

Administrative Reassignment of Alleged Victims & Accused

Stabilization

Communication

Investigation

Disposition

Adjudication

Resolution

References

DoDD 6495.01; DoDI 6495.02; SECNAVINST 1752.4C; OPNAVINST 1752.1C; MILPERSMAN 1300-1200; MILPERSMAN 1300-1205

Introduction

Some criminal allegations may raise concerns for the safety & well-being of members and/or their dependents, & may present challenges to maintaining good order & discipline within a unit. Under certain circumstances, commanders may temporarily or permanently transfer or reassign members of their unit to: (1) ensure members and/or their dependents remain safe; (2) assist in the recovery for victims of certain offenses; & (3) maintain good order & discipline within a unit after persons are alleged to have committed criminal offenses.

This handout covers three types of administrative reassignment: (1) Safety Transfers applicable to all service members; (2) temporary reassignment of persons accused of having committed a criminal offense; and (3) Expedited Transfers of victims of sexual assault & other offenses.

(1) Safety Transfers of Service Members

Definition	Transfer of a member and/or their dependents prior to the member's projected rotation date out of concern for the safety & well-being of the member and/or their dependents. Safety Transfers apply to <u>all</u> service members—victim, accused, or otherwise.						
Appropriate Circumstances	Safety concerns warranting transfer may arise for: <ol style="list-style-type: none"> 1. Victims / witnesses of UCMJ offenses; 2. Family Advocacy Program (FAP) cases; 3. Victims of violent crime; 4. Members and/or dependents who have had threats issued against them. <div style="text-align: right; margin-top: 10px;"><i>Note: Other circumstances may warrant concerns for safety.</i></div>						
Process	1	Transfer Request Submitted	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">By member, command, or investigative agency</td> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">By member's dependents</td> </tr> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Submit written request using MPM 1300-1200 (Exhibit 1) </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Submit request to member's command or investigative agency using MPM 1300-1200 (Exhibit 2) </td> </tr> </table>	By member, command, or investigative agency	By member's dependents	<ul style="list-style-type: none"> • Submit written request using MPM 1300-1200 (Exhibit 1) 	<ul style="list-style-type: none"> • Submit request to member's command or investigative agency using MPM 1300-1200 (Exhibit 2)
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	2	Document Receipt	CO must document date/time request received / initiated. <i>Note: CO must approve / disapprove request within 72 hours.</i>				
	3	Counsel Member	Ensure member is fully informed of the potential impacts of transfer / reassignment on his/her career.				
4	Approve / Disapprove Request	Consider the following factors: <ol style="list-style-type: none"> 1. Reason(s) for requesting transfer; 2. Nature of the request; 3. Operational necessity, including unique situational requirements in deployed areas; 4. Member's input (if applicable); Any other pertinent circumstances / rationale for transfer.					
5	Post-Decision Actions	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">If CO Approved</td> <td style="width: 50%; border-bottom: 1px solid black; text-align: center;">If CO Disapproved</td> </tr> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Forward request & CO recommendation as to where member should be transferred (MPM, Exhibit 3) to PERS-454 via email (expd_trf.fct@navy.mil) </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Forward disapproval recommendation & rationale to first F/GO in chain of command. </td> </tr> </table>	If CO Approved	If CO Disapproved	<ul style="list-style-type: none"> • Forward request & CO recommendation as to where member should be transferred (MPM, Exhibit 3) to PERS-454 via email (expd_trf.fct@navy.mil) 	<ul style="list-style-type: none"> • Forward disapproval recommendation & rationale to first F/GO in chain of command. 	
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(2) Temporary Reassignment of an Accused

Definition	A <u>temporary</u> reassignment, removal from a position of authority, or removal from an assignment to maintain good order & discipline within a unit.
Limited Purpose	The <u>sole</u> permissible purpose for temporarily reassigning an accused is to maintain good order & discipline within the unit. <i>Commands may not reassign or remove an accused as punishment for the alleged offense.</i>
Relation to Expedited Transfer	Commanders must consider temporarily reassigning the accused before approving an alleged victim's request for Expedited Transfer.

(3) Expedited Transfer of Victims

Definition & Purpose

Definition	Temporary or permanent transfer from an assigned command or installation, or to a different location within an assigned command or installation, that may be requested by a member who has filed an Unrestricted Report of sexual assault or certain other offenses.
Purposes	1. Assist victim's recovery by moving him/her to a new location, where no one knows of the offense; 2. Reduce possibility of retaliation against a member for reporting a sexual assault or other offense.
When Appropriate	Address situations where a <u>victim</u> feels safe, <u>but uncomfortable</u> (e.g., victim experiences ostracism for reporting qualifying offense).

Eligibility

Type of Offense	Victims of the following offenses are eligible: 1. Sexual Assault 2. Stalking 3. Other Sexual Misconduct 4. Wrongful Broadcast or Distribution of Intimate visual images 5. Attempts to commit the above offenses
Type of Report	<u>Sexual Assault:</u> 1. Unrestricted Report Eligible. 2. Restricted Report Not eligible (inform of option to make report Unrestricted). Other qualifying offense Eligible if filed report with NCIS.

Deadlines & Expeditious Processing

Submission	There is no deadline for Victims to submit an expedited transfer request. Requests may be submitted any time after filing an Unrestricted Report.
Expediency	CO must expeditiously process an Expedited Transfer request.
Deadlines	CO must approve or disapprove an Expedited Transfer request within 72 hours of receipt. If CO disapproves, first Flag/General Officer (F/GO) in the chain has 72 hours to approve / disapprove a request to transfer.

Other Considerations

Disruption	Must make every reasonable effort to minimize disruption to requesting member's normal career progression.
Dependents	Transfer will include member's military spouse & dependents.
Notice to Gaining CO	Notify Gaining CO of Expedited Transfer <u>only</u> if there is: (1) an active criminal investigation; (2) an active legal proceeding; (3) ongoing victim healthcare related to sex assault; (4) ongoing monthly SACMG oversight involving the victim; <u>or</u> (5) active SAPR victim support services.

Process

1	Inform Victim	Inform member who files Unrestricted Report of sexual assault <u>at time of report</u> (or ASAP) of ability to request Expedited Transfer.				
2	Victim Request	Member initiates process by submitting written request to his/her CO. Sample request at MPM 1300-1205 (Exhibit 1).				
3	Document Req.	CO must document date/time the request is received.				
4	Verify Eligibility	Sexual Assault → Verify with SARC or FAP case manager that Unrestricted Report has been filed. Other Offense → Verify with NCIS that member reported offense.				
5	CO Determines if Report is Credible	CO <u>must</u> take the following three steps: a. Consider all available evidence (consider evidence as presented and do not delay for more evidence). b. Consult supporting judge advocate or legal advisor; c. Determine if report is <u>credible</u> . Report is <u>credible</u> if it contains information that, considering the source & nature of the information & the totality of the circumstances, is sufficiently believable to presume that the fact or facts in question are true. If report is credible → <u>presumption in favor of approving transfer</u> .				
6	Request Victim Input	CO must request & consider member's input before deciding to temporarily or permanently transfer & location of the transfer.				
7	Counsel Victim	Must directly counsel requesting member on foreseeable career impacts & other possible consequences of approving request.				
8	Approve / Disapprove Request <i>Within 72 Hours of Receipt of Request</i>	CO <u>must</u> consider the below in deciding to approve / disapprove: 1. Potential to transfer alleged offender instead of requesting member; (<i>see table on opposite side</i>) 2. Member's reasons for the request; 3. Nature & circumstances of offense; 4. Whether temporary transfer would meet member's needs & unit's operational needs; 5. Requesting member's training status; 6. Availability of positions within other units on installation; 7. Status of, & potential impact on, investigation & future disposition of the offense, after consulting NCIS; 8. Location of the alleged offender 9. Alleged offender's status (military or civilian) 10. Other pertinent circumstances or facts				
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