The operator of any Government vehicle involved in a similar accident off the installation must immediately notify the local civilian law enforcement agency having jurisdiction, as well as law enforcement personnel of the nearest military installation.

(b) *Investigation records.* Installation law enforcement officials will record traffic accident investigations on Service/DLA forms. Information will be released according to Service/DLA policy, the Privacy Act, and the Freedom of Information Act.

(c) *Army law enforcement officers.* These officers provide the local Safety Office copies of traffic accident investigation reports pertaining to accidents investigated by military police that resulted in a fatality, personal injury, or estimated damage to Government vehicles or property in excess of \$1,000.

(d) *POV accidents not addressed in § 634.28.* Guidance for reporting these cases is provided as follows:

(1) Drivers or owners of POVs will be required to submit a written report to the installation law enforcement office within 24 hours of an accident in the following cases, with all information listed in paragraph (d)(3) of this section:

(i) The accident occurs on the installation.

(ii) The accident involves no personal injury.

(iii) The accident involves only minor damage to the POV and the vehicle can be safely and normally driven from the scene under its own power.

(2) Information in the written report cannot be used in criminal proceedings against the person submitting it unless it was originally categorized a hit and run and the violator is the person submitting the report. Rights advisement will be given prior to any criminal traffic statements provided by violators.

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Within the United States, the installation law enforcement official may require such reporting on Service forms or forms of the State jurisdiction.

(3) Reports required in paragraph (d) (1) of this section by the Army will include the following about the accident:

- (i) Location, date, and time.
- (ii) Identification of all drivers, pedestrians, and passengers involved.
- (iii) Identification of vehicles involved.
- (iv) Speed and direction of travel of each vehicle involved, including a sketch of the collision and roadway with street names and north arrow.
- (v) Property damage involved.
- (vi) Environmental conditions at the time of the incident (weather, visibility, road surface condition, and other factors).
- (vii) A narrative description of the events and circumstances concerning the accident.

§ 634.30 Use of traffic accident investigation report data.

(a) Data derived from traffic accident investigation reports and from vehicle owner accident reports will be analyzed to determine probable causes of accidents. When frequent accidents occur at a location, the conditions at the location and the types of accidents (collision diagram) will be examined.

(b) Law enforcement personnel and others who prepare traffic accident investigation reports will indicate whether or not seat restraint devices were being used at the time of the accident.

(c) When accidents warrant, an installation commander may establish a traffic accident review board. The board will consist of law enforcement, engineer, safety, medical, and legal personnel. The board will determine principal factors leading to the accident and recommend measures to reduce the number and severity of accidents on and off the installation. (The Air Force will use Traffic Safety Coordinating Groups. The Navy will use Traffic Safety Councils per OPNAVINST 5100.12 Series).

(d) Data will be shared with the installation legal, engineer, safety, and transportation officers. The data will be used to inform and educate drivers

and to conduct traffic engineering studies.

(e) Army traffic accident investigation reports will be provided to Army Centralized Accident Investigation of Ground Accidents (CAIG) boards on request. The CAIG boards are under the control of the Commander, U.S. Army Safety Center, Fort Rucker, AL 36362-5363. These boards investigate Class A, on-duty, non-POV accidents and other selected accidents Army-wide (See AR 385-40). Local commanders provide additional board members as required to complete a timely and accurate investigation. Normally, additional board members are senior equipment operators, maintenance officer, and medical officers. However, specific qualifications of the additional board members may be dictated by the nature of the accident.

(f) The CAIG program is not intended to interfere with, impede, or delay law enforcement agencies in the execution of regulatory responsibilities that apply to the investigation of accidents for a determination of criminal intent or criminal acts. Criminal investigations have priority.

(g) Army law enforcement agencies will maintain close liaison and cooperation with CAIG boards. Such cooperation, particularly with respect to interviews of victims and witnesses and in collection and preservation of physical evidence, should support both the CAIG and law enforcement collateral investigations.

§ 634.31 Parking.

(a) The most efficient use of existing on- and off-street parking space should be stressed on a nonreserved (first-come, first-served) basis.

(b) Reserved parking facilities should be designated as parking by permit or numerically by category of eligible parkers. Designation of parking spaces by name, grade, rank, or title should be avoided.

(c) Illegal parking contributes to congestion and slows traffic flow on an installation. Strong enforcement of parking restrictions results in better use of available parking facilities and eliminates conditions causing traffic accidents.

(d) The “Denver boot” device is authorized for use as a technique to assist in the enforcement of parking violations where immobilization of the POV is necessary for safety. Under no circumstances should the device be used to punish or “teach a lesson” to violators. Booting should not be used if other reasonably effective but less restrictive means of enforcement (such as warnings, ticketing, reprimands, revocations, or suspensions of on-post driving privileges) are available. Procedures for booting must be developed as follows:

(1) Local standing operating procedures (SOPs) must be developed to control the discretion of enforcers and limit booting to specific offenses. SOPs should focus on specific reasons for booting, such as immobilization of unsafe, uninspected, or unregistered vehicles or compelling the presence of repeat offenders. All parking violations must be clearly outlined in the installation traffic code.

(2) Drivers should be placed on notice that particular violations or multiple violations may result in booting. Also, drivers must be provided with a prompt hearing and an opportunity to obtain the release of their property.

(3) To limit liability, drivers must be warned when a boot is attached to their vehicle and instructed how to have the boot removed without damaging the vehicle.

§ 634.32 Traffic violation reports.

(a) Most traffic violations occurring on DOD installations (within the UNITED STATES or its territories) should be referred to the proper U.S. Magistrate. (Army, see AR 190-29; DLA, see DLAI 5720.4; and Air Force, see AFI 51-905). However, violations are not referred when—

(1) The operator is driving a Government vehicle at the time of the violation.

(2) A Federal Magistrate is either not available or lacks jurisdiction to hear the matter because the violation occurred in an area where the Federal Government has only proprietary legislative jurisdiction.

(3) Mission requirements make referral of offenders impractical.

(4) A U.S. Magistrate is available but the accused refuses to consent to the jurisdiction of the court and the U.S. Attorney refuses to process the case before a U.S. District Court. For the Navy, DUI and driving under the influence of drugs cases will be referred to the Federal Magistrate.

(b) Installation commanders will establish administrative procedures for processing traffic violations.

(1) All traffic violators on military installations will be issued either a DD Form 1408 (Armed Forces Traffic Ticket) or a DD Form 1805 (United States District Court Violation Notice), as appropriate. Unless specified otherwise by separate Service/DLA policy, only on-duty law enforcement personnel (including game wardens) designated by the installation law enforcement officer may issue these forms. Air Force individuals certified under the Parking Traffic Warden Program may issue DD Form 1408 in areas under their control.

(2) A copy of all reports on military personnel and DOD civilian employees apprehended for intoxicated driving will be forwarded to the installation alcohol and drug abuse facility.

(c) Installation commanders will establish procedures used for disposing of traffic violation cases through administrative or judicial action consistent with the Uniform Code of Military Justice (UCMJ) and Federal law.

(d) DD Form 1805 will be used to refer violations of State traffic laws made applicable to the installation (Assimilative Crimes Act (18 U.S.C. 13) and the delegation memorandum in DoDD 5525.4, enclosure 1, and other violations of Federal law) to the U.S. Magistrate. (Army users, see AR 190-29.)

(1) A copy of DD Form 1805 and any traffic violation reports on military personnel and DOD civilian employees will be forwarded to the commander or supervisor of the violator. DA form 3975 may be used to forward the report.

(2) Detailed instructions for properly completing DD Form 1805 are contained in separate Service policy directives.

(3) The assimilation of State traffic laws as Federal offenses should be identified by a specific State code reference in the CODE SECTION block of the DD

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Form 1805 (or in a complaint filed with the U.S. Magistrate).

(4) The Statement of Probable Cause on the DD Form 1805 will be used according to local staff judge advocate and U.S. Magistrate court policy. The Statement of Probable Cause is required by the Federal misdemeanor rules to support the issuance of a summons or arrest warrant.

(5) For cases referred to U.S. Magistrates, normal distribution of DD Form 1805 will be as follows:

(i) The installation law enforcement official will forward copy 1 (white) and copy 2 (yellow) to the U.S. District Court (Central Violation Bureau).

(ii) The installation law enforcement office will file copy 3 (pink).

(iii) Law enforcement personnel will provide copy 4 (envelope) to the violator.

(e) When DD Form 1408 is used, one copy (including written warnings) will be forwarded through command channels to the service member's commander, to the commander of the military family member's sponsor, or to the civilian's supervisor or employer as the installation commander may establish.

(1) Previous traffic violations committed by the offender and points assessed may be shown.

(2) For violations that require a report of action taken, the DD Form 1408 will be returned to the office of record through the reviewing authority as the installation commander may establish.

(3) When the report is received by the office of record, that office will enter the action on the violator's driving record.

§ 634.33 Training of law enforcement personnel.

(a) As a minimum, installation law enforcement personnel will be trained to do the following:

(1) Recognize signs of alcohol and other drug impairment in persons operating motor vehicles.

(2) Prepare DD Form 1920 (Alcohol Influence Report).

(3) Perform the three field tests of the improved sobriety testing techniques (§ 634.36 (b)).

(4) Determine when a person appears intoxicated but is actually physically

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or mentally ill and requires prompt medical attention.

(5) Understand the operation of breath-testing devices.

(b) Each installation using breath-testing devices will ensure that operators of these devices—

(1) Are chosen for integrity, maturity, and sound judgment.

(2) Meet certification requirements of the State where the installation is located.

(c) Installations located in States or overseas areas having a formal breath-testing and certification program should ensure operators attend that training.

(d) Installations located in States or overseas areas with no formal training program will train personnel at courses offered by selected civilian institutions or manufacturers of the equipment.

(e) Operators must maintain proficiency through refresher training every 18 months or as required by the State.

§ 634.34 Blood alcohol concentration standards.

(a) Administrative revocation of driving privileges and other enforcement measures will be applied uniformly to offenders driving under the influence of alcohol or drugs. When a person is tested under the implied consent provisions of § 634.8, the results of the test will be evaluated as follows:

(1) If the percentage of alcohol in the person's blood is less than 0.05 percent, presume the person is not under the influence of alcohol.

(2) If the percentage is 0.05 but less than 0.08, presume the person may be impaired. This standard may be considered with other competent evidence in determining whether the person was under the influence of alcohol.

(3) If the percentage is 0.08 or more, or if tests reflect the presence of illegal drugs, the person was driving while intoxicated.

(b) Percentages in paragraph (a) of this section are percent of weight by volume of alcohol in the blood based on grams of alcohol per 100 milliliters of blood. These presumptions will be considered with other evidence in determining intoxication.

§ 634.35 Chemical testing policies and procedures.

(a) *Validity of chemical testing.* Results of chemical testing are valid under this part only under the following circumstances:

(1) Blood, urine, or other bodily substances are tested using generally accepted scientific and medical methods and standards.

(2) Breath tests are administered by qualified personnel (§ 634.33).

(3) An evidential breath-testing device approved by the State or host nation is used. For Army, Air Force, and Marine Corps, the device must also be listed on the NHTSA conforming products list published in the “Conforming Products List for instruments that conform to the Model Specification for Evidential Breath Testing Devices (58 FR 48705), and amendments.”

(4) Procedures established by the State or host nation or as prescribed in paragraph (b) of this section are followed.

(b) *Breath-testing device operational procedures.* If the State or host nation has not established procedures for use of breath-testing devices, the following procedures will apply:

(1) Screening breath-testing devices will be used—

(i) During the initial traffic stop as a field sobriety testing technique, along with other field sobriety testing techniques, to determine if further testing is needed on an evidential breath-testing device.

(ii) According to manufacture operating instructions. (For Army, Air Force and Marine Corps, the screening breath-testing device must also be listed on the NHTSA conforming products list published in the “Model Specifications for Evidential Breath Testers” (September 17, 1993, 58 FR 48705).

(2) Evidential breath-testing devices will be used as follows:

(i) Observe the person to be tested for at least 15 minutes before collecting the breath specimen. During this time, the person must not drink alcoholic beverages or other fluids, eat, smoke, chew tobacco, or ingest any substance.

(ii) Verify calibration and proper operation of the instrument by using a control sample immediately before the test.

(iii) Comply with operational procedures in the manufacturer’s current instruction manual.

(iv) Perform preventive maintenance as required by the instruction manual.

(c) *Chemical tests of personnel involved in fatal accidents.* (1) Installation medical authorities will immediately notify the installation law enforcement officer of—

(i) The death of any person involved in a motor vehicle accident.

(ii) The circumstances surrounding such an accident, based on information available at the time of admission or receipt of the body of the victim.

(2) Medical authorities will examine the bodies of those persons killed in a motor vehicle accident to include drivers, passengers, and pedestrians subject to military jurisdiction. They will also examine the bodies of dependents, who are 16 years of age or older, if the sponsors give their consent. Tests for the presence and concentration of alcohol or other drugs in the person’s blood, bodily fluids, or tissues will be made as soon as possible and where practical within 8 hours of death. The test results will be included in the medical reports.

(3) As provided by law and medical conditions permitting, a blood or breath sample will be obtained from any surviving operator whose vehicle is involved in a fatal accident.

§ 634.36 Detection, apprehension, and testing of intoxicated drivers.

(a) Law enforcement personnel usually detect drivers under the influence of alcohol or other drugs by observing unusual or abnormal driving behavior. Drivers showing such behavior will be stopped immediately. The cause of the unusual driving behavior will be determined, and proper enforcement action will be taken.

(b) When a law enforcement officer reasonably concludes that the individual driving or in control of the vehicle is impaired, field sobriety tests should be conducted on the individual. The DD Form 1920 may be used by law enforcement agencies in examining, interpreting, and recording results of such tests. Law enforcement personnel should use a standard field sobriety test (such as one-leg stand or walk and

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turn) horizontal gaze nystagmus tests as sanctioned by the National Highway Traffic and Safety Administration, and screening breath-testing devices to conduct field sobriety tests.

§ 634.37 Voluntary breath and bodily fluid testing based on implied consent.

(a) Implied consent policy is explained in § 634.8.

(b) Tests may be administered only if the following conditions are met:

(1) The person was lawfully stopped while driving, operating, or in actual physical control of a motor vehicle on the installation.

(2) Reasonable suspicion exists to believe that the person was driving under the influence of alcohol or drugs.

(3) A request was made to the person to consent to the tests combined with a warning that failure to voluntarily submit to or complete a chemical test of bodily fluids or breath will result in the revocation of driving privileges.

(c) As stated in paragraphs (a) and (b) of this section, the law enforcement official relying on implied consent will warn the person that driving privileges will be revoked if the person fails to voluntarily submit to or complete a requested chemical test. The person does not have the right to have an attorney present before stating whether he or she will submit to a test, or during the actual test. Installation commanders will prescribe the type or types of chemical tests to be used. Testing will follow policies and procedures in § 634.35. The results of chemical tests conducted under the implied consent provisions of this part may be used as evidence in courts-martial, nonjudicial proceedings under Article 15 of the UCMJ, administrative actions, and civilian courts.

(d) Special rules exist for persons who have hemophilia, other blood-clotting disorders, or any medical or surgical disorder being treated with an anticoagulant. These persons—

(1) May refuse a blood extraction test without penalty.

(2) Will not be administered a blood extraction test to determine alcohol or other drug concentration or presence under this part.

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(3) May be given breath or urine tests, or both.

(e) If a person suspected of intoxicated driving refuses to submit to a chemical test, a test will not be administered except as specified in § 634.38.

§ 634.38 Involuntary extraction of bodily fluids in traffic cases.

(a) *General.* The procedures outlined in this section pertain only to the investigation of individuals stopped, apprehended, or cited on a military installation for any offense related to driving a motor vehicle and for whom probable cause exists to believe that such individual is intoxicated. Extractions of body fluids in furtherance of other kinds of investigations are governed by the Manual for Courts-Martial, United States, Military Rule of Evidence 315 (2002) (MRE 315), and regulatory rules concerning requesting and granting authorizations for searches.

(1) Air Force policy on nonconsensual extraction of blood samples is addressed in AFI 44–102.

(2) Army and Marine Corps personnel should not undertake the nonconsensual extraction of body fluids for reasons other than a valid medical purpose without first obtaining the advice and concurrence of the installation staff judge advocate or his or her designee.

(3) DLA policy on nonconsensual taking of blood samples is contained in DLAR 5700.7.

(b) *Rule.* Involuntary bodily fluid extraction must be based on valid search and seizure authorization. An individual subject to the UCMJ who does not consent to chemical testing, as described in § 634.37, may nonetheless be subjected to an involuntary extraction of bodily fluids, including blood and urine, only in accordance with the following procedures:

(1) An individual subject to the UCMJ who was driving a motor vehicle and suspected of being under the influence of an intoxicant may be subjected to a nonconsensual bodily fluid extraction to test for the presence of intoxicants only when there is a probable cause to believe that such an individual was driving or in control of a vehicle while under the influence of an intoxicant.

(i) A search authorization by an appropriate commander or military magistrate obtained pursuant to MRE 315, is required prior to such nonconsensual extraction.

(ii) A search authorization is not required under such circumstances when there is a clear indication that evidence of intoxication will be found and there is reason to believe that the delay necessary to obtain a search authorization would result in the loss or destruction of the evidence sought.

(iii) Because warrantless searches are subject to close scrutiny by the courts, obtaining an authorization is highly preferable. Warrantless searches generally should be conducted only after coordination with the servicing staff judge advocate or legal officer, and attempts to obtain authorization from an appropriate official prove unsuccessful due to the unavailability of a commander or military magistrate.

(2) If authorization from the military magistrate or commander proves unsuccessful due to the unavailability of such officials, the commander of a medical facility is empowered by MRE 315, to authorize such extraction from an individual located in the facility at the time the authorization is sought.

(i) Before authorizing the involuntary extraction, the commander of the medical facility should, if circumstances permit, coordinate with the servicing staff judge advocate or legal officer.

(ii) The medical facility commander authorizing the extraction under MRE 315 need not be on duty as the attending physician at the facility where the extraction is to be performed and the actual extraction may be accomplished by other qualified medical personnel.

(iii) The authorizing official may consider his or her own observations of the individual in determining probable cause.

(c) *Role of medical personnel.* Authorization for the nonconsensual extraction of blood samples for evidentiary purposes by qualified medical personnel is independent of, and not limited by, provisions defining medical care, such as the provision for nonconsensual medical care pursuant to AR 600-20, section IV. Extraction of

blood will be accomplished by qualified medical personnel. (See MRE 312(g)).

(1) In performing this duty, medical personnel are expected to use only that amount of force that is reasonable and necessary to administer the extraction.

(2) Any force necessary to overcome an individual's resistance to the extraction normally will be provided by law enforcement personnel or by personnel acting under orders from the member's unit commander.

(3) Life endangering force will not be used in an attempt to effect nonconsensual extractions.

(4) All law enforcement and medical personnel will keep in mind the possibility that the individual may require medical attention for possible disease or injury.

(d) Nonconsensual extractions of blood will be done in a manner that will not interfere with or delay proper medical attention. Medical personnel will determine the priority to be given involuntary blood extractions when other medical treatment is required.

(e) Use of Army medical treatment facilities and personnel for blood alcohol testing has no relevance to whether or not the suspect is eligible for military medical treatment. The medical effort in such instances is in support of a valid military mission (law enforcement), not related to providing medical treatment to an individual.

§ 634.39 Testing at the request of the apprehended person.

(a) A person subject to tests under § 634.8 may request that an additional test be done privately. The person may choose a doctor, qualified technician, chemist, registered nurse, or other qualified person to do the test. The person must pay the cost of the test. The test must be a chemical test approved by the State or host nation in an overseas command. All tests will be completed as soon as possible, with any delay being noted on the results.

(b) If the person requests this test, the suspect is responsible for making all arrangements. If the suspect fails to or cannot obtain any additional test, the results of the tests that were done at the direction of a law enforcement official are not invalid and may still be used to support actions under separate

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Service regulations, UCMJ, and the U.S. Magistrate Court.

§ 634.40 General off installation traffic activities.

In areas not under military control, civil authorities enforce traffic laws. Law enforcement authorities will establish a system to exchange information with civil authorities. Army and Air Force installation law enforcement authorities will establish a system to exchange information with civil authorities to enhance the chain of command's visibility of a soldier's and airman's off post traffic violations. These agreements will provide for the assessment of traffic points based on reports from state licensing authorities involving Army military personnel. The provisions of subpart E of this part and the VRS automated system provide for the collection of off post traffic incident reports and data. As provided in AR 190-45, civilian law enforcement agencies are considered routine users of Army law enforcement data and will be granted access to data when available from Army law enforcement systems of records. Off-installation traffic activities in overseas areas are governed by formal agreements with the host nation government. Procedures should be established to process reports received from civil authorities on serious traffic violations, accidents, and intoxicated driving incidents involving persons subject to this part. The exchange of information is limited to Army and Air Force military personnel. Provost marshals will not collect and use data concerning civilian employees, family members, and contract personnel except as allowed by state and Federal laws.

§ 634.41 Compliance with State laws.

(a) Installation commanders will inform service members, contractors and DOD civilian employees to comply with State and local traffic laws when operating government motor vehicles.

(b) Commanders will coordinate with the proper civil law enforcement agency before moving Government vehicles that exceed legal limits or regulations or that may subject highway users to unusual hazards. (See AR 55-162/

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OPNAVINST 4600.11D/AFJI 24-216/MCO 4643.5C).

(c) Installation commanders will maintain liaison with civil enforcement agencies and encourage the following:

(1) Release of a Government vehicle operator to military authorities unless one of the following conditions exists.

(i) The offense warrants detention.

(ii) The person's condition is such that further operation of a motor vehicle could result in injury to the person or others.

(2) Prompt notice to military authorities when military personnel or drivers of Government motor vehicles have—

(i) Committed serious violations of civil traffic laws.

(ii) Been involved in traffic accidents.

(3) Prompt notice of actions by a State or host nation to suspend, revoke, or restrict the State or host nation driver's license (vehicle operation privilege) of persons who—

(i) Operate Government motor vehicles.

(ii) Regularly operate a POV on the installation. (See also § 634.16).

§ 634.42 Civil-military cooperative programs.

(a) *State-Armed Forces Traffic Workshop Program*. This program is an organized effort to coordinate military and civil traffic safety activities throughout a State or area. Installation commanders will cooperate with State and local officials in this program and provide proper support and participation.

(b) *Community-Installation Traffic Workshop Program*. Installation commanders should establish a local workshop program to coordinate the installation traffic efforts with those of local communities. Sound and practical traffic planning depends on a balanced program of traffic enforcement, engineering, and education. Civilian and military legal and law enforcement officers, traffic engineers, safety officials, and public affairs officers should take part.

Subpart E—Driving Records and the Traffic Point System

§ 634.43 Driving records.

Each Service and DLA will use its own form to record vehicle traffic accidents, moving violations, suspension or revocation actions, and traffic point assessments involving military and DOD civilian personnel, their family members, and other personnel operating motor vehicles on a military installation. Army installations will use DA Form 3626 (Vehicle Registration/Driver Record) for this purpose. Table 5-1 of Part 634 prescribes mandatory minimum or maximum suspension or revocation periods. Traffic points are not assessed for suspension or revocation actions.

TABLE 5-1 OF PART 634 SUSPENSION/REVOCA-TION OF DRIVING PRIVILEGES (SEE NOTES 1 AND 2)

Assessment 1: Two-year revocation is mandatory on determination of facts by installation commander. (For Army, 5-year revocation is mandatory.)

Violation: Driving while driver's license or installation driving privileges are under suspension or revocation.

Assessment 2: One-year revocation is mandatory on determination of facts by installation commander.

Violation: Refusal to submit to or failure to complete chemical tests (implied consent).

Assessment 3: One-year revocation is mandatory on conviction.

Violation: A. Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle.

B. Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor (0.08% or greater on DOD installations; violation of civil law off post).

C. Driving a motor vehicle while under the influence of any narcotic, or while under the influence of any other drug (including alcohol) to the degree rendered incapable of safe vehicle operation.

D. Use of a motor vehicle in the commission of a felony. Fleeing the scene of an accident involving death or personal injury (hit and run).

E. Perjury or making a false statement or affidavit under oath to responsible officials relating to the ownership or operation of motor vehicles.

F. Unauthorized use of a motor vehicle belonging to another, when the act does not amount to a felony.

Assessment 4: Suspension for a period of 6 months or less or revocation for a period not to exceed 1 year is discretionary.

Violation: A. Mental or physical impairment (not including alcohol or other drug use) to the degree rendered incompetent to drive.

B. Commission of an offense in another State which, if committed on the installation, would be grounds for suspension or revocation.

C. Permitting an unlawful or fraudulent use of an official driver's license.

D. Conviction of fleeing, or attempting to elude, a police officer.

E. Conviction of racing on the highway.

Assessment 5: Loss of OF 46 for minimum of 6 months is discretionary.

Violation: Receiving a second 1-year suspension or revocation of driving privileges within 5 years.

NOTES

1. When imposing a suspension or revocation because of an off-installation offense, the effective date should be the same as the date of civil conviction, or the date that State or host-nation driving privileges are suspended or revoked. This effective date can be retroactive.

2. No points are assessed for revocation or suspension actions. Except for implied consent violations, revocations must be based on a conviction by a civilian court or court-martial, nonjudicial punishment under Article 15, UCMJ, or a separate hearing as addressed in this part. If revocation for implied consent is combined with another revocation, such as 1 year for intoxicated driving, revocations may run consecutively (total of 24 months) or concurrently (total of 12 months). The installation commander's policy should be applied systematically and not on a case-by-case basis.

§ 634.44 The traffic point system.

The traffic point system provides a uniform administrative device to impartially judge driving performance of Service and DLA personnel. This system is not a disciplinary measure or a substitute for punitive action. Further, this system is not intended to interfere in any way with the reasonable exercise of an installation commander's prerogative to issue, suspend, revoke, deny, or reinstate installation driving privileges.

§ 634.45 Point system application.

(a) The Services and DLA are required to use the point system and procedures prescribed in this section without change.

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(b) The point system in table 5-2 of this part applies to all operators of U.S. Government motor vehicles, on or off Federal property. The system also applies to violators reported to installation officials in accordance with § 634.32.

(c) Points will be assessed when the person is found to have committed a violation and the finding is by either the unit commander, civilian supervisor, a military or civilian court (including a U.S. Magistrate), or by payment of fine, forfeiture of pay or allowances, or posted bond, or collateral.

TABLE 5-2 OF PART 634 POINT ASSESSMENT FOR MOVING TRAFFIC VIOLATIONS (SEE NOTE 1)

- A. Violation: Reckless driving (willful and wanton disregard for the safety of persons or property).
Points assessed: 6
- B. Violation: Owner knowingly and willfully permitting a physically impaired person to operate the owner's motor vehicle.
Points assessed: 6
- C. Violation: Fleeing the scene (hit and run)-property damage only.
Points assessed: 6
- D. Violation: Driving vehicle while impaired (blood-alcohol content more than 0.05 percent and less than 0.08 percent).
Points assessed: 6
- E. Violation: Speed contests.
Points assessed: 6
- F. Violation: Speed too fast for conditions.
Points assessed: 2
- G. Violation: Speed too slow for traffic conditions, and/or impeding the flow of traffic, causing potential safety hazard.
Points assessed: 2
- H. Violation: Failure of operator or occupants to use available restraint system devices while moving (operator assessed points).
Points assessed: 2
- I. Violation: Failure to properly restrain children in a child restraint system while moving (when child is 4 years of age or younger or the weight of child does not exceed 45 pounds).
Points assessed: 2
- J. Violation: One to 10 miles per hour over posted speed limit.
Points assessed: 3
- K. Violation: Over 10 but not more than 15 miles per hour above posted speed limit.
Points assessed: 4
- L. Violation: Over 15 but not more than 20 miles per hour above posted speed limit.
Points assessed: 5
- M. Violation: Over 20 miles per hour above posted speed limit.
Points assessed: 6

- N. Violation: Following too close.
Points assessed: 4
- O. Violation: Failure to yield right of way to emergency vehicle.
Points assessed: 4
- P. Violation: Failure to stop for school bus or school-crossing signals.
Points assessed: 4
- Q. Violation: Failure to obey traffic signals or traffic instructions of an enforcement officer or traffic warden; or any official regulatory traffic sign or device requiring a full stop or yield of right of way; denying entry; or requiring direction of traffic.
Points assessed: 4
- R. Violation: Improper passing.
Points assessed: 4
- S. Violation: Failure to yield (no official sign involved).
Points assessed: 4
- T. Violation: Improper turning movements (no official sign involved).
Points assessed: 3
- U. Violation: Wearing of headphones/earphones while driving motor vehicles (two or more wheels).
Points assessed: 3
- V. Violation: Failure to wear an approved helmet and/or reflectorized vest while operating or riding on a motorcycle, MOPED, or a three or four-wheel vehicle powered by a motorcycle-like engine.
Points assessed: 3
- W. Violation: Improper overtaking.
Points assessed: 3
- X. Violation: Other moving violations (involving driver behavior only).
Points assessed: 3
- Y. Violation: Operating an unsafe vehicle. (See Note 2).
Points assessed: 2
- Z. Violation: Driver involved in accident is deemed responsible (only added to points assessed for specific offenses).
Points assessed: 1

NOTES

- 1. When two or more violations are committed on a single occasion, points may be assessed for each individual violation.
- 2. This measure should be used for other than minor vehicle safety defects or when a driver or registrant fails to correct a minor defect (for example, a burned out headlight not replaced within the grace period on a warning ticket).

§ 634.46 Point system procedures.

(a) Reports of moving traffic violations recorded on DD Form 1408 or DD Form 1805 will serve as a basis for determining point assessment. For DD Form 1408, return endorsements will be required from commanders or supervisors.

(b) On receipt of DD Form 1408 or other military law enforcement report of a moving violation, the unit commander, designated supervisor, or person otherwise designated by the installation commander will conduct an inquiry. The commander will take or recommend proper disciplinary or administrative action. If a case involves judicial or nonjudicial actions, the final report of action taken will not be forwarded until final adjudication.

(c) On receipt of the report of action taken (including action by a U.S. Magistrate Court on DD Form 1805), the installation law enforcement officer will assess the number of points appropriate for the offense, and record the traffic points or the suspension or revocation of driving privileges on the person's driving record. Except as specified otherwise in this part and other Service/DLA regulations, points will not be assessed or driving privileges suspended or revoked when the report of action taken indicates that neither disciplinary nor administrative action was taken.

(d) Installation commanders may require the following driver improvement measures as appropriate:

(1) Advisory letter through the unit commander or supervisor to any person who has acquired six traffic points within a 6-month period.

(2) Counseling or driver improvement interview, by the unit commander, of any person who has acquired more than six but less than 12 traffic points within a 6-month period. This counseling or interview should produce recommendations to improve driver performance.

(3) Referral for medical evaluation when a driver, based on reasonable belief, appears to have mental or physical limits that have had or may have an adverse affect on driving performance.

(4) Attendance at remedial driver training to improve driving performance.

(5) Referral to an alcohol or drug treatment or rehabilitation facility for evaluation, counseling, or treatment. This action is required for active military personnel in all cases in which alcohol or other drugs are a contributing factor to a traffic citation, incident, or accident.

(e) An individual's driving privileges may be suspended or revoked as provided by this part regardless of whether these improvement measures are accomplished.

(f) Persons whose driving privileges are suspended or revoked (for one violation or an accumulation of 12 traffic points within 12 consecutive months, or 18 traffic points within 24 consecutive months) will be notified in writing through official channels (§634.11). Except for the mandatory minimum or maximum suspension or revocation periods prescribed by table 5-1 of this part, the installation commander will establish periods of suspension or revocation. Any revocation based on traffic points must be no less than 6 months. A longer period may be imposed on the basis of a person's overall driving record considering the frequency, flagrancy, severity of moving violations, and the response to previous driver improvement measures. In all cases, military members must successfully complete a prescribed course in remedial driver training before driving privileges are reinstated.

(g) Points assessed against a person will remain in effect for point accumulation purposes for 24 consecutive months. The review of driver records to delete traffic points should be done routinely during records update while recording new offenses and forwarding records to new duty stations. Completion of a revocation based on points requires removal from the driver record of all points assessed before the revocation.

(h) Removal of points does not authorize removal of driving record entries for moving violations, chargeable accidents, suspensions, or revocations. Record entries will remain posted on individual driving records for the following periods of time.

(1) Chargeable nonfatal traffic accidents or moving violations—3 years.

(2) Nonmandatory suspensions or revocations—5 years.

(3) Mandatory revocations—7 years.

§ 634.47 Disposition of driving records.

Procedures will be established to ensure prompt notice to the installation law enforcement officer when a person

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assigned to or employed on the installation is being transferred to another installation, being released from military service, or ending employment.

(a) If persons being transferred to a new installation have valid points or other entries on the driving records, the law enforcement officer will forward the records to the law enforcement officer of the gaining installation. Gaining installation law enforcement officers must coordinate with applicable commanders and continue any existing suspension or revocation based on intoxicated driving or accumulation of traffic points. Traffic points for persons being transferred will continue to accumulate as specified in § 634.46 (g).

(b) Driving records of military personnel being discharged or released from active duty will be retained on file for 2 years and then destroyed. In cases of immediate reenlistment, change of officer component or military or civilian retirement when vehicle registration is continued, the record will remain active.

(c) Driving records of civilian personnel terminating employment will be retained on file for 2 years and then destroyed.

(d) Driving records of military family members containing point assessments or other entries will be forwarded to the sponsor's gaining installation in the same manner as for service members. At the new installation, records will be analyzed and made available temporarily to the sponsor's unit commander or supervisor for review.

(e) Driving records of retirees electing to retain installation driving privileges will be retained. Points accumulated or entries on the driver record regarding suspensions, revocations, moving violations, or chargeable accidents will not be deleted from driver records except per § 634.46 (g) and (h).

(f) Army users will comply with paragraphs (a) and (d) of this section by mailing the individual's DA Form 3626 to the gaining installation provost marshal.

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Subpart F—Impounding Privately Owned Vehicles

§ 634.48 General.

This subpart provides the standards and procedures for law enforcement personnel when towing, inventorying, searching, impounding, and disposing of POVs. This policy is based on:

(a) The interests of the Services and DLA in crime prevention, traffic safety, and the orderly flow of vehicle traffic movement.

(b) The vehicle owner's constitutional rights to due process, freedom from unreasonable search and seizure, and freedom from deprivation of private property.

§ 634.49 Standards for impoundment.

(a) POVs should not be impounded unless the vehicles clearly interfere with ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen or abandoned.

(b) The impoundment of a POV would be inappropriate when reasonable alternatives to impoundment exist.

(1) Attempts should be made to locate the owner of the POV and have the vehicle removed.

(2) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is found.

(3) Another responsible person may be allowed to drive or tow the POV with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that law enforcement personnel are not responsible for safeguarding the POV.

(c) Impounding of POVs is justified when any of the following conditions exist:

(1) The POV is illegally parked—

(i) On a street or bridge, in a tunnel, or is double parked, and interferes with the orderly flow of traffic.

(ii) On a sidewalk, within an intersection, on a cross-walk, on a railroad track, in a fire lane, or is blocking a driveway, so that the vehicle interferes

with operations or creates a safety hazard to other roadway users or the general public. An example would be a vehicle parked within 15 feet of a fire hydrant or blocking a properly marked driveway of a fire station or aircraft-alert crew facility.

(iii) When blocking an emergency exit door of any public place (installation theater, club, dining hall, hospital, and other facility).

(iv) In a "tow-away" zone that is so marked with proper signs.

(2) The POV interferes with—

(i) Street cleaning or snow removal operations and attempts to contact the owner have been unsuccessful.

(ii) Emergency operations during a natural disaster or fire or must be removed from the disaster area during cleanup operations.

(3) The POV has been used in a crime or contains evidence of criminal activity.

(4) The owner or person in charge has been apprehended and is unable or unwilling to arrange for custody or removal.

(5) The POV is mechanically defective and is a menace to others using the public roadways.

(6) The POV is disabled by a traffic incident and the operator is either unavailable or physically incapable of having the vehicle towed to a place of safety for storage or safekeeping.

(7) Law enforcement personnel reasonably believe the vehicle is abandoned.

§ 634.50 Towing and storage.

(a) Impounded POVs may be towed and stored by either the Services and DLA or a contracted wrecker service depending on availability of towing services and the local commander's preference.

(b) The installation commander will designate an enclosed area on the installation that can be secured by lock and key for an impound lot to be used by the military or civilian wrecker service. An approved impoundment area belonging to the contracted wrecker service may also be used provided the area assures adequate accountability and security of towed vehicles. One set of keys to the enclosed area will be maintained by the instal-

lation law enforcement officer or designated individual.

(c) Temporary impoundment and towing of POVs for violations of the installation traffic code or involvement in criminal activities will be accomplished under the direct supervision of law enforcement personnel.

§ 634.51 Procedures for impoundment.

(a) *Unattended POVs.* (1) DD Form 2504 (Abandoned Vehicle Notice) will be conspicuously placed on POVs considered unattended. This action will be documented by an entry in the installation law enforcement desk journal or blotter.

(2) The owner will be allowed 3 days from the date the POV is tagged to remove the vehicle before impoundment action is initiated. If the vehicle has not been removed after 3 days, it will be removed by the installation towing service or the contracted wrecker service. If a contracted wrecker service is used, a DD Form 2505 (Abandoned Vehicle Removal Authorization) will be completed and issued to the contractor by the installation law enforcement office.

(3) After the vehicle has been removed, the installation law enforcement officer or the contractor will complete DD Form 2506 (Vehicle Impoundment Report) as a record of the actions taken.

(i) An inventory listing personal property will be done to protect the owner, law enforcement personnel, the contractor, and the commander.

(ii) The contents of a closed container such as a suitcase inside the vehicle need not be inventoried. Such articles should be opened only if necessary to identify the owner of the vehicle or if the container might contain explosives or otherwise present a danger to the public. Merely listing the container and sealing it with security tape will suffice.

(iii) Personal property must be placed in a secure area for safekeeping.

(4) DD Form 2507 (Notice of Vehicle Impoundment) will be forwarded by certified mail to the address of the last known owner of the vehicle to advise the owner of the impoundment action, and request information concerning

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the owner's intentions pertaining to the disposition of the vehicle.

(b) *Stolen POVs or vehicles involved in criminal activity.* (1) When the POV is to be held for evidentiary purposes, the vehicle should remain in the custody of the applicable Service or DLA until law enforcement purposes are served.

(2) Recovered stolen POVs will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen, as appropriate.

(3) A POV held on request of other authorities will be retained in the custody of the applicable Service or DLA until the vehicle can be released to such authorities.

§ 634.52 Search incident to impoundment based on criminal activity.

Search of a POV in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(a) The owner or operator is not present. This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be obtained before searching.

(b) The owner or operator is present. This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the police or public or if there is risk of loss or destruction of evidence, an investigative type search of the vehicle may be conducted without search authority. (Air Force, see AFP 125-2).

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§ 634.53 Disposition of vehicles after impoundment.

(a) If a POV is impounded for evidentiary purposes, the vehicle can be held for as long as the evidentiary or law enforcement purpose exists. The vehicle must then be returned to the owner without delay unless directed otherwise by competent authority.

(b) If the vehicle is unclaimed after 120 days from the date notification was mailed to the last known owner or the owner released the vehicle by properly completing DD Form 2505, the vehicle will be disposed of by one of the following procedures:

(1) Release to the lienholder, if known.

(2) Processed as abandoned property in accordance with DOD 4160.21-M.

(i) Property may not be disposed of until diligent effort has been made to find the owner; or the heirs, next of kin, or legal representative of the owner.

(ii) The diligent effort to find one of those mentioned in paragraph (a) of this section shall begin not later than 7 days after the date on which the property comes into custody or control of the law enforcement agency.

(iii) The period for which this effort is continued may not exceed 45 days.

(iv) If the owner or those mentioned in § 634.52 are determined, but not found, the property may not be disposed of until the expiration of 45 days after the date when notice, giving the time and place of the intended sale or other disposition, has been sent by certified or registered mail to that person at his last known address.

(v) When diligent effort to determine those mentioned in paragraph (b)(2)(iv) of this section is unsuccessful, the property may be disposed of without delay, except that if it has a fair market value of more than \$500, the law enforcement official may not dispose of the property until 45 days after the date it is received at the storage point.

(c) All contracts for the disposal of abandoned vehicles must comply with 10 U.S.C. 2575.

Subpart G—List of State Driver's License Agencies

§ 634.54 List of State Driver's License Agencies.

Notification of State driver's license agencies. The installation commander will notify the State driver's license agency of those personnel whose installation driving privileges are revoked for 1 year or more, following final adjudication of the intoxicated driving offense or for refusing to submit to a lawful blood-alcohol content test in accordance with § 634.8. This notification will include the basis for the suspension and the blood alcohol level. The notification will be sent to the State in which the driver's license was issued. State driver's license agencies are listed as follows:

Alabama: Motor Vehicle Division, 2721 Gunter Park Drive, Montgomery, AL 36101, (205) 271-3250.

Alaska: Motor Vehicle Division, P.O. Box 100960, Anchorage, AK 99510, (907) 269-5572.

Arizona: Motor Vehicle Division, 1801 West Jefferson Street, Phoenix, AZ 85007, (602) 255-7295.

Arkansas: Motor Vehicle Division, Joel & Ledbetter Bldg., 7th and Wolfe Streets, Little Rock, AR 72203, (501) 371-1886.

California: Department of Motor Vehicles, P.O. Box 932340, Sacramento, CA 94232, (916) 445-0898.

Colorado: Motor Vehicle Division, 140 West Sixth Avenue, Denver, CO 80204, (303) 866-3158.

Connecticut: Department of Motor Vehicles, 60 State Street, Wethersfield, CT 06109, (203) 566-5904.

Delaware: Motor Vehicle Director, State Highway Administration Bldg., P.O. Box 698, Dover, DE 19903, (302) 736-4421.

District of Columbia: Department of Transportation, Bureau of Motor Vehicles, 301 C Street, NW., Washington, DC 20001, (202) 727-5409.

Florida: Division of Motor Vehicles, Neil Kirkman Building, Tallahassee, FL 32301, (904) 488-6921.

Georgia: Motor Vehicle Division, Trinity-Washington Bldg., Room 114, Atlanta, GA 30334, (404) 656-4149.

Hawaii: Division of Motor Vehicle and Licensing, 1455 S. Benetania Street, Honolulu, HI 96814, (808) 943-3221.

Idaho: Transportation Department, 3311 State Street, P.O. Box 34, Boise, ID 83731, (208) 334-3650.

Illinois: Secretary of State, Centennial Building, Springfield, IL 62756, (217) 782-4815.

Indiana: Bureau of Motor Vehicles, State Office Building, Room 901, Indianapolis, IN 46204, (317) 232-2701.

Iowa: Department of Transportation Office of Operating Authority, Lucas Office Bldg., Des Moines, IA 50319, (515) 281-5664.

Kansas: Department of Revenue, Division of Vehicles, Interstate Registration Bureau, State Office Bldg., Topeka, KS 66612, (913) 296-3681.

Kentucky: Department of Transportation, New State Office Building, Frankfort, KY 40622, (502) 564-4540.

Louisiana: Motor Vehicle Administrator, S. Foster Drive, Baton Rouge, LA 70800, (504) 925-6304.

Maine: Department of State, Motor Vehicle Division, Augusta, ME 04333, (207) 289-5440.

Maryland: Motor Vehicle Administration, 6601 Ritchie Highway, NE., Glen Burnie, MD 21062, (301) 768-7000.

Massachusetts: Registry of Motor Vehicle, 100 Nashua Street, Boston, MA 02114, (617) 727-3780.

Michigan: Department of State, Division of Driver Licenses and Vehicle Records, Lansing, MI 48918, (517) 322-1486.

Minnesota: Department of Public Safety, 108 Transportation Building, St. Paul, MN 55155, (612) 296-2138.

Mississippi: Office of State Tax Commission, Woolfolk Building, Jackson, MS 39205, (601) 982-1248.

Missouri: Department of Revenue, Motor Vehicles Bureau, Harry S. Truman Bldg., 301 W. High Street, Jefferson City, MO 65105, (314) 751-3234.

Montana: Highway Commission, Box 4639, Helena, MT 59604, (406) 449-2476.

Nebraska: Department of Motor Vehicles, P.O. Box 94789, Lincoln, NE 68509, (402) 471-3891.

Nevada: Department of Motor Vehicles, Carson City, NV 89711, (702) 885-5370.

New Hampshire: Department of Safety, Division of Motor Vehicles, James H.

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Haynes Bldg., Concord, NH 03305, (603) 271-2764.

New Jersey: Motor Vehicle Division, 25 S. Montgomery Street, Trenton, NJ 08666, (609) 292-2368.

New Mexico: Motor Transportation Division, Joseph M. Montoya Building, Santa Fe, NM 87503, (505) 827-0392.

New York: Division of Motor Vehicles, Empire State Plaza, Albany, NY 12228, (518) 474-2121.

North Carolina: Division of Motor Vehicles, Motor Vehicles Bldg., Raleigh, NC 27697, (919) 733-2403.

North Dakota: Motor Vehicle Department, Capitol Grounds, Bismarck, ND 58505, (701) 224-2619.

Ohio: Bureau of Motor Vehicles, P.O. Box 16520, Columbus, OH 43216, (614) 466-4095.

Oklahoma: Oklahoma Tax Commission, Motor Vehicle Division, 2501 Lincoln Boulevard, Oklahoma City, OK 73194, (405) 521-3036

Oregon: Motor Vehicles Division, 1905 Lana Avenue, NE., Salem, OR 97314, (503) 378-6903.

Pennsylvania: Department of Transportation, Bureau of Motor Vehicles, Transportation and Safety Bldg., Harrisburg, PA 17122, (717) 787-3130.

Rhode Island: Department of Motor Vehicles, State Office Building, Providence, RI 02903, (401) 277-6900.

South Carolina: Motor Vehicle Division, P.O. Drawer 1498, Columbia, SC 29216, (803) 758-5821.

South Dakota: Division of Motor Vehicles, 118 W. Capitol, Pierre, SD 57501, (605) 773-3501.

Tennessee: Department of Revenue, Motor Vehicle Division, 500 Deaderick Street, Nashville, TN 37242, (615) 741-1786.

Texas: Department of Highways and Public Transportation, Motor Vehicle Division, 40th and Jackson Avenue, Austin, TX 78779, (512) 475-7686.

Utah: Motor Vehicle Division State Fairgrounds, 1095 Motor Avenue, Salt Lake City, UT 84116, (801) 533-5311.

Vermont: Department of Motor Vehicles, State Street, Montpelier, VT 05603, (802) 828-2014.

Virginia: Department of Motor Vehicles, 2300 W. Broad Street, Richmond, VA 23220, (804) 257-1855.

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Washington: Department of Licensing, Highways-Licenses Building, Olympia, WA 98504, (206) 753-6975.

West Virginia: Department of Motor Vehicles, 1800 Washington Street, East, Charleston, WV 25317, (304) 348-2719.

Wisconsin: Department of Transportation Reciprocity and Permits, P.O. Box 7908, Madison, WI 53707, (608) 266-2585.

Wyoming: Department of Revenue, Policy Division, 122 W. 25th Street, Cheyenne, WY 82002, (307) 777-5273.

Guam: Deputy Director, Revenue and Taxation, Government of Guam, Agana, Guam 96910, (no phone number available).

Puerto Rico: Department of Transportation and Public Works, Bureau of Motor Vehicles, P.O. Box 41243, Minillas Station, Santurce, Puerto Rico 00940, (809) 722-2823.

PART 635—LAW ENFORCEMENT REPORTING

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Subpart A—Records Administration

§ 635.1 General.

(a) Military police records and files created under provisions of this part will be maintained and disposed of in accordance with instructions and standards prescribed by Army Regulation (AR) 25-400-2, AR 25-55, AR 340-21, and other applicable HQDA directives.

(b) Each Provost Marshal/Director of Emergency Services will appoint in writing two staff members, one primary and one alternate, to account for and safeguard all records containing personal information protected by law. Action will be taken to ensure that protected personal information is used and stored only where facilities and

conditions will preclude unauthorized or unintentional disclosure.

(c) Personally identifying information includes, for example, information that is intimate or private to an individual, as distinguished from that which concerns a person's official function or public life. Specific examples include the social security number (SSN), medical history, home address, and home telephone number.

(d) Access to areas in which military police records are prepared, processed and stored will be restricted to those personnel whose duties require their presence or to other personnel on official business. Military police records containing personal information will be stored in a locked room or locked filing cabinet when not under the personal control of authorized personnel. Alternate storage systems providing equal or greater protection may be used in accordance with AR 25-55.

(e) Only personnel on official business can have access to areas in which computers are used to store, process or retrieve military police records. When processing military police information, computer video display monitors will be positioned so that protected information cannot be viewed by unauthorized persons. Computer output from automated military police systems will be controlled as specified in paragraph (d) of this section.

(f) Output from any locally prepared data or automated systems containing personal information subject to the Privacy Act will be controlled per AR 340-21. All locally created, Army Commands (ACOM), Army Service Component Commands (ASCC) or Direct Reporting Units (DRU) unique automated systems of records containing law enforcement information must be reported to and approved by HQDA, Office of the Provost Marshal General prior to use. The request must clearly document why the COPS MPRS system cannot meet the requirements or objectives of the organization. After review and approval by HQDA, the installation, ACOM, ASCC and DRU will complete and process the systems notice for publication in the FEDERAL REGISTER per AR 340-21 and the Privacy Act.

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(g) Provost Marshals/Directors of Emergency Services using automated systems will appoint, in writing, an Information Assurance Security Officer (IASO) who will ensure implementation of automation security requirements within the organization. Passwords used to control systems access will be generated, issued, and controlled by the IASO.

(h) Supervisors at all levels will ensure that personnel whose duties involve preparation, processing, filing, and release of military police records are knowledgeable of and comply with policies and procedures contained in this part, AR 25-55, AR 340-21, and other applicable HQDA directives. Particular attention will be directed to provisions on the release of information and protection of privacy.

(i) Military police records identifying juveniles as offenders will be clearly marked as juvenile records and will be kept secure from unauthorized access by individuals. Juvenile records may be stored with adult records but clearly designated as juvenile records even after the individual becomes of legal age. In distributing information on juveniles, Provost Marshals/Directors of Emergency Services will ensure that only individuals with a clear reason to know the identity of a juvenile are provided the identifying information on the juvenile. For example, a community commander is authorized to receive pertinent information on juveniles. When a MPR identifying juvenile offenders must be provided to multiple commanders or supervisors, the Provost Marshal/Director of Emergency Services must sanitize each report to withhold juvenile information not pertaining to that commander's area of responsibility.

(j) Military police records in the custody of USACRC will be processed, stored and maintained in accordance with policy established by the Director, USACRC.

§ 635.2 Safeguarding official information.

(a) Military police records are unclassified except when they contain national security information as defined in AR 380-5.

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(b) When military police records containing personal information transmitted outside the installation law enforcement community to other departments and agencies within DOD, such records will be marked "For Official Use Only." Records marked "For Official Use Only" will be transmitted as prescribed by AR 25-55. Use of an expanded marking is required for certain records transmitted outside DOD per AR 25-55.

(c) Military police records may also be released to Federal, state, local or foreign law enforcement agencies as prescribed by AR 340-21. Expanded markings will be applied to these records.

§ 635.3 Special requirements of the Privacy Act of 1974.

(a) Certain personal information is protected under the Privacy Act and AR 340-21.

(b) Individuals requested to furnish personal information must be advised of the purpose for which the information is collected and the disclosures by which it is routinely used.

(c) Army law enforcement personnel performing official duties often require an individual's SSN for identification purposes. Personal information may be obtained from identification documents without violating an individual's privacy and without providing a Privacy Act Statement. This personal information can be used to complete military police reports and records. The following procedures may be used to obtain SSNs:

(1) Active Army, U.S. Army Reserve (USAR), Army National Guard (ARNG) and retired military personnel are required to produce their Common Access Card, DD Form 2 (Act), DD Form 2 (Res), or DD Form 2 (Ret) (U.S. Armed Forces of the United States General Convention Identification Card), or other government issued identification, as appropriate.

(2) Family members of sponsors may be requested to produce their DD Form 1173 (Uniformed Services Identification and Privilege Card). Information contained thereon (for example, the sponsor's SSN) may be used to verify and complete applicable sections of MPRs and related forms.

(3) DOD civilian personnel may be requested to produce their appropriate service identification. DA Form 1602 (Civilian Identification) may be requested from DA civilian employees. If unable to produce such identification, DOD civilians may be requested to provide other verifying documentation.

(4) Non-DOD civilians, including family members and those whose status is unknown, will be advised of the provisions of the Privacy Act Statement when requested to disclose their SSN.

(d) Requests for new systems of military police records, changes to existing systems, and continuation systems, not addressed in existing public notices will be processed as prescribed in AR 340-21, after approval is granted by HQDA, OPMG (DAPM-MPD-LE).

§ 635.4 Administration of expelled or barred persons file.

(a) When action is completed by an installation commander to bar an individual from the installation under 18 U.S.C. 1382 the installation Provost Marshal/Director of Emergency Services will be provided—

(1) A copy of the letter or order barring the individual.

(2) Reasons for the bar.

(3) Effective date of the bar and period covered.

(b) The Provost Marshal/Director of Emergency Services will maintain a list of barred or expelled persons. When the bar or expulsion action is predicated on information contained in military police investigative records, the bar or expulsion document will reference the appropriate military police record or MPR. When a MPR results in the issuance of a bar letter the Provost Marshal/Director of Emergency Services will forward a copy of the bar letter to Director, USACRC to be filed with the original MPR. The record of the bar will also be entered into COPS, in the Military Police Reporting System module, under Barrings.

§ 635.5 Police Intelligence/Criminal Information.

(a) The purpose of gathering police intelligence is to identify individuals or groups of individuals in an effort to anticipate, prevent, or monitor possible criminal activity. If police intel-

ligence is developed to the point where it factually establishes a criminal offense, an investigation by the military police, U.S. Army Criminal Investigation Command (USACIDC) or other investigative agency will be initiated. The crimes in §§ 635.5b(2) and (3) will be reported to the nearest Army counter-intelligence office as required by AR 381-12.

(b) Information on persons and organizations not affiliated with DOD may not normally be acquired, reported, processed or stored. Situations justifying acquisition of this information include, but are not limited to—

(1) Theft, destruction, or sabotage of weapons, ammunition, equipment facilities, or records belonging to DOD units or installations.

(2) Possible compromise of classified defense information by unauthorized disclosure or espionage.

(3) Subversion of loyalty, discipline, or morale of DA military or civilian personnel by actively encouraging violation of laws, disobedience of lawful orders and regulations, or disruption of military activities.

(4) Protection of Army installations and activities from potential threat.

(5) Information received from the FBI, state, local, or international law enforcement agencies which directly pertain to the law enforcement mission and activity of the installation Provost Marshal Office/Directorate of Emergency Services, ACOM, ASCC or DRU Provost Marshal Office Directorate of Emergency Services, or that has a clearly identifiable military purpose and connection. A determination that specific information may not be collected, retained or disseminated by intelligence activities does not indicate that the information is automatically eligible for collection, retention, or dissemination under the provisions of this part. The policies in this section are not intended and will not be used to circumvent any federal law that restricts gathering, retaining or dissemination of information on private individuals or organizations.

(c) Retention and disposition of information on non-DOD affiliated individuals and organizations are subject to the provisions of AR 380-13 and AR 25-400-2.

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(d) Police intelligence such as TALON events will be captured by utilizing the TALON report format. These reports will be identified as “Pre-TALON” reports. The Provost Marshal Office/Directorate of Emergency Services will forward these reports to the counterintelligence activity which supports their installation/area. The counterintelligence activity will determine if the suspicious incident/activity should be entered into the DoD TALON reporting system. The counterintelligence activity will inform the submitting Army law enforcement agency as to whether or not the “Pre-Talon” report was submitted into the DoD TALON reporting system.

(e) In addition to Pre-TALON reporting, Installation Law Enforcement Agencies/Activities will also comply with their Combatant Command’s policies regarding the reporting of suspicious activities or events which meet established criteria.

(f) If a written extract from local police intelligence files is provided to an authorized investigative agency, the following will be included on the transmittal documents: “THIS DOCUMENT IS PROVIDED FOR INFORMATION AND USE. COPIES OF THIS DOCUMENT, ENCLOSURES THERETO, AND INFORMATION THEREFROM, WILL NOT BE FURTHER RELEASED WITHOUT THE PRIOR APPROVAL OF THE INSTALLATION PROVOST MARSHAL/DIRECTOR OF EMERGENCY SERVICES.”

(g) Local police intelligence files may be exempt from certain disclosure requirements by AR 25-55 and the Freedom of Information Act (FOIA).

§ 635.6 Name checks.

(a) Information contained in military police records may be released under the provisions of AR 340-21 to authorized personnel for valid background check purposes. Examples include child care/youth program providers, access control, unique or special duty assignments, and security clearance procedures. Any information released must be restricted to that necessary and relevant to the requester’s official purpose. Provost Marshals/Directors of Emergency Services will establish written procedures to ensure that re-

lease is accomplished in accordance with AR 340-21.

(b) Checks will be accomplished by a review of the COPS MPRS. Information will be disseminated according to subpart B of this part.

(c) In response to a request for local files or name checks, Provost Marshals/Directors of Emergency Services will release only founded offenses with final disposition. Offenses determined to be unfounded will not be released. These limitations do not apply to requests submitted by law enforcement agencies for law enforcement purposes, and counterintelligence investigative agencies for counterintelligence purposes.

(d) COPS MPRS is a database, which will contain all military police reports filed worldwide. Authorized users of COPS MPRS can conduct name checks for criminal justice purposes. To conduct a name check, users must have either the social security number/foreign national number, or the first and last name of the individual. If a search is done by name only, COPS MPRS will return a list of all matches to the data entered. Select the appropriate name from the list.

(e) A successful query of COPS MPRS would return the following information:

- (1) Military Police Report Number;
- (2) Report Date;
- (3) Social Security Number;
- (4) Last Name;
- (5) First Name;
- (6) Protected Identity (Y/N);
- (7) A link to view the military police report; and
- (8) Whether the individual is a subject, victim, or a person related to the report disposition.

(f) Name checks will include the criteria established in COPS MPRS and the USACRC. All of the policies and procedures for such checks will conform to the provisions of this part. Any exceptions to this policy must be coordinated with HQDA, Office of the Provost Marshal General before any name checks are conducted. The following are examples of appropriate uses of the name check feature of COPS MPRS:

- (1) Individuals named as the subjects of serious incident reports.

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(2) Individuals named as subjects of investigations who must be reported to the USACRC.

(3) Employment as child care/youth program providers.

(4) Local checks of the COPS MPRS as part of placing an individual in the COPS MPRS system.

(5) Name checks for individuals employed in law enforcement positions.

(g) Provost Marshals/Directors of Emergency Services will ensure that an audit trail is established and maintained for all information released from military police records.

(h) Procedures for conduct of name checks with the USACRC are addressed in AR 195-2. The following information is required for USACRC name checks (when only the name is available, USACRC should be contacted telephonically for assistance):

(1) Full name, date of birth, SSN, and former service number of the individual concerned.

(2) The specific statute, directive, or regulation on which the request is based, when requested for other than criminal investigative purposes.

(i) Third party checks (first party asks second party to obtain information from third party on behalf of first party) will not be conducted.

§ 635.7 Registration of sex offenders.

Soldiers who are convicted by court-martial for certain sexual offenses must comply with all applicable state registration requirements in effect in the state in which they reside. See AR 190-47, Chapter 14 and AR 27-10, Chapter 24. This is a statutory requirement based on the Jacob Wetterling Act, and implemented by DOD Instruction 1325.7, and AR 27-10. Provost Marshals/Directors of Emergency Services should coordinate with their local Staff Judge Advocate to determine if an individual must register. The registration process will be completed utilizing the state registration form, which is available through state and local law enforcement agencies. A copy of the completed registration form will be maintained in the installation Provost Marshal Office/Directorate of Emergency Services. Additionally, a Military Police Report (DA Form 3975) will be completed as an information entry

into COPS. Installation Provost Marshals/Directors of Emergency Services will provide written notice to state and local law enforcement agencies of the arrival of an offender to the local area so the registration process can be completed.

Subpart B—Release of Information

§ 635.8 General.

(a) The policy of HQDA is to conduct activities in an open manner and provide the public accurate and timely information. Accordingly, law enforcement information will be released to the degree permitted by law and Army regulations.

(b) Any release of military police records or information compiled for law enforcement purposes, whether to persons within or outside the Army, must be in accordance with the FOIA and Privacy Act.

(c) Requests by individuals for access to military police records about themselves will be processed in compliance with AR 25-55 and AR 340-21.

(d) Military police records in the temporary possession of another organization remain the property of the originating law enforcement agency. The following procedures apply to any organization authorized temporary use of military police records:

(1) Any request from an individual seeking access to military police records will be immediately referred to the originating law enforcement agency for processing.

(2) When the temporary purpose of the using organization has been satisfied, the military police records will be destroyed or returned to the originating law enforcement agency.

(3) A using organization may maintain information from military police records in their system of records, if approval is obtained from the originating law enforcement agency. This information may include reference to a military police record (for example, MPR number or date of offense), a summary of information contained in the record, or the entire military police record. When a user includes a military police record in its system of records, the originating law enforcement agency may delete portions from that

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record to protect special investigative techniques, maintain confidentiality, preclude compromise of an investigation, and protect other law enforcement interests.

§ 635.9 Guidelines for disclosure within DOD.

(a) Criminal record information contained in military police documents will not be disseminated unless there is a clearly demonstrated official need to know. A demonstrated official need to know exists when the record is necessary to accomplish a function that is within the responsibility of the requesting activity or individual, is prescribed by statute, DOD directive, regulation, or instruction, or by Army regulation.

(1) Criminal record information may be disclosed to commanders or staff agencies to assist in executing criminal justice functions. Only that information reasonably required will be released. Such disclosure must clearly relate to a law enforcement function.

(2) Criminal record information related to subjects of criminal justice disposition will be released when required for security clearance procedures.

(3) Criminal record information may be released to an activity when matters of national security are involved.

(4) When an individual informs an activity of criminal record information pertaining to them, the receiving activity may seek verification of this information through the responsible law enforcement agency or may forward the request to that organization. The individual must be advised by the receiving agency of the action being pursued. Law enforcement agencies will respond to such requests in the same manner as FOIA and Privacy Act cases.

(b) Nothing in this part will be construed to limit the dissemination of information between military police, the USACIDC, and other law enforcement agencies within the Army and DOD.

§ 635.10 Release of information.

(a) Release of information from Army records to agencies outside DOD will be governed by AR 25-55, AR 340-21, AR 600-37, and this part. Procedures for release of certain other records and infor-

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mation are contained in AR 20-1, AR 27-20, AR 27-40, AR 40-66, AR 195-2, AR 360-1, and AR 600-85. Installation drug and alcohol offices may be provided an extract of DA Form 3997 (Military Police Desk Blotter) for offenses involving the use of alcohol or drugs (for example, drunk driving, drunk and disorderly conduct, or positive urinalysis) or illegal use of drugs.

(b) Installation Provost Marshals/Directors of Emergency Services are the release authorities for military police records under their control. They may release criminal record information to other activities as prescribed in AR 25-55 and AR 340-21, and this part.

(c) Authority to deny access to criminal records information rests with the initial denial authority (IDA) for the FOIA and the access and amendment refusal authority (AARA) for Privacy Acts cases, as addressed in AR 25-55 and AR 340-21.

§ 635.11 Release of information under the Freedom of Information Act (FOIA).

(a) The release and denial authorities for all FOIA cases concerning military police records include Provost Marshals/Directors of Emergency Services and the Commander, USACIDC. Authority to act on behalf of the Commander, USACIDC is delegated to the Director, USACRC.

(b) FOIA requests from members of the press will be coordinated with the installation public affairs officer prior to release of records under the control of the installation Provost Marshal/Director of Emergency Services. When the record is on file at the USACRC the request must be forwarded to the Director, USACRC.

(c) Requests will be processed as prescribed in AR 25-55 and as follows:

(1) The Provost Marshal/Director of Emergency Services will review requested reports to determine if any portion is exempt from release. Any discretionary decision to disclose information under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

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(2) Statutory and policy questions will be coordinated with the local staff judge advocate.

(3) Coordination will be completed with the local USACIDC activity to ensure that the release will not interfere with a criminal investigation in progress or affect final disposition of an investigation.

(4) If it is determined that a portion of the report, or the report in its entirety will not be released, the request to include a copy of the MPR or other military police records will be forwarded to the Director, USACRC, ATTN: CICR-FP, 6010 6th Street, Fort Belvoir, VA 22060-5585. The requester will be informed that their request has been sent to the Director, USACRC, and provided the mailing address for the USACRC. When forwarding FOIA requests, the outside of the envelope will be clearly marked "FOIA REQUEST."

(5) A partial release of information by a Provost Marshal/Director of Emergency Services is permissible when partial information is acceptable to the requester. (An example would be the deletion of a third party's social security number, home address, and telephone number, as permitted by law). If the requester agrees to the omission of exempt information, such cases do not constitute a denial. If the requester insists on the entire report, a copy of the report and the request for release will be forwarded to the Director, USACRC. There is no requirement to coordinate such referrals at the installation level. The request will simply be forwarded to the Director, USACRC for action.

(6) Requests for military police records that have been forwarded to USACRC and are no longer on file at the installation Provost Marshal Office/Directorate of Emergency Services will be forwarded to the Director, USACRC for processing.

(7) Requests concerning USACIDC reports of investigation or USACIDC files will be referred to the Director, USACRC. In each instance, the requester will be informed of the referral and provided the Director, USACRC address.

(8) Requests concerning records that are under the supervision of an Army activity, or other DOD agency, will be

referred to the appropriate agency for response.

§ 635.12 Release of information under the Privacy Act of 1974.

(a) Military police records may be released according to provisions of the Privacy Act of 1974, as implemented by AR 340-21 and this part.

(b) The release and denial authorities for all Privacy Act cases concerning military police records are provided in § 635.10 of this part.

(c) Privacy Act requests for access to a record, when the requester is the subject of that record, will be processed as prescribed in AR 340-21.

§ 635.13 Amendment of records.

(a) *Policy.* An amendment of records is appropriate when such records are established as being inaccurate, irrelevant, untimely, or incomplete. Amendment procedures are not intended to permit challenging an event that actually occurred. For example, a request to remove an individual's name as the subject of an MPR would be proper providing credible evidence was presented to substantiate that a criminal offense was not committed or did not occur as reported. Expungement of a subject's name from a record because the commander took no action or the prosecutor elected not to prosecute normally will not be approved. In compliance with DOD policy, an individual will still remain entered in the Defense Clearance Investigations Index (DCII) to track all reports of investigation.

(b) *Procedures.* (1) Installation Provost Marshals/Directors of Emergency Services will review amendment requests. Upon receipt of a request for an amendment of a military police record that is five or less years old, the installation Provost Marshal/Director of Emergency Services will gather all relevant available records at their location. The installation Provost Marshal/Director of Emergency Services will review the request and either approve the request or forward it to the Director, USACRC with recommendation and rationale for denial. In accordance with AR 340-21, paragraph 1-71, the Commanding General, USACIDC is the sole access and amendment authority for criminal investigation reports and

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military police reports. Access and amendment refusal authority is not delegable. If the decision is made to amend an MPR, a supplemental DA Form 3975 will be prepared. The supplemental DA Form 3975 will change information on the original DA Form 3975 and will be mailed to the Director, USACRC with the amendment request from the requestor as an enclosure. The Director, USACRC will file the supplemental DA Form 3975 with the original MPR and notify the requestor of the amendment of the MPR.

(2) Requests to amend military police documents that are older than five years will be coordinated through the Director, USACRC. The installation Provost Marshal/Director of Emergency Services will provide the Director, USACRC a copy of an individual's request to amend a military police record on file at the USACRC. If the Director, USACRC receives an amendment request, the correspondence with any documentation on file at the USACRC will be sent to the originating Provost Marshal Office/Directorate of Emergency Services. The installation Provost Marshal/Director of Emergency Services will review the request and either approve the request or forward it to the Director, USACRC for denial. A copy of the Provost Marshal/Director of Emergency Services' decision must be sent to the Director, USACRC to be filed in the USACRC record. If an amendment request is granted, copies of the supplemental DA Form 3975 will be provided to each organization, activity, or individual who received a copy of the original DA Form 3975.

(3) If the Provost Marshal Office/Directorate of Emergency Services no longer exists, the request will be staffed with the ACOM, ASCC or DRU Provost Marshal/Director of Emergency Services office that had oversight responsibility for the Provost Marshal Office/Directorate of Emergency Services at the time the DA Form 3975 was originated.

§ 635.14 Accounting for military police record disclosure.

(a) AR 340-21 prescribes accounting policies and procedures concerning the disclosure of military police records.

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(b) Provost Marshals/Directors of Emergency Services will develop local procedures to ensure that disclosure data requirements by AR 340-21 are available on request.

§ 635.15 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 AR 25-55, AR 340-21, federal statutes or executive orders.

(b) Information may be received from a foreign source under an express pledge of confidentiality as described in AR 25-55 and AR 340-21 (or under an implied pledge of confidentiality given prior to September 27, 1975).

(1) Foreign sources will be advised of the provisions of the Privacy Act of 1974, the FOIA, and the general and specific law enforcement exemptions available, as outlined in AR 340-21 and AR 25-55.

(2) Information received under an express promise of confidentiality will be annotated in the MPR or other applicable record.

(3) Information obtained under terms of confidentiality must clearly aid in furthering a criminal investigation.

(c) Denial recommendations concerning information obtained under a pledge of confidentiality, like other denial recommendations, will be forwarded by the records custodian to the appropriate IDA or AARA per AR 25-55 or AR 340-21.

(d) Release of U.S. information (classified military information or controlled unclassified information) to foreign governments is accomplished per AR 380-10.

Subpart C—Offense Reporting

§ 635.16 General.

(a) This subpart establishes policy for reporting founded criminal offenses by Installation Management Command (IMCOM), Army Materiel Command (AMC) and Medical Command (MEDCOM) installation and ACOM, ASCC and DRU Provost Marshal Offices/Directorates of Emergency Services.

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(b) This subpart prescribes reporting procedures, which require the use of the COPS MPRS and a systems administrator to ensure that the system is properly functioning. Reporting requirements include—

(1) Reporting individual offenders to the USACRC, NCIC, CJIS, and the DOD.

(2) *Crime reports to the DOD.* DOD collects data from all the Services utilizing the Defense Incident-Based Reporting System (DIBRS). The Army inputs its data into DIBRS utilizing COPS. Any data reported to DIBRS is only as good as the data reported into COPS, so the need for accuracy in reporting incidents and utilizing proper offense codes is great. DIBRS data from DOD is eventually sent to the Department of Justice's National Incident-Based Reporting System (NIBRS). The data is eventually incorporated into the Uniform Crime Report.

(c) A Provost Marshal Office/Directorate of Emergency Services initiating a DA Form 3975 or other military police investigation has reporting responsibility explained throughout this subpart and this part in general.

(d) In the event the Provost Marshal Office/Directorate of Emergency Services determines that their office does not have investigative responsibility or authority, the MPR will be terminated and the case cleared by exceptional clearance. A case cleared by exceptional clearance is closed by the Provost Marshal/Director of Emergency Services when no additional investigative activity will be performed or the case is referred to another agency. If a case is transferred to the Provost Marshal/Director of Emergency Services from another law enforcement investigation agency the Provost Marshal Office/Directorate of Emergency Services will have all reporting responsibility using the COPS MPRS system.

§ 635.17 Military Police Report.

(a) *General Use.* DA form 3975 is a multipurpose form used to—

(1) Record all information or complaints received or observed by military police.

(2) Serve as a record of all military police and military police investigator activity.

(3) Document entries made into the COPS MPRS system and other automated systems.

(4) Report information concerning investigations conducted by civilian law enforcement agencies related to matters of concern to the U.S. Army.

(5) Advise commanders and supervisors of offenses and incidents involving personnel or property associated with their command or functional responsibility.

(6) Report information developed by commanders investigating incidents or conducting inspections that result in the disclosure of evidence that a criminal offense has been committed.

(b) *Special use.* The DA Form 3975 will be used to—

(1) Transmit completed DA Form 3946 (Military Police Traffic Accident Report). This will include statements, sketches, or photographs that are sent to a commander or other authorized official.

(2) Transmit the DD Form 1805 (U.S. District Court Violation Notice) when required by local installation or U.S. Magistrate Court policy. The DA Form 3975 is used to advise commanders or supervisors that military, civilian, or contract personnel have been cited on a DD Form 1805.

(3) Match individual subjects with individual victims or witnesses, and founded criminal offenses. This is a federal statutory requirement. This is done using the relationships tab within COPS MPRS.

(4) Document victim/witness liaison activity.

(c) *Distribution.* The DA Form 3975 will be prepared in three copies, signed by the Provost Marshal/Director of Emergency Services or a designated representative, and distributed as follows—

(1) Original to USACRC. Further information, arising or developed at a later time, will be forwarded to USACRC using a supplemental DA Form 3975. Reports submitted to USACRC will include a good, legible copy of all statements, photographs, sketches, laboratory reports, and other information that substantiates the offense or facilitates the understanding of the report. The USACRC control number must be recorded on every DA

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Form 3975 sent to the USACRC. A report will not be delayed for adjudication or commander's action beyond 45 days.

(2) One copy retained in the Provost Marshal/Director of Emergency Services' files.

(3) One copy forwarded through the field grade commander to the immediate commander of each subject or organization involved in an offense.

(d) *Changing reports for unfounded offenses.* If an offense is determined to be unfounded, after the case has been forwarded to USACRC, the following actions will be completed:

(1) A supplemental DA Form 3975, using the same MPR number and USACRC control number will be submitted stating the facts of the subsequent investigation and that the case is unfounded.

(2) A copy of the supplemental DA Form 3975 will be provided to those agencies or activities that received a copy of the completed DA Form 3975 at the time of submission to USACRC and to the commander for action.

§ 635.18 Identifying criminal incidents and subjects of investigation.

(a) An incident will not be reported as a founded offense unless adequately substantiated by police investigation. A person or entity will be reported as the subject of an offense on DA Form 3975 when credible information exists that the person or entity may have committed a criminal offense. The decision to title a person is an operational rather than a legal determination. The act of titling and indexing does not, in and of itself, connote any degree of guilt or innocence; but rather, ensures that information in a report of investigation can be retrieved at some future time for law enforcement and security purposes. Judicial or adverse administrative actions will not be based solely on the listing of an individual or legal entity as a subject on DA Form 3975.

(b) A known subject will be reported to the USACRC when the suspected offense is punishable by confinement of six months or more. The COPS MPRS will be used to track all other known subjects. A subject can be a person, corporation, or other legal entity, or

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organization about which credible information exists that would cause a trained law enforcement officer to presume that the person, corporation, other legal entity or organization may have committed a criminal offense.

(c) When investigative activity identifies a subject, all facts of the case must be considered. When a person, corporation, or other legal entity is entered in the subject block of the DA Form 3975, their identity is recorded in DA automated systems and the DCII. Once entered into the DCII, the record can only be removed in cases of mistaken identity or if an error was made in applying the credible information standard at the time of listing the entity as a subject of the report. It is emphasized that the credible information error must occur at the time of listing the entity as the subject of the MPR rather than subsequent investigation determining that the MPR is unfounded. This policy is consistent with DOD reporting requirements. The Director, USACRC enters individuals from DA Form 3975 into the DCII.

§ 635.19 Offense codes.

(a) The offense code describes, as nearly as possible, the complaint or offense by using an alphanumeric code. Appendix C of AR 190-45 lists the offense codes that are authorized for use within the Army. This list will be amended from time to time based on new reporting requirements mandated by legislation or administrative procedures. ACOM, ASCC, DRU commanders and installation Provost Marshals/Directors of Emergency Services will be notified by special letters of instruction issued in numerical order from HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) when additions or deletions are made to the list. The COPS MPRS module will be used for all reporting requirements.

(b) ACOM, ASCC, DRU and installations may establish local offense codes in category 2 (ACOM, ASCC, DRU and installation codes) for any offense not otherwise reportable. Locally established offense codes will not duplicate, or be used as a substitute for any offense for which a code is contained for other reportable incidents. Category 2

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incidents are not reported to the Director, USACRC or the DOJ. If an offense occurs meeting the reporting description contained in Appendix C of AR 190-45, that offense code takes precedence over the local offense code. Local offense codes may be included, but explained, in the narrative of the report filed with the USACRC. Use the most descriptive offense code to report offenses.

(c) Whenever local policy requires the Provost Marshal/Director of Emergency Services to list the subject's previous offenses on DA Form 3975, entries will reflect a summary of disposition for each offense, if known.

§ 635.20 Military Police Codes (MPC).

(a) MPCs identify individual Provost Marshal Offices/Directorates of Emergency Services. The Director, USACRC will assign MPCs to Provost Marshal Offices/Directorates of Emergency Services.

(b) Requests for assignment of a MPC will be included in the planning phase of military operations, exercises, or missions when law enforcement operations are anticipated. The request for a MPC will be submitted as soon as circumstances permit, without jeopardizing the military operation to HQDA, Office of the Provost Marshal General (DAPM-MPD-LE). Consistent with security precautions, ACOM, ASCC and DRU will immediately inform HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) when assigned or attached military police units are notified for mobilization, relocation, activation, or inactivation.

(c) When a military police unit is alerted for deployment to a location not in an existing Provost Marshal/Director of Emergency Services' operational area, the receiving ACOM, ASCC, DRU or combatant commander will request assignment of an MPC number from HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) providing the area of operations does not have an existing MPC number. The receiving ACOM, ASCC, DRU or Unified Combatant Commander is further responsible for establishing an operational COPS system for the deployment.

§ 635.21 USACRC control numbers.

(a) Case numbers to support reporting requirements will be assigned directly to each installation via COPS. To ensure accuracy in reporting criminal incidents, USACRC control numbers will be used only one time and in sequence. Every MPR sent to the USACRC will have a USACRC control number reported. Violation of this policy could result in significant difficulties in tracing reports that require corrective action.

(b) If during the calendar year ACOM, ASCC or DRU reassigns control numbers from one installation to another, HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) will be notified. The Director USACRC will receive an information copy of such notification from ACOM, ASCC or DRU's law enforcement operations office.

(c) USACRC control numbers will be issued along with each newly assigned MPC.

(d) When the deploying unit will be located in an area where there is an existing Provost Marshal/Director of Emergency Services activity, the deploying unit will use the MPC number and USACRC control numbers of the host Provost Marshal/Director of Emergency Services.

§ 635.22 Reserve component, U.S. Army Reserve, and Army National Guard personnel.

(a) When in a military duty status pursuant to official orders (Federal status for National Guard) Reserve and National Guard personnel will be reported as active duty. Otherwise they will be reported as civilians.

(b) The DA Form 3975 and DA Form 4833 will be forwarded directly to the appropriate Regional Readiness Command or the Soldier's division commander. A copy of the DA Form 3975 will also be forwarded to Chief, Army Reserve/Commander, United States Army Reserve Command, AFRC-JAM, 1404 Deshler Street, Fort McPherson, GA 30330. The forwarding correspondence will reflect this regulation as the authority to request disposition of the individual.

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§ 635.23 DA Form 4833 (Commander's Report of Disciplinary or Administrative Action).

(a) *Use.* DA Form 4833 is used with DA Form 3975 to—

(1) Record actions taken against identified offenders.

(2) Report the disposition of offenses investigated by civilian law enforcement agencies.

(b) *Preparation by the Provost Marshal/Director of Emergency Services.* The installation Provost Marshal/Director of Emergency Services initiates this critical document and is responsible for its distribution and establishing a suspense system to ensure timely response by commanders. Disposition reports are part of the reporting requirements within DA, DOD, and DOJ.

(c) *Completion by the unit commander.* Company, troop, and battery level commanders are responsible and accountable for completing DA Form 4833 with supporting documentation in all cases investigated by MPI, civilian detectives employed by the Department of the Army, and the PMO. The Battalion Commander or the first Lieutenant Colonel in the chain of command is responsible and accountable for completing DA Form 4833 with support documentation (copies of Article 15s, court-martial orders, reprimands, etc) for all USACIDC investigations. The commander will complete the DA Form 4833 within 45 days of receipt.

(1) Appropriate blocks will be checked and blanks annotated to indicate the following:

(i) Action taken (for example, judicial, nonjudicial, or administrative). In the event the commander takes action against the soldier for an offense other than the one listed on the DA Form 3975, the revised charge or offense will be specified in the REMARKS section of the DA Form 4833.

(ii) Sentence, punishment, or administrative action imposed.

(iii) Should the commander take no action, the DA Form 4833 must be annotated to reflect that fact.

(2) If the commander cannot complete the DA Form 4833 within 45 days, a written memorandum is required to explain the circumstances. The delay will have an impact on other reporting

requirements (e.g., submitting fingerprint cards to the FBI).

(d) *Procedures when subjects are reassigned.* When the subject of an offense is reassigned, the Provost Marshal/Director of Emergency Services will forward the DA Form 3975, DA Form 4833, and all pertinent attachments to the gaining installation Provost Marshal/Director of Emergency Services who must ensure that the new commander completes the document. Copies of the documents may be made and retained by the processing Provost Marshal Office/Directorate of Emergency Services before returning the documents to the losing installation Provost Marshal/Director of Emergency Services for completion of automated entries and required reports.

(e) *Report on subjects assigned to other installations.* When the DA Form 3975 involves a subject who is assigned to another installation, the initiating Provost Marshal/Director of Emergency Services will forward the original and two copies of DA Form 4833 to the Provost Marshal/Director of Emergency Services of the installation where the soldier is permanently assigned. The procedures in paragraph (d) of this section will be followed for soldiers assigned to other commands.

(f) *Offenses not reportable to USACRC.* When the offense is not within a category reportable to USACRC, the original DA Form 4833 is retained by the Provost Marshal/Director of Emergency Services. Otherwise, the original is sent to the Director, USACRC for filing with the MPR.

(g) *Civilian court proceedings.* If a soldier is tried in a civilian court, and the Provost Marshal/Director of Emergency Services has initiated a MPR, the Provost Marshal/Director of Emergency Services must track the civilian trial and report the disposition on DA Form 4833 as appropriate. That portion of the signature block of DA Form 4833 that contains the word "Commanding" will be deleted and the word "Reporting" substituted. The Provost Marshal/Director of Emergency Services or other designated person will sign DA Form 4833 before forwarding it to USACRC.

(h) *Dissemination to other agencies.* A copy of the completed DA Form 4833 reflecting offender disposition will also be provided to those agencies or offices that originally received a copy of DA Form 3975 when evidence is involved. The evidence custodian will also be informed of the disposition of the case. Action may then be initiated for final disposition of evidence retained for the case now completed.

(i) *Review of offender disposition by the Provost Marshal/Director of Emergency Services.* On receipt of DA Form 4833 reflecting no action taken, the Provost Marshal/Director of Emergency Services will review the MPR. The review will include, but is not limited to the following—

(1) Determination of the adequacy of supporting documentation.

(2) Whether or not coordination with the supporting Staff Judge Advocate should have been sought prior to dispatch of the report to the commander for action.

(3) Identification of functions that warrant additional training of military police or security personnel (for example, search and seizure, evidence handling, or rights warning).

(j) *Offender disposition summary reports.* Provost Marshals/Directors of Emergency Services will provide the supported commander (normally, the general courts-martial convening authority or other persons designated by such authority) summary data of offender disposition as required or appropriate. Offender disposition summary data will reflect identified offenders on whom final disposition has been reported. These data will be provided in the format and at the frequency specified by the supported commander.

§ 635.24 Updating the COPS MPRS.

Installation Provost Marshals/Directors of Emergency Services will establish standard operating procedures to ensure that every founded offense is reported into the COPS MPRS. Timely and accurate reporting is critical. If a case remains open, changes will be made as appropriate. This includes reporting additional witnesses and all aspects of the criminal report.

§ 635.25 Submission of criminal history data to the CJIS.

(a) *General.* This paragraph establishes procedures for submitting criminal history data (fingerprint cards) to CJIS when the Provost Marshal/Director of Emergency Services has completed a criminal inquiry or investigation. The policy only applies to members of the Armed Forces and will be followed when a military member has been read charges and the commander initiates proceedings for—

(1) *Field Grade Article 15, Uniform Code of Military Justice.* Initiation refers to a commander completing action to impose non-judicial punishment. Final disposition shall be action on appeal by the next superior authority, expiration of the time limit to file an appeal, or the date the military member indicates that an appeal will not be submitted.

(2) *A special or general courts-martial.* Initiation refers to the referral of court-martial charges to a specified court by the convening authority or receipt by the commander of an accused soldier's request for discharge in lieu of court-martial. Final disposition of military judicial proceedings shall be action by the convening authority on the findings and sentence, or final approval of a discharge in lieu of court-martial. The procedures in this subpart meet administrative and technical requirements for submitting fingerprint cards and criminal history information to CJIS. No variances are authorized. Results of summary court-martial will not be reported to the FBI.

(3) *DA Form 4833.* In instances where final action is taken by a magistrate, the Provost Marshal/Director of Emergency Services will complete the DA Form 4833.

(4) *Fingerprint cards.* Provost Marshal Offices/Directorates of Emergency Services will submit fingerprint cards on subjects apprehended as a result of Drug Suppression Team investigations and operations unless the USACIDC is completing the investigative activity for a felony offense. In those cases, the USACIDC will complete the fingerprint report process.

(b) *Procedures.* The following procedures must be followed when submitting criminal history data to CJIS.

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(1) Standard FBI fingerprint cards will be used to submit criminal history data to CJIS. FBI Form FD 249, (Suspect Fingerprint Card) will be used when a military member is a suspect or placed under apprehension for an offense listed in Appendix D of AR 190-45. Two FD 249s will be completed. One will be retained in the Provost Marshal/Director of Emergency Services file. The second will be sent to the Director, USACRC and processed with the MPR as prescribed in this subpart. A third set of prints will also be taken on the FBI Department of Justice (DOJ) Form R-84 (Final Disposition Report). The R-84 requires completion of the disposition portion and entering of the offenses on which the commander took action. Installation Provost Marshals/Directors of Emergency Services are authorized to requisition the fingerprint cards by writing to FBI, J. Edgar Hoover Building, Personnel Division, Printing Unit, Room 1B973, 925 Pennsylvania Ave., NW., Washington, DC 20535-0001.

(2) Fingerprint cards will be submitted with the MPR to the Director, USACRC, ATTN: CICR-CR, 6010 6th Street, Fort Belvoir, VA 22060-5585 only when the commander has initiated judicial or nonjudicial action amounting to a Field Grade Article 15 or greater. The Director, CRC will forward the fingerprint card to CJIS. The USACRC is used as the central repository for criminal history information in the Army. They also respond to inquiries from CJIS, local, state and other federal law enforcement agencies.

(3) Submission of the MPR with the FD 249 to USACRC will normally occur upon a commander's initiation of judicial or nonjudicial proceedings against a military member. If final disposition of the proceeding is anticipated within 60 days of command initiation of judicial or nonjudicial proceedings, the FD 249 may be held and final disposition recorded on FD 249. Provost Marshals/Directors of Emergency Services and commanders must make every effort to comply with the 60 days reporting requirement to ensure that the FD Form 249 is used as the primary document to submit criminal history to CJIS. Approval of a discharge in lieu of court-martial will be recorded as a final dis-

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position showing the nature and character of the discharge in unabbreviated English (e.g., resignation in lieu of court-martial; other than honorable discharge) and will also be forwarded to USACRC.

(4) If the commander provides the DA Form 4833 after the 60th day, a letter of transmittal will be prepared by the Provost Marshal/Director of Emergency Services forwarding the FBI (DOJ) R-84 with the DA Form 4833 to the USACRC within 5 days after disposition. Submission of fingerprint cards shall not be delayed pending appellate actions. Dispositions that are exculpatory (e.g., dismissal of charges, acquittal) shall also be filed.

(5) The procedures for submitting fingerprint cards will remain in effect until automated systems are in place for submission of fingerprints electronically.

§ 635.26 Procedures for reporting Absence Without Leave (AWOL) and desertion offenses.

(a) *AWOL reporting procedures.* (1) The commander will notify the installation Provost Marshal/Director of Emergency Services in writing within 24 hours after a soldier has been reported AWOL.

(2) The Provost Marshal/Director of Emergency Services will initiate an information blotter entry.

(3) If the AWOL soldier surrenders to the parent unit or returns to military control at another installation, the provisions of AR 630-10 will be followed.

(4) On receipt of written notification of the AWOL soldier's return or upon apprehension, the Provost Marshal/Director of Emergency Services will initiate a reference blotter entry indicating the soldier's return to military control and will prepare an initial DA Form 3975, reflecting the total period of unauthorized absence, and the DA Form 4833. Both of these documents will be forwarded through the field grade commander to the unit commander.

(5) The unit commander will report action taken on the DA Form 4833 no later than the assigned suspense date or provide a written memorandum to

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the Provost Marshal/Director of Emergency Services explaining the delay.

(6) An original DD Form 460 (Provisional Pass) is issued to the soldier to facilitate their return to the parent unit. DD Form 460 will not be required if the Provost Marshal/Director of Emergency Services elects to return the soldier through a different means.

(7) If the soldier is apprehended at or returns to an installation other than his or her parent installation DA Form 3975 and 4833 with a copy of DD Form 460 will be sent to the parent installation Provost Marshal/Director of Emergency Services. The parent installation Provost Marshal/Director of Emergency Services will initiate an information blotter entry reflecting the AWOL soldiers return to military control. A DA Form 3975 and 4833 with an appropriate suspense will be sent through the field grade commander to the unit commander. On return of the completed DA Form 4833 from the unit commander, the original and one copy will be sent to the apprehending Provost Marshal/Director of Emergency Services. The parent installation Provost Marshal/Director of Emergency Services may retain a copy of DA Form 3975 and DA Form 4833.

(b) *Desertion reporting procedures.* (1) The unit commander must comply with the provisions of AR 630-10 when reporting a soldier as a deserter.

(2) On receipt of the DD Form 553 (Deserter/Absentee Wanted by the Armed Forces), the Provost Marshal/Director of Emergency Services will—

(i) Initiate a DA Form 3975 and a blotter entry reflecting the soldier's desertion status.

(ii) Complete portions of DD Form 553 concerning the soldier's driver's license and vehicle identification. In the remarks section, add other information known about the soldier such as confirmed or suspected drug abuse; history of violent acts; history of escapes; attempted escapes from custody; suicidal tendencies; suspicion of involvement in crimes of violence (for which a charge sheet has been prepared and forwarded); history of unauthorized absences; and any other information useful in the apprehension process or essential to protect the deserter or apprehending authorities.

(iii) An MPR number and a USACRC control number will be assigned to the case and be included in the remarks section of the DD Form 553.

(iv) The DD Form 553 must be returned to the unit commander within 24 hours.

(v) If the deserter surrenders to or is apprehended by the parent installation Provost Marshal/Director of Emergency Services, the Provost Marshal/Director of Emergency Services will telephonically verify the deserter's status with the U.S. Army Deserter Information Point (USADIP). A reference blotter entry will be completed changing the soldier's status from desertion to return to military control.

(vi) If the deserter surrenders to or is apprehended by an installation not the parent installation, the Provost Marshal/Director of Emergency Services will telephonically verify the deserter's status with USADIP. An information military police report will be prepared, utilizing the CRC number from the original military police report prepared by the parent installation. A blotter entry will also be prepared.

(vii) A DD Form 616 (Report of Return of Absentee) will be completed when deserters are apprehended or surrender to military authority. The USACRC control number assigned to the DD Form 553 will be included in the remarks section of the DD Form 616.

(viii) Upon return of the deserter to military control, DA Forms 3975, 2804 (Crime Records Data), fingerprint card and 4833 will be initiated. The MPR number and USACRC control number will be recorded on all four forms.

(ix) The original DA Form 3975 and other pertinent documents will be sent to the Director, USACRC. The DA Form 4833 must include the commander's action taken, to include the Commander, Personnel Control Facility, or other commander who takes action based on the desertion charge.

§ 635.27 Vehicle Registration System.

The Vehicle Registration System (VRS) is a module within COPS. Use of VRS to register vehicles authorized access to Army installations is mandated in AR 190-5. Within VRS there are various tabs for registration of vehicles authorized access to an installation, to

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include personal data on the owner of the vehicle. There are also tabs for registering weapons, bicycles, and pets. Information on individuals barred entry to an installation is also maintained within VRS.

§ 635.28 Procedures for restricted/unrestricted reporting in sexual assault cases.

Active duty Soldiers, and Army National Guard and U.S. Army Reserve Soldiers who are subject to military jurisdiction under the UCMJ, can elect either restricted or unrestricted reporting if they are the victim of a sexual assault.

(a) *Unrestricted reporting.* Unrestricted reporting requires normal law enforcement reporting and investigative procedures.

(b) Restricted reporting requires that law enforcement and criminal investigative organizations not be informed of a victim's identity and not initiate investigative procedures. The victim may allow Sexual Assault Response Coordinators (SARC), health care providers (HCP), or chaplains to collect specific items (clothing, bedding, etc.) that may be later used as evidence, should the victim later decide to report the incident to law enforcement. In sexual assault cases additional forensic evidence may be collected using the "Sexual Assault Evidence Collection Kit," NSN 6640-01-423-9132, or a suitable substitute (hereafter, "evidence kit"). The evidence kit, other items such as clothing or bedding sheets, and any other articles provided by the HCP, SARC, or chaplain will be stored in the installation Provost Marshal/Directorate of Emergency Services' evidence room separate from other evidence and property. Procedures for handling evidence specified in AR 195-5, Evidence Procedures, will be strictly followed.

(c) Installation Provost Marshals/Directors of Emergency Services will complete an information report in COPS for restricted reporting. Reports will be completed utilizing the offense code from the 6Z series. An entry will be made in the journal when the evidence kit or property (clothing, bedding, etc.) is received. The journal entry will be listed using non-identi-

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fying information, such as a generic identifier. An entry will not be made in the blotter. Restricted reporting incidents are not reportable as Serious Incident Reports. Property and the evidence kit will be stored for one year and then scheduled/suspended for destruction, unless earlier released to investigative authorities in accordance with the victim's decision to pursue unrestricted reporting. Thirty days prior to destruction of the property, a letter will be sent to the SARC by the Provost Marshal/Director of Emergency Services, advising the SARC that the property will be destroyed in thirty days, unless law enforcement personnel are notified by the SARC that the victim has elected unrestricted reporting. Clothing, the evidence kit, or other personal effects may be released to the SARC for return to the victim. The information report will be updated when the evidence is destroyed, or released to investigative authorities.

(d) In the event that information about a sexual assault that was made under restricted reporting is disclosed to the commander from a source independent of the restricted reporting avenues or to law enforcement from other sources, but from a source other than the SARC, HCP, chaplain, or Provost Marshal/Director of Emergency Services, the commander may report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by the restricted reporting policy may result in an investigation of the allegations.

§ 635.29 Domestic violence and protection orders.

(a) Responding to incidents of spouse abuse requires a coordinated effort by law enforcement, medical, and social work personnel, to include sharing information and records as permitted by law and regulation. AR 608-18 contains additional information about domestic violence and protective orders.

(b) Appendix C of AR 190-45 includes specific offense codes for domestic violence. All domestic violence incidents will be reported to the local PMO. All reported domestic violence incidents will be entered into MPRS, utilizing DA Form 3975. These codes will be utilized in addition to any other offense code that may be appropriate for an incident. For example, a soldier strikes his or her spouse. When entering the offense data into MPRS, both the offense code for assault (*i.e.*, 5C2B) and the offense code for spouse abuse (from the 5D6 series) will be entered.

(c) A military Protection Order is a written lawful order issued by a commander that orders a soldier to avoid contact with his or her spouse or children. Violations of a military Protection Order must be reported on DA Form 3975, entered into COPS, and entered into NCIC. Violations of a military Protection Order may be violations of Article 92, UCMJ. 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. A copy should be forwarded to the installation Family Advocacy Program Manager (FAPM), the Chief, Social Work Service, and the installation military police.

(d) A civilian Protection Order 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 a civilian protection order has the same force and effect on a military installation as such order has within the jurisdiction of the court that issued the order. Violations of a civilian Protection Order must be reported on DA Form 3975, entered into COPS, and entered into NCIC.

§ 635.30 Establishing domestic violence Memoranda of Understanding.

(a) Coordination between military law enforcement personnel and local civilian law enforcement personnel is essential to improve information sharing, especially concerning domestic violence investigations, arrests, and prosecutions involving military personnel. Provost Marshals/Directors of

Emergency Services 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 of domestic violence 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) MOUs should address the following issues:

(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 domestic violence incidents that occur on the installation involving a civilian alleged offender.

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

(5) 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.

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

(7) Procedures for transmitting military protection orders (MPOs) from the installation law enforcement office to

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the local civilian law enforcement agency with jurisdiction over the area in which the service member resides.

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

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

(10) 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)).

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

§ 635.31 Lost, abandoned, or unclaimed property.

This is personal property that comes into the possession, custody, or control of the Army and is unclaimed by the owner. Property is considered to be abandoned only after diligent effort has been made to determine and locate its owner, the heir, next of kin, or legal representative. A military person who is ordered overseas and is unable to dispose of their personal property should immediately notify their chain-of-command. The commander will appoint a board to rule on the disposition of the property. If a law enforcement agency takes custody of the property it will be tagged and a record made as shown in paragraph (a) of this section. A report will be made to the installation commander who will take action in accordance with DOD 4160.21-M, chapter 4, paragraph 40, Defense Materiel Disposition Manual. Pending board action under DOD 4160.21-M, the law enforcement agency having physical custody is responsible for the safekeeping of seized property. The following procedures should be used:

(a) Property will be tagged using DA Form 4002 (Evidence/Property Tag) or clearly identified by other means, inventoried, and made a matter of

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record. These records are kept by the custodian of the property.

(b) Lost, abandoned, or unclaimed property will be kept in a room or container separate from one used to store property held as evidence. Records or logs of property not held as evidence will be separated from those pertaining to evidence. However, all property will be tagged, accounted for, and receipted for in a similar manner as evidence.

(c) Property that has been properly identified through board action under DOD 4160.21-M as having an owner will be segregated and tagged with the name of that person.

(d) Abandoned or unclaimed property will be held until its status can be determined. In many instances, lost property can be returned to the owner upon presentation of proof of ownership.

(e) In all cases, a receipt should be obtained at time of release.

Subpart D—Army Quarterly Trends and Analysis Report

§ 635.32 General.

(a) This subpart prescribes policies and procedures for the coordination and standardization of crime statistics reporting with HQDA. Crime statistical reports and trends provided to HQDA and other agencies and those related to special interests inquiries, the media, and the public must reflect uniformity in terminology, methods of presentation, and statistical portrayal to preclude misinterpretation of information.

(b) Any report containing Army-wide aggregate crime data or statistics addressed to the Secretary of the Army, Chief of Staff of the Army, or Vice Chief of Staff of the Army will be coordinated and cleared with HQDA, Office of the Provost Marshal General (DAPM-MPD-LE). Correspondence and reports will be coordinated with HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) prior to release to any agency, activity, or individual.

(c) HQDA staff agencies ACOM, ASCC and DRU authorized by regulation or statute to conduct independent investigations, audits, analyses, or inquiries need not coordinate reported information with HQDA, Office of the Provost

Marshal General (DAPM-MPD-LE) unless the information contains crime data for the Army as a whole. For example, reports submitted by USACIDC containing only USACIDC investigative data need not be coordinated with HQDA, Office of the Provost Marshal General (DAPM-MPD-LE).

§ 635.33 Crime rate reporting.

(a) The USACRC is the Army's collection point and analytic center for all Army aggregate crime data. Requests for Army-wide crime data reports will be forwarded through HQDA, Office of the Provost Marshal General (DAPM-MPD-LE) to the Director, USACRC. Replies will be routed back through HQDA Office of the Provost Marshal General (DAPM-MPD-LE) where they will be coordinated, as appropriate, prior to release. Requests for USACIDC, ACOM, ASCC, DRU, or subordinate command specific crime data reports can be made directly to the specific command. Replies need not be coordinated with HQDA.

(b) Requests for Army aggregate crime reports are limited to data collected and accessible through the Automated Criminal Investigation and Intelligence System (ACI2) and COPS.

(c) Routine collection of ACOM, ASCC or DRU crime data, for use in Army-wide database, will be limited to that data collected by the above systems. ACOM, ASCC and DRU may determine internal data collection requirements.

(d) All Provost Marshal/Director of Emergency Services crime data will be recorded and forwarded by installations through ACOM, ASCC or DRU using the COPS system.

(e) In support of the Secretary of the Army and the Office of the Chief of Staff of the Army, the Chief, Operations Division, Office of the Provost Marshal General, will determine the requirements for routine publication of Army aggregate crime statistics.

(f) Normally, raw data will not be released without analysis on routine or non-routine requests. Comparison of ACOM, ASCC or DRU crime data is generally not reported and should be avoided. General categories of CONUS or OCONUS are appropriate.

Subpart E—Victim and Witness Assistance Procedures

§ 635.34 General.

(a) This subpart implements procedures to provide assistance to victims and witnesses of crimes that take place on Army installations and activities. The procedures in this subpart apply to—

(1) Every victim and witness.

(2) Violations of the UCMJ, including crimes assimilated under the Assimilative Crimes Act reported to or investigated by military police.

(3) Foreign nationals employed or visiting on an Army installation OCONUS.

(b) Provost Marshal/Director of Emergency Services personnel should refer to AR 27-10, Chapter 18, for additional policy guidance on the Army Victim/Witness Program.

§ 635.35 Procedures.

(a) As required by Federal law, 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) In keeping with the requirements listed in paragraph (a) of this section, Provost Marshals/Directors of Emergency Services must ensure that—

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(1) All law enforcement personnel are provided copies of DD Form 2701 (Initial Information for Victims and Witnesses of Crime).

(2) A victim witness coordinator is appointed in writing.

(3) Statistics are collected and reported into COPS.

(4) Coordination with the installation staff judge advocate victim witness coordinator occurs to ensure that individuals are properly referred for information on restitution, administrative, and judicial proceedings.

(5) Coordination with installation Family Advocacy Program's Victim Advocate occurs to support victims of spouse abuse. Victim Advocacy services include crisis intervention, assistance in securing medical treatment for injuries, information on legal rights and proceedings, and referral to military and civilian shelters and other resources available to victims.

§ 635.36 Notification.

(a) In addition to providing crime victims and witnesses a DD Form 2701, law enforcement personnel must ensure that individuals are notified about—

(1) Available military and civilian emergency medical care.

(2) Social services, when necessary.

(3) Procedures to contact the staff judge advocate victim/witness liaison office for additional assistance.

(b) Investigating law enforcement personnel, such as military police investigators—

(1) Must ensure that victims and witnesses have been offered a DD Form 2701. If not, investigating personnel will give the individual a copy.

(2) In coordination with the Provost Marshal/Director of Emergency Services victim witness coordinator, provide status on investigation of the crime to the extent that releasing such information does not jeopardize the investigation.

(3) Will, if requested, inform all victims and witnesses of the apprehension of a suspected offender.

§ 635.37 Statistical reporting requirements.

(a) DOD policies on victim witness assistance require reporting of statistics on the number of individuals who

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are notified of their rights. The DA Form 3975 provides for the collection of statistical information.

(b) The COPS system supports automated reporting of statistics. HQDA, Office of the Provost Marshal General (DAPM-PD-LE) as the program manager may require periodic reports to meet unique requests for information.

(c) It is possible that a victim or witness may initially decline a DD Form 2701. As the case progresses, the individual may request information. If a case is still open in the Provost Marshal Office/Directorate of Emergency Services, the Provost Marshal/Director of Emergency Services victim witness coordinator shall provide the DA Form 2701 to the individual and update the records. Once the case is referred to the staff judge advocate or law enforcement activity ceases, COPS will not be updated without prior coordination with the installation Staff Judge Advocate office.

PART 636—MOTOR VEHICLE TRAFFIC SUPERVISION (SPECIFIC INSTALLATIONS)

Sec.

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- 636.21 Obedience to official traffic control devices.
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- 636.30 Stopping, standing and parking.
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- 636.32 Miscellaneous instructions.
- 636.33 Vehicle safety inspection criteria.
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- 636.35 Headphones and earphones.
- 636.36 Alcoholic beverages.
- 636.37 Use of "Denver Boot" device.
- 636.38 Impounding privately owned vehicles (POVs).

APPENDIX A TO PART 636—REFERENCES
APPENDIXES B-C TO PART 636 [RESERVED]
APPENDIX D TO PART 636—GLOSSARY

AUTHORITY: 10 U.S.C. 30112(g); 5 U.S.C. 2951; Pub. L. 89-564; 89-670; 91-605; and 93-87.

SOURCE: 56 FR 28077, June 19, 1991, unless otherwise noted.

§ 636.0 Scope of this part.

This part contains regulations which are in addition to the motor vehicle supervision regulations contained in 32 CFR part 634. Each subpart in this part contains additional regulations specific to the named installation.

Subpart A—Fort Stewart, Georgia

§ 636.1 Responsibilities.

In addition to the responsibilities described in § 634.4 of this subchapter, Unit Commanders will:

(a) Monitor and control parking of military and privately owned vehicles within the unit's area, to include motor pools and assigned training areas.

(b) Establish a program in accordance with 24th Infantry Division (Mechanized) and Fort Stewart Regulation 755-2 to identify abandoned privately owned vehicles in the unit's area and coordinate with the Military Police for impoundment.

(c) In coordination with the Military Police, identify problem drivers in the unit and take appropriate action to improve their driving habits.

(d) Ensure that the contents of this part are explained to all newly assigned personnel, including personnel on temporary duty with their unit for 10 days or more.

(e) Identify unit member's vehicles which have obvious safety defects (see § 636.33) and take appropriate action to have the defect corrected. Commanders who cause a vehicle to be removed from the installation without the consent of the owner could be found liable for subsequent damage done to the vehicle provided that the damage was the result of negligence on the part of the government personnel.

(f) Identify those individuals required to attend the Defensive Driving Course (DDC) or Motorcycle Defensive Driving Course (MDDC) and ensure their attendance at the course.

§ 636.2 Program objectives.

In addition to the requirements of § 634.5 of this subchapter:

(a) The entry of motor vehicles on the Fort Stewart/Hunter Army Airfield reservation is permitted by the Commanding General under the conditions prescribed by this part. Upon entering the military reservation, the driver subjects himself and his vehicle to reasonable search. The authority to search vehicles on post is subject to the provisions of AR 190-22 and AR 210-10. This part is not applicable to vehicle safety inspections and spot checks conducted primarily for purposes of safety.

(b) The Military Police may:

(1) Inspect any vehicle operated on the reservation for mechanical condition.

(2) Impound, exclude, or remove from the reservation any vehicle used as an instrument in a crime, suspected of being stolen, abandoned, inoperable, unregistered, or being operated by a person under the influence of intoxicants or drugs. No vehicle will be impounded unless the impoundment meets the requirements of AR 190-5, paragraph 6-2 (32 CFR 634.50) and § 636.38 of this subpart. In the event a vehicle is impounded as an instrument of crime (particularly in the transport of illegal drugs or weapons), coordination will be made with the appropriate civilian law enforcement agencies.

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(3) Subsequent to a lawful apprehension, seize for administrative forfeiture proceedings all conveyances which are used, or are intended to be used to transport, sell or receive, process or conceal illegal drugs or drug paraphernalia, or in any way facilitate the foregoing. A conveyance is defined as any mobile object capable of transporting objects or people (e.g., automobile, truck, motorcycle, boat, airplane, etc.).

(c) The Commander or other persons designated authority by the Commander may suspend or revoke the installation driving privileges of any person as authorized by part 634 of this subchapter and this section.

(d) Unit commanders may request temporary suspension of an assigned member's installation driving privilege for cause (e.g., continued minor driving infractions, numerous parking violations, etc.). Such requests will be submitted in writing to the Commander, 24th Infantry Division (Mechanized) and Fort Stewart, ATTN: AFZP-PM, Fort Stewart, Georgia 31314-5000. Reasons for such requests will be explained. Unit commanders retain the authority to suspend a soldier's military vehicle driving privileges in accordance with AR 385-55.

§ 636.3 Suspension or revocation of driving privileges.

In addition to the requirements of § 634.10 of this subchapter:

(a) Administrative suspension or revocation of installation driving privileges applies to the operation of a motor vehicle on Fort Stewart/Hunter Army Airfield.

(b) Installation driving privileges will be suspended for up to 6 months for drivers who accumulate 12 traffic points within 12 consecutive months, or 18 traffic points within 24 consecutive months.

(c) The Garrison Commander and Deputy Garrison Commander are designated as suspension/revocation authorities for:

(1) Suspension of driving privileges should the evidence indicate that a charge of driving under the influence is warranted or;

(2) The suspension/revocation for accumulation of 12 traffic points within

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12 months or 18 points within 24 consecutive months.

§ 636.4 Administrative due process for suspensions and revocations.

In addition to the requirements of § 634.11(a) of this subchapter:

(a) The Provost Marshal or his designee will provide the written notice of pending action and offer of an administrative hearing using AFZP Form Letter 316, Suspension of Installation Driving Privileges.

(b) The Garrison Commander and Deputy Garrison Commander are designated as reviewing authorities to conduct administrative hearings.

(c) Individuals who desire an administrative hearing to review a decision to impose immediate suspension, or to appeal the decision of the administrative hearing officer, will adhere to the following procedures. A request for an administrative hearing will be forwarded through their supervisory chain of command. Requests from family members or non-employee civilians can be forwarded to the Provost Marshal's Administrative Section at Fort Stewart or Hunter Army Airfield and can either be delivered or post marked within ten days of notification of the suspension action.

(d) Individuals who were initially charged with driving under the influence (DUI) based in part on a blood alcohol content (BAC) test which has not subsequently been invalidated and who are found not guilty of DUI may request a hearing to determine if their driving privileges should be restored. Such requests shall be forwarded through their chain of command to arrive at the Provost Marshal's Office (AFZP-PMA for Fort Stewart or AFZP-PM-H for Hunter Army Airfield) not later than ten working days after the date of court action.

§ 636.5 Army administrative actions against intoxicated drivers.

For this installation, in violation of State law referenced in § 634.12(a)(3) of this subchapter, means a blood alcohol content of 0.10 percent or higher as set forth in Official Code of Georgia Annotated 40-6-392(b)(3).

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§ 636.6 Remedial driver training program.

For this installation remedial driving training program referenced in § 634.12(b) of this subchapter is operated by the Installation Safety Office. Driving privileges may be withheld beyond expiration of the sanction to complete remedial driving or alcohol and drug rehabilitation programs in accordance with AR 190-5, paragraphs 2-12c and d, and 5-4f (32 CFR 634.17(c) and (d) and 634.17(f)).

§ 636.7 Extensions of suspensions and revocations.

In addition to the requirements in § 634.17(a) of this subchapter, for each subsequent violation of the suspension period, an additional five years will be added to the suspension period for this installation (see Table 634.46 in § 634.46 of this subchapter).

§ 636.8 Registration policy.

In addition to the requirements of § 634.19(a) of this subchapter, motor vehicles which are owned and/or operated by a person who resides, performs duty, is employed on, or "frequently uses" the facilities of Hunter Army Airfield will be registered in accordance with the requirements of § 634.20 of this subchapter. Frequent users include but are not limited to family members, retirees, and civilians whose normal route of travel between home and work takes them through the installation.

§ 636.9 Registration requirement.

In addition to the requirements of § 634.20 of this subchapter:

(a) The Military Police will cite violators on DD Form 1408 (Warning Citation) for observed safety defects. On a periodic basis, Military Police will conduct vehicle safety inspection operations using the criteria in § 636.33.

(b) An individual possessing a valid USAREUR privately owned vehicle (POV) license may operate a motor vehicle in the State of Georgia for a period not to exceed 30 days. After the 30 day period the individual must obtain a valid license from the State of Georgia or another state to operate a motor vehicle in the State of Georgia.

(c) An individual returning a vehicle to Continental United States (CONUS)

has 30 days from date of entry or 10 days after reporting for military duty to register that vehicle in the State of Georgia or another state. A temporary pass will be issued until this requirement has been met.

(d) *Liability and no-fault insurance requirements.* (1) All personnel operating vehicles on Fort Stewart/Hunter Army Airfield will obtain and maintain, at least, the minimum amount of liability and no-fault insurance required by the State of Georgia. The amounts are as follows:

(i) Liability:

(A) \$15,000.00 per person per accident for bodily injury.

(B) \$30,000.00 per incident for bodily injury.

(C) \$10,000.00 per accident for property damage.

(ii) No-Fault—\$5,000.00.

(2) Proof of this insurance will be required at the time of registration.

(e) Vehicle safety inspections are not required in the State of Georgia, however, vehicles operated on Fort Stewart/Hunter Army Airfield must be in safe operating condition and be able to pass spot vehicle safety equipment checks conducted by the Military Police. Safety criteria is set forth in § 636.33 of this subpart.

§ 636.10 Hunter Army Airfield vehicle registration.

Personnel assigned or employed at Hunter Army Airfield are required to register their privately owned vehicles within five days after arrival to the installation. Requirements for registration are listed in AR 190-5 and this part.

(a) Temporary passes may be issued to personnel not assigned to the installation but requiring temporary access to the installation. These include personnel employed by construction and material handling vehicles requiring on post access. Personnel requesting temporary passes must meet the same requirements as do personnel requiring decals.

(1) Temporary passes will not exceed 45 days. Renewal of temporary passes is prohibited except upon approval of the Installation Commander or his/her designee.

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(2) Temporary passes will be conspicuously placed on the left side of the vehicle dashboard between the dashboard and the front windshield. Nothing will be placed so as to obscure the view of the temporary pass from the exterior of the vehicle. The pass will remain in this position during the entire time the vehicle is on the installation. Failure to conspicuously display the temporary pass could result in the vehicle being removed from the installation.

(3) Temporary passes will remain with the vehicle for which they were issued and not be transferred to other vehicles.

(4) Each person driving a vehicle on the installation must individually meet the drivers license requirement of the installation as well as sign the temporary pass.

(5) Temporary passes will be returned to the Vehicle Registration section when they have expired or area no longer needed.

(b) Decals are to be issued to all military and civilian employees of Hunter Army Airfield, military retirees, and contractors/vendors doing extended business on the installations. Requirements outlined in AR 190-5 (32 CFR part 634) and this part must be met before decals are issued.

(c) Personnel requiring permanent decals, who do not meet the requirements outlined in AR 190-5 (32 CFR part 634) and this part, will be issued temporary passes not to exceed 45 days. Registration requirements will be met as soon as possible after issuance of the temporary pass. A decal may then be issued.

(d) DOD decals (DD Form 2220) will be utilized for vehicle registration. Additional installation name and expiration month and year decals will be utilized with sizes and coloration as prescribed in AR 190-5 (32 CFR part 634).

(e) Decals will be permanently affixed to the vehicles for which they are registered in one of two places:

(1) Exterior, front windshield lower left corner.

(2) Front, left bumper of the vehicle, conspicuously displayed. Decals will not be affixed to the front spoilers or any other area which obscures the viewing of the decal.

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(3) Installation decals will be placed directly beneath and centered on the DOD decal. Expiration decals will be placed on each side and level with the DOD decal with the month on the left and the year on the right.

(4) Decals will not be affixed to any other portion of the vehicle other than listed in § 636.10(e) (1) through (3).

§ 636.11 Installation traffic codes

In addition to the requirements in § 634.25(d) of this subchapter, on-post violations offenders will be cited under the appropriate Georgia Traffic Code as assimilated by 18 U.S.C. 13 (for civilians) and Art 134c, Uniform Code of Military Justice (UCMJ) (for military). If no Georgia Code is appropriate for a specific offense, civilians will be cited under 40 U.S.C. 318a and military personnel will be cited under Art 92, UCMJ. The Fort Stewart/Hunter Army Airfield installation traffic code conforms to the State of Georgia Traffic Law.

§ 636.12 Traffic accident investigation.

In addition to the requirements in § 634.28 of this subchapter, Military Police at Fort Stewart/Hunter Army Airfield installation will investigate reportable motor vehicle accidents involving government owned or privately owned vehicles.

§ 636.13 Traffic accident investigation reports.

In addition to the requirements in § 634.29 of this subchapter:

(a) Military Police at Fort Stewart/Hunter Army Airfield installations will record traffic accident investigations on DA Form 3946 (Military Police Traffic Accident Report) and DA Form 3975 (Military Police Report).

(b) All privately owned motor vehicle accidents on Fort Stewart or Hunter Army Airfield will be immediately reported to the Military Police for investigation. Unless an emergency situation exists, vehicle(s) involved in an accident will only be moved on order of the Military Police.

§ 636.14 Parking.

In addition to the requirements in § 634.31 of this subchapter:

(a) Military Police will enforce parking in handicapped and Commanding General reserved parking spaces at Fort Stewart/Hunter Army Airfield soldier service facilities and assess points in accordance with Table 634.46 in § 634.46 of this subchapter and Table 636.19 in § 636.19. Vehicles may be towed for such violations as parking in handicapped parking spaces and parking on a yellow curb among others.

(b) Reserved parking spaces in areas under the control of units or staff sections may be designated by the commander or staff section chief who is also responsible to control the use of these spaces.

(c) Parking spaces for tactical vehicles at the Main Exchange/Commissary area will be designated at the end of rows, farthest from the facilities. Only those vehicles properly authorized by unit commanders will be parked at the Main Exchange/Commissary area.

§ 636.15 Traffic violation reports.

In addition to the requirements in § 634.32 of this subchapter:

(a) The Provost Marshal in coordination with the Staff Judge Advocate will determine what traffic offenses will be referred to the U.S. Magistrate Court by means of DD Form 1805.

(b) Of the four available actions on the back of the DD Form 1408, supervisors of civilian employees may take one of the following two actions.

(c) No action taken: A finding of not guilty. There must be an explanation of the reason for no action taken.

(d) Administration: A finding of guilty. This includes, but is not limited to, such actions as a written warning, letter of reprimand, or suspension. Supervisors should coordinate with CPO, MER branch before taking adverse action.

(e) Reports of Commander's action taken will be forwarded to the Provost Marshal Office through the appropriate major subordinate commander.

§ 636.16 Detection, apprehension, and testing of intoxicated drivers.

In addition to the requirements in § 634.36 of this subchapter, the standard field sobriety test used by the Military Police may include the following tests:

(a) Horizontal gaze nystagmus.

(b) Walk and turn.

(c) One leg stand.

§ 636.17 Compliance with State laws.

In addition to the requirements of § 634.42 of this subchapter, the Provost Marshal will conduct necessary coordination with civil enforcement agencies to ensure receipt of information and assistance as required. The Directorate of Logistics will secure any necessary permits for military movement on public roads and highways.

§ 636.18 Driving records.

In addition to the requirements in § 634.44 of this subchapter, the Provost Marshal Office will maintain driver records.

§ 636.19 Point system application.

TABLE 636.19	
Violation: Parking in a handicap zone	Points assessed: 3
Violation: Parking against a yellow curb	Points assessed: 3
Violation: Parking within 10 feet of a fire hydrant.	Points assessed: 3
Violation: Impeding the flow of traffic	Points assessed: 3
Violation: Other parking violations	Points assessed: 2

§ 636.20 Point system procedures.

In addition to the requirements of § 634.47 of this subchapter:

(a) Reports of parking violations recorded on DD Form 1408 or DD Form 1805 will serve as a basis for determining point assessment.

(b) The instructions in paragraph (a) of this section also apply to the receipt of a DD Form 1408 (Armed Forces Traffic Ticket) for a parking violation.

§ 636.21 Obedience to official traffic control devices.

(a) All drivers will obey the instructions of official signs, unless directed to do otherwise by the Military Police.

(b) Official traffic control devices, such as traffic cones or barricades, are presumed to have been placed by proper authority.

§ 636.22 Speed regulations.

(a) Georgia state speed limits apply unless otherwise specified by this part.

(b) Drivers will operate their vehicles at a reasonable and prudent speed based on traffic and road conditions, regardless of posted speed limits.

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(c) The speed limit on the installation is 30 miles per hour unless otherwise posted or if it falls within one of the special speed limit situations (see paragraph (d) of this section).

(d) The following special speed limits apply:

(1) When passing troop formations, 10 miles per hour.

(2) The authorized speed limit in the school zones is 15 miles per hour when any of the following conditions are present:

(i) A school crossing attendant is present.

(ii) Children are present in the area.

(iii) The flashing, yellow, caution lights are in operation.

(3) Fort Stewart housing areas, 20 miles per hour. Hunter Army Airfield housing areas, 15 miles per hour.

(4) Tactical vehicle drivers will obey posted speed limits; however, drivers will not exceed 40 miles per hour on paved roads and 25 miles per hour on unpaved roads and tank trails. Commercial Utility Cargo Vehicles (CUCV's) are tactical vehicles and will obey the following off-road driving speeds:

Day Driving:	Trails, 16 MPH
	Cross County, 6 MPH
Night Driving:	Trails, 5 MPH (with headlights)
	Cross County, 5 MPH
Night Driving:	Trails, 4 MPH (Black-out Drive)
	Cross County, 2.5 MPH

(5) Parking lots, 10 miles per hour.

(6) The authorized maximum speed limit for rough terrain forklifts when operated on hard surface roads will not exceed 15 miles per hour. These vehicles will also bear the Triangular Symbol to alert trailing vehicles as required by the Occupational Safety and Health Administration (OSHA) (29 CFR 1910.145).

§ 636.23 Turning movements.

(a) U-turns are prohibited on all streets in the cantonment area.

(b) Right-turns will be made from a position as close to the right edge or right curb of the roadway as possible.

(c) Left-turns will be made from a position as close to the center line as possible or from a left turn lane, if available.

(d) All turns will be signaled continuously beginning not less than 100 feet prior to the turn.

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§ 636.24 Driving on right side of roadway; use of roadway.

(a) All drivers will use the right side of roadways, except:

(1) When passing a vehicle proceeding in the same direction.

(2) When an obstruction is blocking all or part of the right lane of the roadway.

(3) When driving on a one-way street.

(b) Drivers proceeding in opposite directions will pass to the right, each using one-half of the roadway.

(c) Drivers passing another vehicle traveling in the same direction will exercise the utmost caution and safety and will abide by all applicable traffic laws.

(d) Drivers of vehicles being passed will give way to the right and not increase their vehicle's speed.

(e) Drivers will allow a sufficient distance between their vehicle and the vehicle in front to allow a safe stop under all conditions.

§ 636.25 Right-of-way.

(a) When two vehicles enter an intersection from different highways at the same time, the driver of the vehicle on the left will yield right-of-way. When entering an intersection without traffic control devices from a highway which terminates at the intersection, that driver will yield right-of-way.

(b) Drivers turning left within an intersection will yield right-of-way to vehicles approaching from the opposite direction.

(c) Drivers approaching a stop sign will stop at the marked stop line, if present, or before entering the crosswalk, if present, or at a point nearest the intersecting roadway where the driver will yield the right-of-way, if required.

(d) Drivers approaching yield signs will slow down to a speed not exceeding 10 miles per hour and yield the right-of-way to any approaching vehicles, coming to a stop if necessary.

(e) Drivers entering or crossing a roadway from any place other than another roadway will yield the right-of-way to vehicles on the roadway.

(f) Upon the immediate approach of an authorized emergency vehicle identified as such, all drivers will yield the right-of-way to the emergency vehicle.

§ 636.26 Pedestrian's rights and duties.

(a) Pedestrians will obey all traffic control devices and regulations, unless directed to do otherwise by the Military Police.

(b) When traffic-control signals are not in place or not in operation, the driver of a vehicle will yield the right of way, by slowing down or stopping, when a pedestrian is in a crosswalk on the same side of the road as the driver's vehicle, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(c) Pedestrians will not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close to the crosswalk that it is impractical for the driver to stop.

(d) Pedestrians crossing a roadway, at a point other than a crosswalk, will yield the right-of-way.

(e) Pedestrians will not cross any intersection diagonally unless clearly authorized to do so.

(f) Every driver will exercise due care to avoid colliding with any pedestrian upon any roadway and will exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person.

(g) A person who is under the influence of intoxicating liquor or any drug to a degree which renders himself a hazard will not walk upon any roadway.

(h) Pedestrians will use sidewalks, where provided, rather than walking upon the roadway. When sidewalks are not provided, pedestrians will walk the shoulder of the roadway as far from the edge of the roadway as possible. When neither sidewalks nor a shoulder are available, pedestrians will walk on the extreme edge of the roadway, facing traffic, and will yield to all oncoming traffic.

(i) Individuals will not stand in or beside the roadway to solicit rides (hitchhike).

(j) Individuals will not stand in or beside the roadway to solicit business, employment, or contributions from the occupant of any vehicle.

(k) Pedestrians will yield to all authorized emergency vehicles using an audible signal and/or a visual signal.

(l) The wearing of headphones or earphones by pedestrians or joggers while walking or jogging on roadways or on the shoulders of roadways is prohibited.

§ 636.27 Regulations for bicycles.

(a) Parents will not knowingly allow their children to violate any of the provisions of this section.

(b) Traffic laws and regulations in this part apply to persons riding bicycles. Bicycle riders are granted all the rights and are subject to all duties of motorized vehicle operators, except those which logically do not apply.

(c) Bicycles will be parked against the curb or in a rack, provided for that purpose, and will be secured.

(d) Bicycle riders will not attach the bicycle or themselves to any motorized vehicle operating upon the roadway.

(e) Bicycles will be ridden upon the roadway in single-file.

(f) Bicycles operated between dusk and dawn will utilize a headlight visible for a minimum of 300 feet and a rear reflector or red light visible for 300 feet to the rear.

(g) Bicycles will not be ridden without an operable brake system.

(h) Bicycles will not be ridden if the pedal, in its lowermost position, is more than 12 inches above the ground.

(i) If a bicycle/pedestrian path or sidewalk is present, bicyclists will use the path or sidewalk instead of the roadway.

(j) Certain roadways have been designated and marked as being off-limits to bicyclists. Bicyclists will use an alternate roadway or a bicycle path rather than those roadways.

§ 636.28 Special rules for motorcycles/mopeds.

(a) Traffic laws and regulations in this part apply to persons riding motorcycles/mopeds. Motorcycle/moped operators are granted all the rights and are subject to all duties of motor vehicle operators, except those which logically do not apply.

(b) Motorcycles/moped operators will ride only while seated facing forward with one leg on either side of the vehicle on the permanent and regular seat of the vehicle. Passengers will not be carried unless the vehicle is designed

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to carry a passenger. Passengers will only be carried in a manner which neither interferes with the operation of the vehicle nor obstructs the operator's view. Operators will keep both hands on the vehicle's handlebars.

(c) Motorcycle/moped operators are entitled to the use of a full lane of traffic. Motorcycle/moped operators will not pass another vehicle using the same lane as the overtaken vehicle. Motorcycles/mopeds will not be operated between lanes of traffic or between adjacent lines or rows of vehicles.

(d) Motorcycles/moped headlights and tail lights will be illuminated at anytime the vehicle is being operated.

(e) Motorcycle/moped operators will not attach their vehicle or themselves to any other motorized vehicle operating upon the roadway.

(f) Footrests will be provided for passengers. Motorcycles/mopeds will not be operated with handlebars more than 15 inches above the seat which the operator occupies. No back rest attached to the motorcycle/moped will have a sharp point at its apex.

(g) All motorcycle/moped operators/passengers will comply with the following safety requirements:

(1) Wear the following protective equipment:

(i) Properly fastened (under the chin) DOT approved helmet.

(ii) Eye protection (clear goggles or a face shield attached to the helmet).

(iii) Full-fingered gloves.

(iv) Long trousers.

(v) Long-sleeved shirt or jacket (with sleeves rolled down).

(vi) Leather boots or over-the-ankle shoes.

(vii) High-visibility garments (bright color for day and retro-reflective for night).

(2) Motorcycle/moped headlights will be turned on at all times.

(3) Motorcycle/moped must have two rear-view mirrors (one mirror on each side of the handlebars).

(4) Use of headphones or earphones while driving is prohibited.

(h) Military personnel, civilian employees, and family member drivers of a privately or government-owned motorcycle/moped (two or three wheeled motor driven vehicles) are required to

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attend and complete an approved Motorcycle Defense Driving Course (MDDC) prior to operation of the motorcycle/moped on the installation. Upon completion of the course, personnel will be provided with a MDDC card. Personnel are authorized to operate their motorcycle/moped on the installation for the purpose of attending the motorcycle safety course. Attendance may be verified by contacting the Installation Safety Office.

§ 636.29 Go-carts, minibikes, and all terrain vehicles (ATV's).

(a) Operators of "go-carts," "minibikes," and ATV's 16 years of age or older, must comply with applicable Georgia State Law and Fort Stewart traffic laws and regulations contained in this part.

(b) "Go-carts," "minibikes," and ATV's operated on installation roadways are required to meet the requirements of this part and the Georgia Traffic Code.

(c) Off-road vehicles will only be operated in areas specified by the DPCA. The DPCA will specify conditions for off-road operation.

(d) "Go-carts," "minibikes," and ATV's will only be operated during daylight hours and will not be operated during periods of inclement weather or reduced visibility.

(e) Operators and passengers of "go-carts," "minibikes," and ATV's must wear approved protective helmets, eye protection, and footwear (open-toed footwear is prohibited).

(f) Soldiers or sponsors of persons operating "go-carts," "minibikes," and ATV's are responsible for the safe operation of the vehicle.

§ 636.30 Stopping, standing and parking.

(a) Drivers will not stop, park, or leave standing their vehicle, whether attended or unattended, upon the roadway when it is possible to stop, park or leave their vehicle off the roadway. In any case, parking or standing the vehicle upon the roadway will only be done in an emergency.

(b) Vehicles, not clearly identified as operated by a handicapped individual, will not be parked in a handicapped parking space.

(c) Whenever Military Police find a vehicle parked or stopped in violation of this section, they may immediately move, or cause to be moved, the vehicle off the roadway. At the direction of the Provost Marshall, or his designee, vehicles parked in restricted or reserved parking spaces, may be moved.

(d) The Military Police may remove or cause to be removed, to a safe place, any unattended vehicle illegally left standing upon any highway or bridge or within 10 feet of any railroad track on the installation.

(e) As a crime prevention measure, the Military Police may pick up keys left in vehicles, secure the vehicle in place, and post a notice directing the owner to proceed to the MP station to claim his/her keys. The program will be adequately publicized and will only be invoked after a conscientious attempt to locate the owner.

(f) No driver will stop, stand, or park a vehicle:

(1) On the roadway side of any vehicle stopped or parked at the edge of a curb or a street.

(2) On a sidewalk.

(3) Within an intersection.

(4) On a crosswalk.

(5) Alongside or opposite any street excavation or obstruction when traffic would be obstructed.

(6) Upon a bridge or other elevated structure.

(7) On any railroad tracks or within 10 feet of any rail road track.

(8) On any controlled-access highway.

(9) Where prohibited by official signs.

(10) Alongside any roadway in any manner which obstructs traffic.

(g) No driver will stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(1) In front of a public or private driveway.

(2) Within 10 feet of a fire hydrant.

(3) Within 20 feet of a crosswalk at an intersection.

(4) Within 20 feet upon the approach to any flashing signal, a stop sign, yield sign, or traffic control signal located at the side of a roadway.

(5) Within 20 feet of a driveway entrance to any fire station and on the side of a street opposite the entrance

to any fire station within 75 feet of said entrance (when properly sign posted).

(6) At any place where official signs prohibit standing.

(7) Adjacent to any curb painted yellow or identified, by signs, as a "No Parking" area.

(8) Along a roadway against the flow of traffic.

(9) Within 20 feet of any building in what would reasonably be considered a "fire-lane" unless specified as a parking space.

(10) Parallel parking along the curb is authorized in housing areas unless otherwise posted.

(11) Parking is prohibited upon lawns or grassed (seeded) areas, unless specifically authorized by the Provost Marshal. This prohibition is not intended, however, to extend to those locations designated as bivouac sites, range areas, etc.

(12) No dual-wheeled or tandem-wheeled recreational vehicles and trailers will be stored at government quarters. All other recreational vehicles, to include campers, trailers, boats, pop-up campers, and camper shells may be parked in the driveway area or under the carport of individual quarters. To prevent injury to children playing on and around trailers, one tire on each side of the trailer will be chocked in front and back. Trailer tongues, without installed supports, will either be left on the ground or supported in such a manner as to preclude the support tipping over and allowing the trailer tongue to fall. If the vehicle creates a safety hazard or is an eyesore, personnel are encouraged to use the storage facilities available at the Outdoor Recreation Center, Holbrook Pond, Fort Stewart, or at the Private Vehicle Storage area at Hunter Army Airfield. House trailers are not authorized to be parked in the quarters area. Campers, camper trailers, and tents will not be approved for occupancy in the quarters area. Parking of recreational vehicles on the street will be limited to 24 hours for owners to load and unload the vehicle at the owner's quarters.

(h) No driver will use a parking lot, sidewalk, fire lane, or vacant property to drive on in order to avoid a traffic control device or alter the traffic flow plan unless authorized to do so by the

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Military Police or a traffic control device.

§ 636.31 Abandoned vehicles.

(a) Any MP or DOD police officer who finds or has knowledge of a motor vehicle which has been left unattended or abandoned on a street, road, highway, parking lot, or any other real property of the installation for a period of at least 72 hours may be authorized by the Provost Marshal or his designee to cause said motor vehicle to be moved to an impoundment lot for storage.

(b) Any MP or DOD police officer who, under the provisions of this section, causes any motor vehicle to be moved to an impoundment lot or other temporary place of safety is acting with proper authority and within the scope of that officer's employment, except that any wanton or intentional damage done to any motor vehicle by any MP or DOD police officer should not be within the scope of either that officer's authority or employment.

(c) Unit commanders, with knowledge of an abandoned vehicle in their unit area, should attempt to identify the owner and have them remove the vehicle. When owners cannot be identified or are no longer assigned to this command, unit commanders will notify the MP's to initiate impoundment procedures.

(d) Civilian vehicles left abandoned on the reservation will be towed to an impoundment lot for further disposition.

(e) Personnel experiencing motor vehicle trouble may authorize the MP desk to obtain the assistance of a civilian wrecker, but in doing so, the government assumes no liability of payment for such services or possible resulting damage.

§ 636.32 Miscellaneous instructions.

(a) All unattended motor vehicles will have the engine stopped and the ignition locked.

(b) Vehicles will not be operated when so loaded with passengers and/or goods that the driver's view is blocked or control over the driving mechanism is interfered with.

(c) Drivers, other than on official business, will not follow any emergency vehicle, operating under emer-

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gency conditions, closer than 500 feet or park closer than 500 feet to any emergency vehicle stopped for an emergency.

(d) No vehicle will be driven over a fire hose unless directed to do so by a fire official, or the Military Police.

(e) Ground guides will be posted, during backing, at the left rear of any $\frac{3}{4}$ ton or larger vehicle.

(f) All vehicles carrying a load will have the load secured and/or covered to prevent the load from blowing or bouncing off the vehicle.

(g) A red flag or red light, visible for at least 100 feet from the rear will be attached to any load protruding beyond the rear of any vehicle.

(h) Troop marches, physical training runs, etc., will not be conducted in a manner that will interfere with motor vehicle traffic on the Fort Stewart/Hunter Army Airfield reservation.

(1) Units participating in parades and related practices, road marches, etc., will not conduct such marches upon any hard surface road or traffic way unless coordination has been made with the Provost Marshal Office.

(2) Physical training runs, exercises, or tests will not be conducted upon any hard surface road or traffic way unless such is specifically allowed in 24th Infantry Division (Mechanized) and Fort Stewart Regulation 350-1.

(i) Congested housing areas on the installation require special precaution on the part of drivers and persons living in those areas.

(1) Parents can assist drivers in this regard by reminding their children that housing area streets are extremely dangerous and that playing in the street is prohibited.

(2) Bus stops are sites particularly prone to large numbers of children playing immediately adjacent to or actually in the roadway while awaiting arrival of the school bus.

(3) Complaints received by the MP desk, concerning children playing in the streets, must be investigated in the interest of safety. Repeated violations could result in further action by the chain of command.

(j) Vehicles and/or trailers will not be towed with a chain or rope (vehicles may be towed by another privately

owned vehicle by use of a rigid tow bar).

(k) At entrances to Fort Stewart/Hunter Army Airfield where a gate guard is positioned, drivers are required to obey his/her instructions. During hours of darkness, headlights will be switched to parking lights upon approach to the gate.

(l) Motorists will drive with headlights illuminated at any time from a half hour after sunset to a half hour before sunrise and at any time when it is raining in the driving zone and at any other time when there is not sufficient visibility to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead.

(m) Motor vehicles will not be operated if visibility to the front, rear, or side is rendered unsafe and improper from fogged or iced-over windows.

(n) Aircraft runways, taxiways, and aprons at Hunter Army Airfield and Wright Army Airfield and "OFF-LIMITS" to all privately owned vehicles.

(o) Extensive repairs to automobiles will not be undertaken in housing areas, parking lots, or other similar areas. Repairs extending over a 24 hour period will be considered extensive.

(p) Tactical vehicles will not be driven in housing areas. Post police or vehicles on similar details may drive in the housing areas as required.

(q) Active duty personnel residing on post are encouraged to have their privately owned bicycles, "go-carts," and "minibikes" registered with the Provost Marshal's Office (Registration Branch) in conjunction with the Installation Crime Prevention Program.

(r) All personnel operating a vehicle on Fort Stewart/Hunter Army Airfield will have proof of insurance for the vehicle, in the vehicle at all times.

§ 636.33 Vehicle safety inspection criteria.

(a) The vehicle safety inspection criteria listed in this paragraph (a) are general in nature; specific evaluation techniques for these criteria are contained in Georgia Traffic Law.

(1) Headlights—every vehicle, except motorcycles, will have at least two headlights, one on each side of the front of the vehicle, capable of illu-

minating 500 feet to the front. Motorcycles will have one headlight.

(2) Tail Lamps—every vehicle will have at least one red, self-illuminating lamp, on the rear of the vehicle, visible from 500 feet to the rear.

(3) Registration Plate Lamp—every vehicle will have a lamp designed to illuminate the registration plate with white light making the plate legible from a distance of 50 feet.

(4) Rear Reflectors—every vehicle, except motorcycles, will have two red reflectors on the rear. Motorcycles will have one red reflector.

(5) Stop Lamp—every vehicle will have at least one red or yellow stop lamp on the rear which will be actuated upon application of the foot brake.

(6) Turn Signals—every vehicle will be equipped with electrical or mechanical turn signals capable of indicating any intention to turn either to the right or to the left, and visible from the front and rear. This requirement does not apply to any motorcycle or motor-driven cycle manufactured prior to 1 January 1972.

(7) Brakes—every vehicle will be equipped with brakes adequate to control the movement of and to stop and hold such vehicle.

(8) Horn—every vehicle will be equipped with an operable horn, capable of emitting sound audible for at least 200 feet.

(9) Muffler—every vehicle will have a muffler in good working order and in constant operation.

(10) Mirror—every vehicle, from which the driver's view is obstructed, will be equipped with a mirror reflecting a view of the highway for a distance of at least 200 feet to the rear.

(11) Windows—the view through vehicle windows will not be obstructed by any sign, poster, or other nontransparent material. Windshields and rear windows will not have starburst or spider webbing effect greater than 3 inches by 3 inches. No opaque or solid material including, but not limited to cardboard, plastic, or taped glass will be employed in lieu of glass.

(12) Windshield Wipers—every vehicle, except motorcycles, will be equipped with operable windshield wipers.

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(13) Tires—every vehicle will be equipped with serviceable rubber tires which will have a tread depth of at least two thirty-seconds of an inch.

(14) Suspension Systems—no vehicle will have its rear end elevated above the vehicle manufacturer's designated height (49 CFR 570.8).

(b) The criteria listed in paragraph (a) of this section are not necessarily an inclusive list. A vehicle may be deemed unsafe to operate when any part of the vehicle is defective and renders the vehicle dangerous to others.

§ 636.34 Restraint systems.

(a) Restraint systems (seat belts) will be worn by all operators and passengers of U.S. Government vehicles on or off the installations.

(b) Restraint systems will be worn by all civilian personnel (family members, guests, and visitors) driving or riding in a private owned vehicle on the Fort Stewart/Hunter Army Airfield installations.

(c) Restraint systems will be worn by all soldiers and Reserve Component members on active Federal service driving or riding in a private owned vehicle whether on or off the installations.

(d) Infant/child restraint devices (car seats) are required in private owned vehicles for children 4 years old or under and not exceeding 45 pounds in weight.

(e) Restraint systems are required only in cars manufactured after model year 1966.

(f) The operator of a vehicle is responsible for ensuring the use of seat belts, shoulder restraints, and child restraining systems when applicable and may be cited for failure to comply (40 U.S.C. 318a).

(g) Passengers (over the age of 16) are responsible for ensuring that their seat belts/shoulder restraints are used when applicable and may be cited for failure to comply (40 U.S.C. 318a).

§ 636.35 Headphones and earphones.

The wearing of headphones or earphones is prohibited while driving a U.S. Government vehicle, POV, motorcycle, or other self-propelled two-wheel, three-wheel, or four-wheel vehicle powered by a motorcycle type engine. This does not negate the require-

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ment for wearing hearing protection when conditions or good judgment dictate use of such protection.

§ 636.36 Alcoholic beverages.

(a) Consuming alcoholic beverages as an operator or passenger in or on U.S. Government or privately owned vehicles is prohibited.

(b) Consuming alcoholic beverages on any roadway, parking lot, or where otherwise posted is prohibited.

(c) Having open containers of alcoholic beverages in vehicles or areas not designated for the consumption of alcohol is prohibited.

§ 636.37 Use of "Denver Boot" device.

The "Denver Boot" device will be used by Military Police as an additional technique to assist in the enforcement of parking violations when other reasonably effective but less restrictive means of enforcement (such as warnings, ticketing, reprimands, suspensions, or revocations of on-post driving privileges) have failed, or immobilization of the private owned vehicle is necessary for safety.

(a) The use of booting devices will be limited to application by the Military Police under the following conditions:

(1) Immobilization of unsafe, uninspected, or unregistered vehicles.

(2) Immobilization of vehicles involved in criminal activity.

(3) For repeat offenders of the parking violations outlined in this supplement. Three or more parking violations within 6 months constitutes grounds to boot the vehicle.

(4) At the discretion of the Provost Marshal or his designee, on a case-by-case basis.

(b) Booted vehicle will be marked, for driver notification, by placing an orange in color notice on the vehicle windshield. The notice will contain information on why the vehicle was booted and instructions on how to have the booting device properly removed by the Military Police (see figure 636.37).

FIGURE 636.37. DRIVER BOOTING DEVICE
NOTICE

1. Your vehicle is illegally parked and has been secured in place by the Military Police with a vehicle restraining device. Do not move this vehicle until the restraining

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device is properly removed by the Military Police.

2. Any movement, or attempted movement, of this vehicle could result in damage to the device and the vehicle. You will be responsible for any such damage to the vehicle and/or the restraining device.
3. Any removal, or attempted removal, of the device could result in you being charged with a criminal offense.
4. To have this device properly removed by the Military Police, contact the following:

Mon-Fri, 7: a.m.-5: p.m., Bldg 292,

Phone 767-2848/8659

Non-Duty Hours, Bldg 285, Phone 767-2822

Notice

§ 636.38 Impounding privately owned vehicles (POVs).

This section provides the standards and procedures for towing, inventorying, searching, impounding, and disposing of private owned vehicles.

(a) *Implied consent to vehicle impoundment.* Any person granted the privilege of operating a motor vehicle on the Fort Stewart/Hunter Army Airfield installations shall be deemed to have given his or her consent for the removal and temporary impoundment of the privately owned vehicle when it is parked illegally for unreasonable periods, interfering with operations, creating a safety hazard, disabled by accident, left unattended in a restricted or controlled area, or abandoned. Such vehicles will be towed by a contracted civilian wrecker service and placed in that service's storage lot. Such persons further agree to reimburse the civilian wrecker service for the cost of towing and storage should their vehicle be removed or impounded.

(b) *Standards of impoundment.* (1) Privately owned vehicles will not be impounded unless they clearly interfere with ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen or abandoned.

(2) The impoundment of a privately owned vehicle is inappropriate when reasonable alternatives to impoundment exist.

(i) An attempt will be made to locate the owner of the privately owned vehicle and have the vehicle removed.

(ii) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is located.

(iii) Another responsible person may be allowed to drive or tow the privately owned vehicle with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that the Military Police are not responsible for safeguarding the privately owned vehicle.

(3) Impounding of privately owned vehicle is justified when any of the following conditions exist:

(i) The privately owned vehicle is illegally parked—

(A) On a street or bridge, or is double parking and interferes with the orderly flow of traffic.

(B) On a sidewalk, within an intersection, or a cross-walk, on a railroad track, in a fire lane, or is blocking a driveway, so that the vehicle interferes with the operations or creates a safety hazard to other roadway users or the general public. An example would be a vehicle parked within 15 feet of a fire hydrant or blocking a properly marked driveway of a fire station or aircraft-alert crew facility.

(C) When blocking an emergency exit door of any public place (installation theater, club, dining facility, hospital, or other facility).

(D) In a "tow-away" zone that is so marked with proper signs.

(ii) The privately owned vehicle interferes with—

(A) Street cleaning operations and attempts to contact the owner have been unsuccessful.

(B) Emergency operations during a natural disaster or fire or must be removed from the disaster area during cleanup operations.

(iii) The privately owned vehicle has been used in a crime or contains evidence of criminal activity.

(iv) The owner or person in charge has been apprehended and is unable or unwilling to arrange for custody or removal.

(v) The privately owned vehicle is mechanically defective and is a menace to others using the public roadways.

(vi) The privately owned vehicle is disabled by a traffic incident and the operator is either unavailable or physically incapable of having the vehicle towed to a place of safety for storage or safekeeping.

(vii) Military Police reasonably believe the vehicle is abandoned.

(c) *Towing and storage.* (1) Impounded privately owned vehicles will be towed and stored by a contracted wrecker service.

(2) An approved impoundment area belonging to the contracted worker service will be used for the storage of impounded vehicles. This area will assure adequate accountability and security of towed vehicles. One set of keys to the enclosed area will be maintained by the Military Police.

(3) Temporary impoundment and towing of privately owned vehicles for violations of this supplement or involvement in criminal activities will be accomplished under the direct supervision of the Military Police.

(d) *Procedure for impoundment.* (1) Unattended privately owned vehicles.

(i) DD Form 2504 (Abandoned Vehicle Notice) will be conspicuously placed on privately owned vehicles considered unattended. This action will be documented by an entry in the Military Police desk journal.

(ii) The owner will be allowed three days from the date the privately owned vehicle is tagged to remove the vehicle before impoundment action is initiated. If the vehicle has not been removed after three days, it will be removed by a contracted civilian wrecker service. A DD Form 2505 (Abandoned Vehicle Removal Authorization) will be completed and issued to the contractor by the Military Police.

(iii) After the vehicle has been removed, the Military Police will complete DD Form 2506 (Vehicle Impoundment Report) as a record of the actions taken.

(A) An inventory listing personal property will be done to protect the owner, Military Police, the Contractor, and the Commander.

(B) The contents of a closed container such as a suitcase inside the ve-

hicle need not be inventoried. Such articles should be opened only if necessary to identify the owner of the vehicle or if the container might contain explosives or otherwise present a danger to the public. Merely listing the container and sealing it with security tape will suffice.

(C) Personal property will be placed in the Military Police found property room for safe keeping.

(iv) DD Form 2507 (Notice of Vehicle Impoundment) will be forwarded by certified mail to the address of the last known owner of the vehicle to advise the owner of the impoundment action, and request information concerning the owner's intentions pertaining to the disposition of the vehicle.

(2) *Stolen privately owned vehicles or vehicles involved in criminal activity.* (i) When the privately owned vehicle is to be held for evidentiary purposes, the vehicle will remain in the custody of the Military Police or CID until law enforcement purposes are served.

(ii) Recovered stolen privately owned vehicles will be released to the registered owner, unless held for evidentiary purposes, or to the law enforcement agency reporting the vehicle stolen.

(iii) A privately owned vehicle held on request of other authorities will be retained in the custody of the Military Police or CID until the vehicle can be released to such authorities.

(e) *Search incident to impoundment based on criminal activity.* Search of a privately owned vehicle in conjunction with impoundment based on criminal activity will likely occur in one of the following general situations:

(1) The owner or operator is not present. This situation could arise during traffic and crime-related impoundments and abandoned vehicle seizures. A property search related to an investigation of criminal activity should not be conducted without search authority unless the item to be seized is in plain view or is readily discernible on the outside as evidence of criminal activity. When in doubt, proper search authority should be sought, during duty hours, through the Chief, Criminal Law Branch of the Office of Staff Judge Advocate and after duty hours from the

Duty Judge Advocate, before searching.

(2) The owner or operator is present. This situation can occur during either a traffic or criminal incident, or if the operator is apprehended for a crime or serious traffic violation and sufficient probable cause exists to seize the vehicle. This situation could also arise during cases of intoxicated driving or traffic accidents in which the operator is present but incapacitated or otherwise unable to make adequate arrangements to safeguard the vehicle. If danger exists to the Military Police or public or if there is risk of loss or destruction of evidence, an investigative type search of the vehicle may be conducted without search authority.

(f) *Disposition of vehicles after impoundment.* (1) If a privately owned vehicle is impounded for evidentiary purposes, the vehicle can be held for as long as the evidentiary or law enforcement purpose exists. The vehicle must then be returned to the owner without delay unless directed otherwise by competent authority.

(2) If the vehicle is unclaimed after 45 days from the date notification was mailed to the last known owner or the owner released the vehicle by properly completing DD Form 2505, the vehicle will be disposed of by one of the following procedures:

(i) Release to the lienholder, if known.

(ii) Processed as abandoned property in accordance with DOD 4160.21-M.

APPENDIX A TO PART 636—REFERENCES

Publications and forms referenced in this part may be viewed at the Office of the Provost Marshall on any major Army installation or may be obtained from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

In addition to the related publications listed in appendix A to part 634 of this subchapter, the following publications provide a source of additional information:

- FS Reg 190-7, Emergency Vehicle Operation
- FS Reg 350-1, Active Component Training
- FS Reg 385-14, Post Range Regulation
- FS Reg 755-2, Lost, Abandoned, or Unclaimed Privately Owned Personal Property

In addition to the prescribed forms used in appendix A to part 634 of this subchapter, the following forms should be used:

- AFZP Form Letter 316, Suspension of Driving Privileges
- DA Form 3946, Military Police Traffic Accident Report
- DA Form 3975, Military Police Report
- DD Form 1920, Alcohol Influence Report
- DD Form 2220, DOD Registered Vehicle
- DD Form 2504, Abandoned Vehicle Notice
- DD Form 2505, Abandoned Vehicle Removal Authorization
- DD Form 2506, Vehicle Impoundment Report
- DD Form 2507, Notice of Vehicle Impoundment

Other References

- 8 U.S.C. 13.
- 40 U.S.C. 318a.
- Memorandum of Understanding, Subject: Seizure of Assets for Administrative Forfeiture in Drug Related Cases.

APPENDIXES B-C TO PART 636
[RESERVED]

APPENDIX D TO PART 636—GLOSSARY

In addition to the terms listed in appendix D to part 634 of this subchapter, the following terms apply:

- ATV—All Terrain Vehicles
- CID—Criminal Investigation Division
- CUCV—Commercial Utility Cargo Vehicle
- DDC—Defensive Driving Course
- DOD—Department of Defense
- DPCA—Directorate of Personnel and Community Activities
- DUI—Driving Under the Influence
- DDC—Motorcycle Defensive Driving Course
- MP—Military Police
- NLT—Not later than
- USAREUR—United States Army—Europe

PART 637—MILITARY POLICE INVESTIGATION

Subpart A—Investigations

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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 local provost marshal. USACIDC elements will provide investigative assistance in the form of professional expertise, laboratory examinations, polygraph examinations, or any other assistance requested which does not distract from the USACIDC mission of investigating serious crimes. A spirit of cooperation and close working relationship is essential between USACIDC and the provost marshal office in order to accomplish the mission and project a professional police image.

(b) Creation of a formalized investigation program does not constitute the establishment of a dual “detective” force. The separation of investigative responsibilities is very distinct. The MPI Program is neither a career program nor a separate Military Occupational Specialty (MOS). Individuals in the MPI Program are specially selected, trained, and experienced military or civilian men and women performing traditional military police functions. Military personnel are identified by their additional skill identi-

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fiers (ASI V5) and may be employed in any assignment appropriate to their grade and MOS.

(c) The provost marshal may authorize wearing of civilian clothing for the MPI investigative mission.

(d) MPI and DAC detective/investigator personnel must be familiar with and meet the requirements of Army Regulation (AR) 190–14 (Carrying of Firearms and Use of Force for Law Enforcement and Security Duties).

§ 637.2 Use of MPI and DAC Detectives/Investigators.

Only those matters requiring investigative development will be referred to the MPI for investigation. Provost marshals will develop procedures to determine which incidents will be referred to the MPI for completion and which will be retained and completed by uniformed MP personnel. Except as otherwise provided, MPI and DAC detectives/investigators will normally be employed in the following investigations:

(a) Offenses for which the maximum punishment listed in the Table of Maximum Punishment, Manual for Courts-Martial, United States, 2002 is confinement for 1 year or less. Provisions of the Federal Assimilative Crimes Act will also be considered when assigning cases to MPI. The same punishment criteria apply.

(b) Property-related offenses when the value is less than \$1,000 provided the property is not of a sensitive nature, such as government firearms, ammunition, night vision devices, or controlled substances.

(c) Offenses involving use and/or possession of non-narcotic controlled substances when the amounts are indicative of personal use only. Military police will coordinate with the local USACIDC element in making determinations of “personal use”. MPI and DAC detectives/investigators may be employed in joint MPI/USACIDC drug suppression teams; however, the conduct of such operations and activities remain the responsibility of USACIDC. When employed under USACIDC supervision, MPI and DAC detectives/investigators may also be utilized to make controlled buys of suspected controlled substances.

(d) Activities required for the security and protection of persons and property under Army control, to include support of Armed Forces Disciplinary Control Boards as prescribed in AR 190-24. If MPI detect a crime-conducive condition during the course of an investigation, the appropriate physical security activity will be promptly notified. Crime-conducive conditions will also be identified in military police reports.

(e) Allegations against MP personnel, when not within the investigative responsibilities of USACIDC.

(f) Offenses committed by juveniles, when not within the investigative responsibilities of USACIDC.

(g) Gang or hate crime related activity, when not within the investigative responsibilities of USACIDC.

§ 637.3 Installation Commander.

The installation commander, whose responsibilities include ensuring good order and discipline on his installation, has authority to order the initiation of a criminal investigation upon receipt of information of activity of a criminal nature occurring on the installation.

§ 637.4 Military Police and the USACIDC.

(a) The military police or the USACIDC are authorized to investigate allegations of criminal activity occurring on the installation. Nothing in this paragraph is intended to conflict with or otherwise undermine the delineation of investigative responsibilities between the military police and the USACIDC as set forth in AR 195-2.

(b) When investigative responsibility is not clearly defined, and the matter cannot be resolved between military police investigations supervisors and USACIDC duty personnel, or between military police investigations supervisors and unit commanders, the provost marshal will be informed and will resolve the matter with the appropriate USACIDC activity commander/Special Agent in Charge (SAC) or unit commander.

(c) The control and processing of a crime scene and the collection and preservation of the evidence are the exclusive responsibilities of the investigator or supervisor in charge of the

crime scene when the military police have investigative responsibility. To prevent the possible loss or destruction of evidence, the investigator or supervisor in charge of the crime scene is authorized to exclude all personnel from the scene. The exercise of this authority in a particular case may be subject to the requirement to preserve human life and the requirement for continuing necessary operations and security. These should be determined in conjunction with the appropriate commander and, where applicable, local host country law enforcement authorities.

(d) Unit commanders should consult with the installation provost marshal concerning all serious incidents. Examples of incidents appropriate for investigation at the unit level include simple assaults not requiring hospitalization and not involving a firearm, or wrongful damage to property of a value under \$1,000. Other incidents should be immediately referred to the installation provost marshal.

(e) The military police desk is the official point of contact for initial complaints and reports of offenses. The provisions of AR 190-45 are to be followed for all military police records, reports, and reporting.

(1) When incidents are reported directly to a USACIDC field element, USACIDC may either direct the reporting person to the MP desk or report the incident to the MP desk themselves.

(2) Upon receipt of the complaint or report of offense, the MP desk will dispatch an available patrol to the scene of the incident. The patrol will take appropriate measures to include locating the complainant, witnesses, suspects, and victims, apprehending offenders, securing the crime scene, rendering emergency assistance, determining and reporting to the MP desk, by the most expeditious means possible, the appropriate activity having investigative responsibility.

(f) In those cases in which the USACIDC has an ongoing investigation (typically fraud and narcotics matters), they may delay notification to the military police to avoid compromising their investigation.

(g) Procedures will be developed to ensure mutual cooperation and support

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between MPI, DAC detectives/investigators and USACIDC elements at each investigative level; however, MPI, DAC detectives/investigators and USACIDC personnel will remain under command and control of their respective commanders at all times.

(1) With the concurrence of the commander concerned, MPI and DAC detectives/investigators may provide assistance to USACIDC whenever elements assume responsibility for an investigation from MPI.

(2) When requested by a USACIDC region, district, or the special agent-in-charge of a resident agency, the provost marshal may provide MPI or DAC detective/investigator assistance to USACIDC on a case-by-case basis or for a specified time period.

(3) With the concurrence of the appropriate USACIDC commander, CID personnel may be designated to assist MPI or DAC detectives/investigators on a case-by-case basis without assuming control of the investigation.

(4) Modification of investigative responsibilities is authorized on a local basis if the resources of either USACIDC or the military police cannot fully support their investigative workload and suitable alternatives are not available. Such modifications will be by written agreement signed by the provost marshal and the supporting USACIDC commander. Agreements will be in effect for no more than two years unless sooner superseded by mutual agreement.

§ 637.5 Off-post investigations.

(a) In Continental United States (CONUS), civilian law enforcement agencies, including state, county, or municipal authorities, or a Federal investigative agency normally investigate incidents occurring off-post. When an incident of substantial interest to the U.S. Army occurs off-post, involving U.S. Army property or personnel, the military police exercising area responsibility will request copies of the civilian law enforcement report.

(b) In Overseas areas, off-post incidents will be investigated in accordance with Status of Forces Agreements and other appropriate U.S. host nation agreements.

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§ 637.6 Customs investigations.

(a) Customs violations will be investigated as prescribed in AR 190-41. When customs authorities find unauthorized material such as contraband, explosives, ammunition, unauthorized or illegal weapons or property, which may be property of the U.S. Government, notification must be made via electronic message or facsimile to HQDA, Office of the Provost Marshal General (DAPM-MPD-LE). All such notifications will be made to the military police and investigated by CID or the military police, as appropriate.

(b) Military police will receipt for all seized or confiscated U.S. Government property and contraband shipped by U.S. Army personnel. Property receipted for by military police will be accounted for, and disposed of, in accordance with evidence procedures outlined in AR 195-5.

(c) When it has been determined that the subject of an MP customs investigation is no longer a member of the U.S. Army, the investigation will be terminated, a final report submitted indicating the subject was released from the U.S. Army, and an information copy of the report furnished to the appropriate civil investigative agency.

(d) Recovery of weapons and significant amounts of ammunition will be reported by the U.S. Army element receipting for them from the U.S. Customs Service in accordance with AR 190-11 and AR 190-45.

§ 637.7 Drug enforcement activities.

Provost marshals and U.S. Army law enforcement supervisors at all levels will ensure that active drug enforcement programs are developed and maintained, and that priorities for resources reflect the critical and important nature of the drug enforcement effort.

(a) MPI and DAC detectives/investigators will conduct investigations of offenses involving use and possession of non-narcotic controlled substances. A copy of all initial, interim and final military police reports concerning drug investigations will be provided to the USACIDC at the local level. Enforcement activities will be coordinated with the USACIDC at the local level.

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(b) Any investigation of offenses involving possession/use of non-narcotic controlled substances generated as a result of another USACIDC investigation may be transferred to MPI with the concurrence of both the supporting USACIDC commander and provost marshal.

(c) Elements of USACIDC will be provided the opportunity to interview subjects, suspects or witnesses in MPI or DAC detective investigations involving controlled substances without assuming responsibility for the investigation. MPI and DAC detectives/investigators may also interview subjects, suspects or witnesses of USACIDC investigations.

§ 637.8 Identification of MPI.

(a) During the conduct of investigations, MPI will identify themselves by presenting their credentials and referring to themselves as "INVESTIGATOR." When signing military police records the title "Military Police Investigator" may be used in lieu of military titles. Civilian personnel will refer to themselves as "INVESTIGATOR" if they are classified in the 1811 series, and as "DETECTIVE" if they are in the 083 series. Civilian personnel will use the title "DAC Investigator" or "DAC Detective"; corresponding to their classification series.

(b) The use of titles such as "Mr.," "Mrs.," "Miss" or "Ms." in connection with an individual's identification as an MPI is prohibited, except when employed in a covert investigative role. When MPI or DAC detectives/investigators are employed in covert roles, supervisors will ensure that coordination with USACIDC or civilian law enforcement agencies is accomplished as appropriate.

§ 637.9 Access to U.S. Army facilities and records.

(a) MPI and DAC detectives/investigators will be granted access to all U.S. Army facilities, records or information when necessary for an ongoing investigation, consistent with the investigator's clearance for access to classified national defense information, the requirements of medical confidentiality, and the provisions of applicable regulations.

(b) Upon presentation of proper identification when conducting an official investigation, MPI and DAC detectives/investigators will be authorized access to information contained in medical records and may request extracts or transcripts. Medical records will remain under the control of the records custodian who will make them available for courts-martial or other legal proceedings. Procedures for obtaining information from medical records are contained in AR 40-66.

§ 637.10 Authority to apprehend or detain.

MPI and DAC detectives/investigators have authority to make apprehensions in accordance with Article 7, Uniform Code of Military Justice (UCMJ); Rule for Courts-Martial 302 (b)(1), Manual for Courts-Martial, United States 2002 (Revised Edition). They may detain personnel for identification and remand custody of persons to appropriate civil or military authority as necessary. Civilians committing offenses on U.S. Army installations may be detained until they can be released to the appropriate Federal, state, or local law enforcement agency.

§ 637.11 Authority to administer oaths.

MPI and DAC detectives/investigators have authority pursuant to Article 136(b)(4), UCMJ to administer oaths to military personnel who are subject to the UCMJ. The authority to administer oaths to civilians who are not subject to the UCMJ is 5 U.S.C. 303(b).

§ 637.12 Legal considerations.

(a) Coordination between installation judge advocates and investigators must occur during the conduct of investigations.

(b) The use of the DA Form 3881 (Rights Warning Procedure/Waiver Certificate) to warn accused or suspected persons of their rights is encouraged.

(c) When necessary, investigators will coordinate with a judge advocate or civilian attorney employed in the Office of the Staff Judge Advocate for the purpose of establishing a legal opinion as to whether sufficient credible evidence has been established to title an individual in a report. Investigators should also coordinate with

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the Office of the Staff Judge Advocate in drafting search warrants and in determining whether probable cause exists to conduct a search.

§ 637.13 Retention of property.

Reports of investigation, photographs, exhibits, handwritten notes, sketches, and other materials pertinent to an investigation, including copies, negatives or reproductions, are the property of the U.S. Government, either as owner, or custodian.

§ 637.14 Use of National Crime Information Center (NCIC).

Provost marshals will make maximum use of NCIC terminals available to them, and will establish liaison with the U.S. Army Deserter Information Point (USADIP) as necessary to ensure timely exchange of information on matters concerning deserters. The USADIP will ensure replies to inquiries from provost marshals on subjects of MP investigations are transmitted by the most expeditious means. Use of NCIC will be in accordance with AR 190-27.

§ 637.15 Polygraph activities.

MPI and DAC detectives/investigators will utilize the polygraph to the full extent authorized. Requests for polygraph examination assistance will be forwarded to the supporting USACIDC element in accordance with provisions of AR 195-6. The investigative or intelligence element requesting approval to conduct a polygraph examination will submit a completed DA Form 2805 (Polygraph Examination Authorization) to the authorizing official. A request may also be sent via an electronic message or electronic mail or media provided all elements of the DA Form 2805 are included in the request. Approvals will be obtained prior to the conduct of an examination. Telephonic requests, followed with written requests, may be used in emergencies. The requesting official will include the following data on every polygraph examination request for criminal investigations:

(a) The offense, which formed the basis of the investigation, is punishable under Federal law or the UCMJ by death or confinement for a term of 1

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year or more. Even though such an offense may be disposed of with a lesser penalty, the person may be given a polygraph examination to eliminate suspicion.

(b) The person to be examined has been interviewed and there is reasonable cause to believe that the person has knowledge of, or was involved in, the matter under investigation.

(c) Consistent with the circumstances, data to be obtained by polygraph examination are needed for further conduct of the investigation.

(d) Investigation by other means has been as thorough as circumstances permit.

(e) Examinee has been interviewed on all relevant subjects requested for testing and the polygraph examination is essential and timely.

§ 637.16 Evidence.

Military police are authorized to receive, process, safeguard and dispose of evidence, to include non-narcotic controlled substances, in accordance with AR 195-5. If no suitable facility is available for the establishment of a military police evidence depository or other operational circumstances so dictate, the evidence custodian of the appropriate USACIDC element may be requested to receipt for and assume responsibility for military police evidence. Personnel selected as military police evidence custodians need not be trained as MPI and should not be issued MPI credentials, unless they are also employed as operational MPI. Further information concerning evidence collection and examination procedures can be found in Field Manual (FM) 3-19.13, Law Enforcement Investigations.

§ 637.17 Police Intelligence.

(a) The purpose of gathering police intelligence is to identify individuals or groups of individuals in an effort to anticipate, prevent, or monitor possible criminal activity. If police intelligence is developed to the point where it factually establishes a criminal offense, an investigation by the military police, (USACIDC) or other investigative agency will be initiated.

(b) Police intelligence will be actively exchanged between Department of Defense (DOD) law enforcement

agencies, military police, USACIDC, local, state, federal, and international law enforcement agencies. One tool under development by DOD for sharing police intelligence is the Joint Protection Enterprise Network (JPEN). JPEN provides users with the ability to post, retrieve, filter, and analyze real-world events. There are seven reporting criteria for JPEN:

- (1) Non-specific threats;
- (2) Surveillance;
- (3) Elicitation;
- (4) Tests of Security;
- (5) Repetitive Activities;
- (6) Bomb Threats/Incidents; and
- (7) Suspicious Activities/Incidents.

(c) If a written extract from local police intelligence files is provided to an authorized investigative agency, the following will be included on the transmittal documents: "This document is provided for information and use. Copies of this document, enclosures thereto, and information therefrom, will not be further released without the prior approval of the installation Provost Marhsall.

(d) Local police intelligence files may be exempt from certain disclosure requirements by AR 25-55 and the Freedom of Information Act (FOIA).

§637.18 Electronic equipment procedures.

(a) DOD Directive 5505.9 and AR 190-53 provide policy for the wiretap, investigative monitoring and eavesdrop activities by DA personnel. The recording of telephone communications at MP operations desks is considered to be a form of command center communications monitoring which may be conducted to provide an uncontroversial record of emergency communications. This includes reports of emergencies, analysis of reported information, records of instructions, such as commands issued, warnings received, requests for assistance, and instructions as to the location of serious incidents.

(b) The following procedures are applicable to the recording of emergency telephone and/or radio communications at MP operations desks within the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Panama, and Guam.

(1) All telephones connected to recording equipment will be conspicuously marked "For Official Use Only-connected to recording device" and access to use will be restricted to MP operations desk personnel.

(2) The connection of voice-recording equipment or private-line service with the telecommunications network will be in accordance with applicable telephone company tariffs which permit direct electrical connection through telephone company recorder-connector equipment. An automatic audible-tone device is not required.

(3) Official emergency telephone numbers for MP desks will be listed in appropriate command, activity, or installation telephone directories with a statement that emergency conversations will be recorded for accuracy of record purposes. Other forms of pre-warning are not required.

(4) Recordings, which contain conversations described in this section, will be retained for a period of 60 days. Transcripts may be made for permanent files, as appropriate.

(5) The recording of telephone communications or radio transmissions by MP personnel for other than emergency purposes is prohibited. If an investigator requires the use of electronic surveillance equipment, assistance must be requested from the USACIDC. This policy is established pursuant to Department of Defense directives that limit such activity to the criminal investigative organizations of the Services and DOD.

(6) Commanders having general courts-martial convening authority will issue written authorizations for the recording of emergency telephone communications at MP operations desks. The letter of authorization will contain specific authority for the type of equipment to be used, the phone numbers identified as emergency lines and instructions limiting recordings to calls received on the phones so designated. One copy of the authorization will be forwarded to the Office of the Provost Marshal General (OPMG), 2800 Army Pentagon, Washington, DC 20310-2800.

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§ 637.19 Overseas MP desk.

The recording of telephone communications at MP operations desks outside the United States will be conducted within restrictions contained in international agreements between the U.S. and host nations.

§ 637.20 Security surveillance systems.

Closed circuit video recording systems, to include those with an audio capability, may be employed for security purposes in public places so long as notices are conspicuously displayed at all entrances, providing persons who

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enter with a clear warning that this type of monitoring is being conducted.

§ 637.21 Recording interviews and interrogations.

The recording of interviews and interrogations by military police personnel is authorized, provided the interviewee is on notice that the testimony or statement is being recorded. This procedure is a long-accepted law enforcement procedure, not precluded by DA policies pertaining to wiretap, investigative monitoring, and eavesdrop activities.

Subpart B [Reserved]