

## Information Paper

1. **SUBJECT:** Command Referred Mental Health Evaluations of Members of the Armed Forces (Emergency)
2. **REFERENCES:**
  - a. DoD Directive 6490.1 Mental Health Evaluations of Members of the Armed Forces, October 1, 1997(Certified Current as of November 24, 2003)
  - b. Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year, 1993," October 23, 1992
  - c. DoD Directive 7050.6, "Military Whistleblower Protection," August 12, 1995
  - d. DoD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997
3. **PURPOSE:** To provide information to commanding officers about referring SMs for mental health evaluations in emergency situations
4. **DISCUSSION:**
  - a. In accordance with DoD Directive 6490.1 "Mental Health Evaluations of Members of the Armed Forces", a commanding officer may refer a SM for a emergency mental health evaluation whenever a SM, by actions or words, such as actual, attempted or threatened violence, intends or is likely to cause serious personal injury or death to himself, herself or others.
  - b. The commanding officer's first priority shall be to protect the SM and potential victims from harm. The commanding officer shall safely convey the SM to the nearest mental healthcare provider or, if unavailable, to a physician, or the senior privileged non-physician provider present as soon as practical.
  - c. The commanding officer shall make every effort to consult a mental health care provider (MHCP) *prior* to referring or sending the SM for an emergency mental health evaluation. A MHCP is defined as a psychiatrist, doctoral-level clinical psychologist or doctoral-level clinical social worker. If, due to the nature of the emergency, the commanding officer is unable to consult with the MHCP *prior* to transporting the SM for evaluation, the commanding officer shall forward a memorandum documenting the circumstances and observations about the SM that led to the commanding officer's decision to refer the SM on an emergency basis. This memorandum shall be forwarded to the MHCP by facsimile, overnight mail or courier to the MHCP *as soon as practical*. (Enclosure 1)
  - d. The commanding officer will next prepare a written memorandum for the SM and provide it to him or her *as soon as practical*. (Enclosure 2) The memorandum shall include, at a minimum, a brief factual description of the behaviors and/or verbal communications that led to the commanding officer's decision to refer the SM for an emergency mental health evaluation, the name or names of the mental healthcare provider(s) with whom the commanding officer may

have consulted prior to making the emergency referral (if applicable), notification of the SM's non-waivable rights, the titles and telephone numbers of other authorities, including attorneys, Inspectors General, and chaplains, who can assist the SM who wishes to question the necessity of the referral, and the name and signature of the commanding officer. The SM shall acknowledge that he or she has been advised of the reasons for the referral and his or her rights by signing the memorandum. If the SM refuses or declines, the commanding officer shall so state on the memorandum and the reasons the SM gave for not signing the memorandum. Copies of the signed memorandum shall be provided to the SM and to the mental healthcare provider who conducted the evaluation.

e. Upon completion of the mental health evaluation, the MHCP provides to the commanding officer a memorandum that addresses, at a minimum, diagnosis, prognosis, treatment plan and recommendations regarding fitness and suitability for continued service and shall make recommendations about precaution(s), if appropriate, and administrative management of the SM. After receiving the MHCP's recommendations concerning the SM's evaluation, a commander must document any action taken and the rationale behind it. For example, if a commander elects to retain the SM despite the MHCP's recommendation to separate, the commander must document his or her reasons for retaining the SM and then forward a memorandum to his or her superior explaining the decision to retain within two business days after receiving the MHCP's recommendation.

FROM CDR, (unit)

SUBJECT: Emergency Command Referral for Mental Health Evaluation of (SM rank, name, branch and SSN)

References: (a) DOD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997  
(b) DOD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997  
(c) Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 1992  
(d) DID Directive 7050.6, "Military Whistleblower Protection," August 12 1995

1. In accordance with references (a) through (d), I emergency referred (rank and name of SM) for a mental health evaluation.
  2. (Name and rank of SM) has (years) and (months) active duty service and has been assigned to my command since (date). Armed Services Vocational Aptitude Battery (ASVAB) scores upon enlistment were (list scores). Past average performance marks have ranged from \_\_\_\_\_ to \_\_\_\_\_ (give numerical scores) Legal action is/is not currently pending against the SM. (If charges are pending, list dates and UCMJ articles). Past legal actions include: (List dates, charges non-judicial punishments and/or findings of Courts Martial.)
  3. The circumstances and observations about the SM that led me to refer the SM on an emergency basis are as follows: (type description here)
  4. I will forward to the SM a memorandum that advises (rank and name of SM) of his (or her) rights. This memorandum will state the reasons for this referral, the name of the mental health care provider with whom I consulted, and the names and telephone numbers of judge advocates, DOD attorneys and/or Inspectors General who may advise and assist him (or her). A copy of this memorandum will be provided to you for review.
  5. Should you wish additional information, you may contact (name and rank of the designated point of contact) at (telephone number).
1. Please provide a summary of your findings and recommendations to me as soon as they are available.

(CDR signature block)

Attachment:

As stated

Enclosure 1

MEMORANDUM FOR (SM name and social)

FROM CDR, (unit)

SUBJECT: Notification of Commanding Officer Referral for Mental Health Evaluation (Emergency)

- References:
- (a) DOD Directive 6490.1, "Mental Health Evaluations of Members of the Armed Forces," October 1, 1997
  - (e) DOD Instruction 6490.4, "Requirements for Mental Health Evaluations of Members of the Armed Forces," August 28, 1997
  - (f) Section 546 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 1992
  - (g) DID Directive 7050.6, "Military Whistleblower Protection," August 12 1995

2. In accordance with references (a) through (d), this memorandum is to inform you that I have referred you for a mental health evaluation.
3. The following is a description of your behaviors and/or verbal expressions that I considered in determining the need for an emergency mental health evaluation:

(type description here)

4. (Before/After) making this referral, I consulted with the following mental health care provider about your recent actions: (Dr. Name), at the (name of hospital of health clinic) on (date commander talked to doctor). (Dr. Name) concurs that this evaluation (is/was) warranted and (is/was) appropriate.
5. Per references (a) and (b), you are entitled to the rights listed below:
  - a) The right, upon your request, to speak with an attorney who is a member of the Armed Forces or is employed by the Department of Defense who is available for the purpose of advising you of the ways in which you may seek redress should you question this referral.
  - b) The right to submit to your Service Inspector General or to the Inspector General of the Department of Defense (IG, DoD) for investigation an allegation that your mental health evaluation referral was a reprisal for making or attempting to make a lawful communication to a Member of Congress, any appropriate authority in your chain of command, an IG, or a member of a DoD audit, inspection, investigation or law enforcement organization or in violation of DoD Directive 64901, DoD Instruction 6490.1, and/or any applicable Service regulations.
  - c) The right to obtain a second opinion and be evaluated by a mental healthcare provider of your own choosing, at your own expense, if reasonably available. Such an evaluation by an independent mental healthcare provider shall be conducted within a reasonable period of time, usually within 10 business days, and shall not delay nor substitute for an evaluation performed by a DOD mental healthcare provider.
  - d) The right to communicate without restriction with an IG, attorney, Member of Congress, or others about your referral for a mental health evaluation. This provision does not apply to a communication that is unlawful.
  - e) The right to have to meet with an attorney, IG, chaplain, or other appropriate party.
  - f) If you are assigned to a naval vessel, deployed, or otherwise geographically isolated because of circumstances related to military duties that make compliance with any of the procedures in paragraphs 3) and 4), above, impractical, I shall prepare and give you a copy of the memorandum setting for the reasons for my inability to comply with these procedures. You (are scheduled to

meet with/met with) (name of the mental health provider) at (name of hospital of health clinic) on (date) at (time).

6. The following authorities can assist you if you wish to question this referral:
  - a) Military Attorney: Legal Assistance, 410-278-1583/1584; Trial Defense, 410-278-2156
  - b) Inspector General: APG, 410-436-2822
  - c) Chaplain: 410-278-4333
  - d) Other available resources: IG, DoD 1-800-424-9098

(CDR signature block)

I have read the memorandum above and have been provided a copy.

SM's signature: \_\_\_\_\_ Date: \_\_\_\_\_

OR

The SM declined to sign this memorandum which includes the SM's Statement of Rights because (give reason and/or quote SM).

Witness's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness's rank and name: \_\_\_\_\_ Date: \_\_\_\_\_

(Provide a copy of this memorandum to the SM.)

