



SECRETARY OF THE ARMY  
WASHINGTON

14 FEB 2013

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2013-06 (Providing Specified Law Enforcement Information to Commanders of Newly Assigned Soldiers)

1. References:

- a. Army Regulation (AR) 27-10 (Military Justice), 3 October 2011.
- b. AR 190-45 (Law Enforcement Reporting), 30 March 2007.
- c. AR 195-2 (Criminal Investigation Activities), 15 May 2009, Rapid Action Revision Issued 6 September 2011.
- d. AR 340-21 (The Army Privacy Program), 15 July 1985.
- e. AR 380-5 (Department of the Army Information Security Program), 29 September 2000.
- f. AR 380-67 (Personnel Security Program), 9 September 1988, Rapid Action Revision Issued 4 August 2011.
- g. AR 600-20 (Army Command Policy), 18 March 2008, Rapid Action Revision Issued 20 September 2012.
- h. AR 600-37 (Unfavorable Information), 19 December 1986.

2. This directive outlines a new process for systematically informing commanders about the criminal history of newly assigned Soldiers to assist in the identification of high-risk Soldiers. The process is intended to give commanders another tool to help them promote the health, resilience, well-being and readiness of their Soldiers by ensuring their awareness of potentially high-risk Soldiers. Criminal history (especially when it demonstrates a pattern of criminal behavior) is a key indicator that a Soldier may present a risk to him or herself and others. The goal of the new process is to give commanders the information they need to take appropriate intervention measures (such as referral to behavioral health or other service providers) to mitigate potential risks. The information is not intended to give commanders a basis for initiating disciplinary action or creating the perception of a "zero defects" Army.

3. Although the vast majority of Soldiers are never involved in criminal activity, the effect of noncombat losses and violent crime necessitates additional command actions

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to protect Soldiers and preserve our force readiness. The policy in this directive will help commanders discharge their responsibilities to foster a positive environment and promote and safeguard the morale, physical well-being and general welfare of Soldiers in their units. Commanders will use criminal history information to ensure that Soldiers receive counseling, treatment and assistance as required.

4. Using only the Army's law enforcement reporting system, the Office of the Provost Marshal General will conduct criminal history checks of Soldiers involved in a permanent change of station, intra-installation or intra-theater reassignment. The criminal history checks will identify all founded offenses over the last 5 years and be provided to the installation Provost Marshals/Directors of Emergency Services (PM/DES).<sup>1</sup> Reports will include, when known, the adjudication decision on the listed founded offenses as guilty, not guilty or unknown. When reports show unknown or a Soldier reports acquittals or dismissals of cases as the adjudication, commanders should assist the Soldiers by contacting their previous commands to ensure completion and submission of DA Form 4833 (Commanders' Report of Disciplinary and Administrative Actions).

5. The senior law enforcement official at the gaining installation (normally the PM/DES) will provide the criminal history reports to brigade-level commanders for all Soldiers during in-processing. The reports will include the Soldier's name; date, location and description of the offense; case number of the reported offense; status of the DA Form 4833; and adjudication of the case. If a Soldier has no criminal history, the report will show a negative entry.

6. Commanders will use the information in the reports to ensure that, if required, Soldiers are in compliance with AR 600-20, paragraph 4-23 (the Domestic Violence Amendment to the Gun Control Act of 1968, known as the Lautenberg Amendment) and have completed DA Form 7439 (Acknowledgment of Sex Offender Registration Requirements) as required by AR 27-10 (Military Justice). Commanders will not initiate judicial or adverse administrative actions based solely on the information in criminal history reports. Commanders will consult with their Staff Judge Advocate for assistance in determining available options and will not retain criminal history reports after the Soldier leaves the unit.

7. Commanders who learn of credible derogatory information, not previously reported, about a Soldier possessing a security clearance must make sure that information is reported immediately to the Commander, Central Clearance Facility in accordance with AR 380-67, paragraph 8-2.

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<sup>1</sup> Army policy defines "founded offenses" as criminal offenses adequately substantiated by police investigation as a violation of the Uniformed Code of Military Justice, the United States Code, State and local codes, foreign law, international law or treaty, regulation, or other competent policy. Determination that an offense is founded is a law enforcement decision based on probable cause supported by corroborating evidence and is not dependent on final adjudication. Founded offenses are equivalent to "reports of arrest" in the civilian sector.

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8. Brigade-level or higher commanders are authorized to share criminal history reports only with those persons who have an official need to know. Personnel with official need to know include individuals with responsibility for risk assessment and management, such as the chain of command, brigade judge advocate, paralegal noncommissioned officer and administrative personnel.

9. Policies and practices for storing, retrieving, accessing, retaining and disposing of records are as follows:

a. The PM/DES will send criminal history reports via Government-encrypted electronic mail only to the brigade-level or higher commanders. The PM/DES will mark criminal history reports as "For Official Use Only," followed by this statement:

WARNING: The information provided is the property of the United States Army. Unauthorized release or disclosure of its contents is prohibited. Contents may be disclosed only to persons whose official duties require access hereto. Contents cannot be released outside the Department of the Army without the approval of the Provost Marshal General.

b. Commanders and persons authorized to receive criminal history reports will:

(1) Safeguard results of criminal history report information through proper storage, control and handling in accordance with AR 195-2 and AR 380-5.

(2) Abide by the requirements of the Privacy Act for storing, retrieving, accessing, retaining, and disposing of law enforcement records.

(3) Protect criminal history report information from inadvertent loss, destruction or release to unauthorized third parties.

(4) Destroy official messages conveying criminal history reports when the referenced Soldier departs from the command.

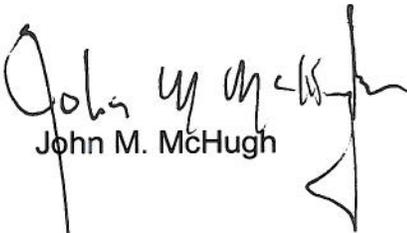
10. The Office of the Chief, Public Affairs is the lead for queries about Service-specific questions. The Office of the Judge Advocate General is lead for queries regarding military justice. The Office of the Provost Marshal General is the lead for questions related to law enforcement reporting policy. U.S. Army Criminal Investigation Command's Public Affairs Office is the lead for inquiries about criminal records checks and investigations.

11. The provisions of this directive are effective immediately and apply to the active Army, the Army National Guard/Army National Guard of the United States and the

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U.S. Army Reserve. The Office of the Provost Marshal will incorporate this policy into the next revision of AR 190-45 as soon as practical.

12. This directive is rescinded upon publication of the revised AR 190-45.



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