

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter CC29 -- Performance Evaluation and Career Development  
Subchapter CC29.3 -- Medical and Health Program  
Personnel INSTRUCTION 3 -- Domestic/Family Violence and Treatment

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Section A. Purpose and Scope

This INSTRUCTION sets forth the policy and procedures of the Public Health Service (PHS) for addressing domestic/family violence incidents involving commissioned officers of the PHS. The PHS Commissioned Corps seeks to reduce and prevent the incidence of domestic/family violence, specifically spouse or partner abuse, child, sibling and/or parent abuse and neglect, and elder abuse and neglect. Education, prevention, and proper intervention services result in healthy family relationships, retention of productive PHS Commissioned Corps members, and successful accomplishment of the PHS Commissioned Corps mission.

The provisions of this INSTRUCTION apply to all commissioned officers on active-duty who have been identified as either an offender or victim. Officers detailed for duty with other Uniformed Services will also be subject to the laws and regulations of the Service to which detailed. The authority to direct an officer for evaluation and/or treatment and the authority to terminate the commission of any officer for engaging in domestic/family violence, will continue to reside with the Director, Division of Commissioned Personnel (DCP), pursuant to

INSTRUCTION 1, "Disciplinary Action," Subchapter CC46.4 of the Commissioned Corps Personnel Manual (CCPM).

Although this INSTRUCTION focuses primarily on implementation procedures when the officer is the offender, there will be situations in which the officer is the victim. In such cases, managers must approach the matter in a zealous and timely manner to protect the victim officer's interest and ensure he/she receives appropriate treatment. Officers who are involved in domestic violence/child abuse incidents are subject to the reporting requirements of the jurisdiction in which the incident occurred.

#### Section B. Authority

1. Section 215 (b) of the PHS Act (42 United States Code (U.S.C.) §216(b)) authorizes the Secretary to promulgate regulations necessary to administer the Commissioned Corps of the PHS.
2. The authority to administer the PHS Commissioned Corps personnel system was re-delegated to the Assistant Secretary for Health (ASH) as provided at 53 Federal Register 3457, February 5, 1988.
3. The ASH re-delegated to the Surgeon General (SG) those authorities necessary to administer the PHS Commissioned Corps personnel system as provided at 53 Federal Register 5046-5047, February 19, 1988.
4. Title 10 U.S.C. §1058.
5. INSTRUCTION 1, "Standards of Conduct," Subchapter CC26.1 of the CCPM.
6. "Understanding and Responding to Domestic Violence in the Workplace, The Action Guide," U.S. Department of Health and Human Services (HHS), October 1998.

#### Section C. Definitions

1. Allegation. Statements, absent of proof, which describe physical, emotional, psychological, and/or sexual behavior, actions, or inactions causing harm.
2. At risk. Potential to be involved in domestic/family violence as either a perpetrator or victim.
3. Case Review Committee (CRC). A multidisciplinary team which reviews incidents of spouse or partner abuse, child, sibling and/or parent abuse and neglect, and elder abuse and neglect within the Family Advocacy Program (FAP). CRCs determine status and make recommendations.
4. Case Status. The status of the case at the time of the report. Includes "substantiated," "suspected," or "unsubstantiated" as follows:
  - a. Substantiated. A case that has been investigated and the preponderance of available information indicates that abuse has occurred. This means that the information that supports the occurrence of abuse is of greater weight or more convincing than the

information that indicates that abuse did not occur.

- b. Suspected. A case determination is pending further investigation.
  - c. Unsubstantiated. An alleged case that has been investigated and the available information is insufficient to support the claim that spouse or partner abuse, child, sibling and/or parent abuse and neglect, and elder abuse and neglect occurred. Although the family may not require family advocacy services for unsubstantiated allegations, the family may be in need of family advocacy services for counseling as a preventive measure.
5. Central Registry. A central management information system maintained by the Department of Defense (DoD) and the Department of Transportation (United States Coast Guard) components for the purpose of identifying and recording substantiated information regarding domestic/family violence. The placement of names of PHS officers into the Central Registry is dependent on the practices and system capabilities of the Service to which the officer is assigned or treated.
  6. Domestic Violence. Acts of physical and psychological violence, including harassment or intimidation, that occurs as part of personal relationships, such as marriages or other intimate relationships. The acts may occur in the home and/or in the workplace or other environments.
  7. Employee Assistance Program (EAP). An Agency/Operating Division (OPDIV)/Program counseling referral service.
  8. Family Advocacy Program (FAP). A DoD program designed to address prevention, identification, evaluation, education, counseling, rehabilitation, follow-up, and reporting of family violence.
  9. Family Violence. Acts of physical and psychological violence, including harassing or intimidating behavior, that occurs as part of personal non-intimate relationships with family members and others residing in a household or any other common environment. This includes sexual, physical, and psychological abuse or severe neglect of children, siblings, parents, and/or the elderly or the infirm, which may occur in the home and/or in the workplace or other environments.
  10. Offender. A person who is suspected of domestic/family violence or proven responsible for causing the abuse of a spouse/partner, child, sibling, parent, or elders, or whose act, or failure to act, substantially impaired the health or well-being of the abuse victim.
  11. Unfit-for-duty. An individual who is unable to perform the duties of his/her office, rank, and/or category due to medical or psychological impairment.
  12. Unsuitable. An officer demonstrates general character traits that make him/her unacceptable for continued service in a Uniformed Service.
  13. Victim. An individual whose physical or psychological welfare is threatened or harmed by acts of domestic violence by another individual or

individuals in the household.

Section D. Background and Philosophy

Domestic/family violence poses a serious public health and criminal justice issue to Americans in all walks of life. Commissioned officers in the PHS Commissioned Corps are subject to domestic/family violence in a manner consistent with the society at large. Domestic/family violence manifests itself in various forms in the workplace (e.g., fear, grief, etc.). Managers must make observations and intervene to minimize the impact of domestic/family violence on morale and productivity in the workplace.

Domestic/family violence is neither acceptable nor compatible with the commissioned corps Standards of Conduct found at INSTRUCTION 1, Subchapter CC26.1 of the CCPM. Service members must promote peaceful conflict resolution in their home and work environments. Providing assistance to Service members and their families in coping with domestic/family violence is a difficult problem to address because of its stigma and denial.

Section E. Policy

1. Consistent with the Secretary, HHS, directives on domestic/family violence, the PHS Commissioned Corps is committed to preventing domestic/family violence. The PHS Commissioned Corps prevention efforts focus on intervention in response to allegations and signs of abuse observed in the workplace. Intervention efforts include professional assessment, and treatment for Service members and family members as appropriate.
2. Training and education constitutes critical components of any prevention strategy. Domestic/family violence prevention training for PHS officers and supervisors can be obtained through OPDIVs administrative channels in accordance with HHS Domestic Violence Plans.
3. Nonviolent means should be utilized to resolve conflicts through appropriate interventions. In addition, officers must obtain treatment for any underlying problems, such as alcohol/substance abuse, emotional, and psychological disorders, when necessary.
4. The Medical Affairs Branch (MAB) and Recruitment and Assignment Branch (RAB), DCP, will work closely with officers to address treatment and/or reassignment needs. The MAB manages officers' cases who are either receiving treatment or being followed by a FAP.
5. Pursuant to INSTRUCTION 1, "Standards of Conduct," Subchapter CC26.1 of the CCPM, and Agency/OPDIV/Program's standards, officers must demonstrate conduct and performance expected of commissioned corps officers of the PHS.

Section F. Responsibilities/Procedures

1. Officer.

a. Prevention.

Prevention is one of the major components of a domestic/family violence strategic plan. Training and education, are critical elements of a prevention strategy. Officers are encouraged to seek counseling prior to the onset of any domestic/family violence incidents.

b. Self Referral.

(1) Officer. Officers have a duty to voluntarily seek treatment when conflicts in domestic/family relationships lead to or result in domestic/family violence.

(a) FAPs are possible sources where officers may obtain assistance. These programs are available at or through Military Treatment Facilities (MTF).

(b) Employee Assistance Programs, or State Medical Societies.

(c) The Beneficiary Medical Program Section (BMP), MAB, DCP, can provide additional resources. The BMP telephone number is 1-800-368-2777.

(d) Supervisors and community domestic/family violence resources are available to provide assistance to officers.

(2) If the officer's work/duty assignment is a contributing factor to family stress, the officer should discuss the issue(s) and potential interventions with his/her supervisor. Interventions may include restructuring the officer's assignment, rescheduling, and/or possible reassignment.

c. Compliance. An officer must seek assistance if he/she has been advised of performance, behavior, and/or conduct deficiencies related to domestic/family matters which may result in, or has resulted in domestic/family violence. The officer may be directed to seek assistance by:

(1) Director, DCP;

(2) MAB; and/or

(3) Agency/OPDIV/Program officials.

An officer who fails to seek assistance when directed by appropriate officials constitutes misconduct. (See Section G below.)

d. Board for Correction of PHS Commissioned Corps Records.

If an officer believes an administrative error or injustice exists in his/her Service record, the officer may complete an application

to the Board for Correction of PHS Commissioned Corps Records (Board). All appropriate administrative remedies must be exhausted before pursuing relief from the Board. Information regarding the Board can be found in INSTRUCTION 1, "Board for Correction of PHS Commissioned Corps Records," Subchapter CC49.9 of the CCPM.

2. Supervisor.

- a. Supervisors are in a key position to recognize affected officers. Performance, behavior, and/or conduct and attendance deficiencies, regardless of their cause, require prompt supervisory documentation and intervention. Deficiencies tolerated because of domestic/family discord is potentially detrimental to the officer and work environment. Untreated domestic/family violence is chronic, usually progressive, and potentially fatal to the victim.
- b. When a supervisor suspects an officer is engaged in domestic/family violence, he/she should contact MAB/BMP, DCP, at 1-800-368-2777.

Evidence of domestic/family violence may include, but is not limited to:

- (1) A decline in an officer's performance and conduct;
- (2) A report by the officer's spouse or others;
- (3) Receipt of police reports; and/or
- (4) Newspaper accounts of domestic/family violence.

Copies of police reports and newspaper accounts should be faxed to MAB, DCP, at 1-800-733-1303.

- c. The supervisor must contact local and/or Federal law enforcement authorities when he/she reasonably believes that an individual's life, safety, or welfare may be in imminent danger due to a domestic/family violence situation.
- d. The supervisor must take appropriate action to maintain a violence free workplace. Accordingly, the supervisor may be required to reassign and/or place the officer in a non-duty status, pending the outcome of an investigation.
- e. The supervisor will initiate disciplinary action(s) when indicated.

3. Medical Affairs Branch (MAB) and Beneficiary Medical Programs Section (BMP).

- a. The MAB serves as the point of contact for all domestic violence cases.
  - (1) When an officer or Agency/OPDIV/Program requests treatment related to domestic/family violence, MAB/BMP staff makes arrangements for evaluation and treatment at a Federal facility or other treatment facility.
    - (a) Information pertaining to requests for assistance and treatment will be handled confidentially, in accordance

with applicable statutes and regulations. PHS officers are subject to mandatory reporting to "State" Domestic and Child Abuse agencies. Clinicians are liable for failure to report.

(b) The supervisor will only be advised of the treatment on a need-to-know basis after MAB/BMP discusses the matter with the officer.

(2) When the officer or family member comes to the attention of the MTF, MAB will serve as the point of contact.

(3) When the officer or family member comes to the attention of law enforcement, the Director, DCP, after consultation with MAB, will determine whether the officer will be directed for a fitness-for-duty evaluation and/or subject to adverse action. If a review of the documentation shows evidence of any of the above, the officer may be required to have a medical examination and/or psychological evaluation as directed by the Director, DCP.

b. The MAB is responsible for:

(1) Obtaining discharge summaries,

(2) Obtaining after-care plans,

(3) Monitoring the officer's progress, and

(4) Referring cases for administrative processing when:

(a) An officer demonstrates unacceptable performance, conduct, and/or behavior,

(b) An officer refused voluntary treatment, and/or

(c) Voluntary treatment failed to produced satisfactory results.

4. The Director, DCP:

a. Serves as the Commanding Officer for purposes of FAP,

b. Renders determinations, upon receipt of MAB's recommendation and reviewing documentation, whether an officer should be directed for a fitness-for-duty evaluation; medical examination and/or psychological evaluation, and

c. Prescribes disciplinary action as appropriate. Officers must cooperate with MAB and facilitate the release of documents from the provider to MAB. Failure on the part of the officer to cooperate and facilitate the release of documents constitutes misconduct.

Section G. Disciplinary Action

Every effort will be made to rehabilitate an officer and his/her family. However, the Director, DCP, may take disciplinary action as indicated by the circumstances. Disciplinary action may be suspended when the officer cooperates fully with the investigation and/or treatment.

1. Disciplinary System. The disciplinary system may serve as a motivational mechanism for officers charged with domestic/family violence.
  - a. Officers with domestic/family violence problems may be separated from the Service if they:
    - (1) Refuse adequate and appropriate treatment,
    - (2) Fail to comply with treatment as stated above, or
    - (3) Engage in behavior/conduct that justifies separation.
2. Misconduct. Domestic/family violence committed by an active-duty officer is viewed as misconduct and may constitute grounds for disciplinary action.
  - a. Disciplinary actions range from a letter of reproof to separation under less than honorable conditions (See Section H, items 1, 4, 5, 6, 7, and 10).

Determinations will be made on a case-by-case basis. Consideration will be given to mitigating and aggravating circumstances (e.g., self referral for treatment, officer is a repeat offender, etc.) when determining appropriate administrative action. Officers will be granted leave to comply with the voluntarily directed treatment plan.

3. Unsuitable-for-Duty. A Medical Review Board (MRB) may find an officer unsuitable-for-duty if:
  - a. The officer commits domestic/family violence,
  - b. Refuses treatment, and/or
  - c. There is a failure of treatment.

An officer found unsuitable-for-duty or unsuitable to complete treatment or after-care will be administratively separated or retired from the Corps as provided in Section G.2., above, and will be excluded from receiving disability benefits pursuant to INSTRUCTION 6, "Disability Retirement," Subchapter CC23.8 of the CCPM.

Section H. Cross References

1. INSTRUCTION 1, "Disciplinary Action," Subchapter CC46.4 of the CCPM.
2. INSTRUCTION 1, "Standards of Conduct," Subchapter CC26.1 of the CCPM.
3. INSTRUCTION 4, "Sick Leave," Subchapter CC29.1 of the CCPM.

4. INSTRUCTION 1, "Separation of Officers in the Regular and Reserve Corps Without Consent of the Officers Involved," Subchapter CC43.7 of the CCPM.
5. INSTRUCTION 4, "Involuntary Separation of Regular Corps Officers for Marginal and Substandard Performance," Subchapter CC23.7 of the CCPM.
6. INSTRUCTION 6, "Involuntary Termination of Reserve Corps Officers Commissions for Marginal or Substandard Performance," Subchapter CC23.7 of the CCPM.
7. INSTRUCTION 4, "Involuntary Retirement After 20 Years of Service," Subchapter CC23.8 of the CCPM.
8. INSTRUCTION 6, "Disability Retirement," Subchapter CC23.8 of the CCPM.
9. INSTRUCTION 7, "Appeals Board Incident to Disability Retirement or Separation," Subchapter CC23.8 of the CCPM.
10. INSTRUCTION 1, "Board for Correction of PHS Commissioned Corps Records," Subchapter CC49.9 of the CCPM.
11. "Responding to Domestic Violence: Where Federal Employees Can Find Help," U.S. Office of Personnel Management, March 1999.
12. Department of Defense (DoD) Directive 6400.1, "Family Advocacy Program," June 23, 1992 (See <http://web7.whs.osd.mil/pdf/d64001p.pdf>).
13. Department of the Air Force, AFI-40-301, "Family Advocacy," July 22, 1994 (See <http://afpubs.hq.af.mil/pubfiles/af/40/afi40-301/afi40-301.pdf>).
14. Department of the Army, AR 608-18, "The Army Family Advocacy Program," September 1, 1995 (See [http://www.usapa.army.mil/pdffiles/r608\\_18.pdf](http://www.usapa.army.mil/pdffiles/r608_18.pdf)).
15. Department of the Navy, OPNAVINST 1752.2A, "Family Advocacy Program," July 17, 1996 (See [http://neds.nebt.daps.mil/directives/1752\\_2a.pdf](http://neds.nebt.daps.mil/directives/1752_2a.pdf)).
16. United States Coast Guard Instruction, COMDTINST 1750.7B, "Family Advocacy Program," February 6, 1995. (See <http://isddc.dot.gov>, click on get a document, under search by Agency, highlight U.S. Coast Guard, click on 1750.7B or <http://www.lifelines4gol.org>, click on "Family Support", click on "Family Advocacy Program under "Downloadable Resources", click on arrow under "Downloadable" for U.S. Marine Corps Community Services.

#### Section I. Historical Notes

This is the first PHS Commissioned Corps domestic/family violence policy.

#### Section J. Privacy Act Provisions

Pursuant to INSTRUCTION 7, "Rights and Responsibilities of PHS Commissioned Officers Under the Privacy Act of 1974," Subchapter CC26.1 of the CCPM, personnel records are subject to the Privacy Act of 1974. The applicable systems of records are 09-40-0001, "PHS Commissioned Corps General Personnel Records,"

HHS/PSC/HRS; 09-40-0002, "PHS Commissioned Corps Medical Records," HHS/PSC/HRS; 09-40-0003, "PHS Commissioned Corps Board Proceedings," HHS/PSC/HRS; and 09-40-0004, "PHS Commissioned Corps Grievance, Investigatory and Disciplinary Files," HHS/PSC/HRS.