



U.S. REGION LEGAL SERVICE OFFICE EUROPE, AFRICA, CENTRAL
(RLSO EURAFCENT)

THE MILLRIND

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THIS
ISSUE:

RLSO EURAFCENT is taking a new approach with our newsletter with a monthly format aimed at providing more timely and targeted information.

**MILITARY
PROTECTIVE
ORDERS**

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MILITARY
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ORDERS

This month's Millrind covers **Military Protective Orders (MPOs)**. The JAG Corps subject matter experts on criminal law (OJAG Code 20) developed this content. It is part of a series of reference tools aimed at highlighting key criminal law related topics for commanders.

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Knowledge Management: You can access and review all past issues of The Millrind on the JAG Corps website and indexed within this issue.

If there is a topic you would like us to cover, please contact your local RLSO office!

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Military Protective Orders

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References

10 U.S.C. § 1567a; 32 C.F.R. § 105.9; DoDI 6400.06; DD 2873; NAVADMIN 252/19

Introduction

Commanders may issue a military protective order (MPO)—an order prohibiting an accused from contacting or communicating with protected persons—when necessary to: (1) safeguard alleged victims; (2) quell disturbances; and (3) maintain good order & discipline while alleged victims have time to pursue a protection order through a civilian court or to support an existing civilian protective order. Violation of an MPO may be prosecutable under the Uniform Code of Military Justice.

When possible, commanders should contact NCIS before issuing MPOs to avoid prematurely notifying the accused that an investigation is ongoing. Once issued, all MPOs must be registered in the Federal Bureau of Investigation’s National Crime Information Center (NCIC) database, although civilian authorities will not enforce MPOs. Commanders should forward any issued MPOs, as well as any changes to MPOs, in accordance with the table below.

Definition & Purpose

Definition	An order prohibiting an active duty member from contacting or communicating with a protected person or members of the protected person’s family or household.
Accepted Purposes	(1) Safeguard a victim, (2) quell disturbances, and (3) maintain good order & discipline while a victim has time to pursue a protection order through a civilian court or to support an existing civilian protective order.
Scope	An MPO violation may be prosecutable under the UCMJ. Note that civilian authorities <u>will not</u> enforce MPOs.

Initiating the Process

Requests & Commander Prerogative	Any person may request an MPO. A Commander may issue an MPO without a request.
Denying a Request for MPO in a Sexual Assault Case	If a Unit Commander or Commanding Officer intends to deny a request for an MPO in a sexual assault case, he or she must: <ol style="list-style-type: none"> 1. Document the reasons for denial; and 2. Forward those reasons to the Installation Commander for a final decision.

Issuing Requirements

Authority	A Commander may issue MPOs only to those active duty members under his or her command.
Case-by-Case, Tailored Conditions	Each MPO must be issued on a case-by-case basis. MPO conditions must be tailored to meet the specific needs of the protected person(s).
Documentation	All MPOs <u>must</u> be documented using DD Form 2873. <i>Verbal MPOs may be issued, but <u>must</u> be documented on DD Form 2873 as soon as possible.</i>
Copies	Provide copies of signed DD Form 2873 to: <ol style="list-style-type: none"> 1. Alleged Offender 2. Protected Person(s) 3. NCIS Maintain copy of MPO in local command files.

Military Protective Orders

Unit Notification Requirements		
When MPO is Issued	<p>Provide copy of MPO to the point of contact as follows:</p> <ul style="list-style-type: none"> • If issuing Unit is on a Navy Installation within the U.S. or U.S. Territories, provide copy to the Installation Commander. • If issuing Unit is within the U.S. or U.S. Territories, but <u>not</u> located on a Navy Installation, provide copy to the Unit's assigned NCIS Field Office. • If issuing Unit is on a Navy Installation overseas, underway, or deployed, provide copy to the applicable Installation Commander. 	
When MPO is Modified	Provide copy of the modified MPO to the same point of contact as when MPO was issued (see above).	
When MPO Expires	Notify the same point of contact as when the MPO was issued (see above) of the expiration of the MPO.	
Transfer of Offender Subject to Active MPO	Detaching Commander	Detaching Commander's MPO expires when service member detaches from that command. Before member detaches, notify Gaining Commander of the existence of the MPO and notify applicable installation commander/NCIS field office that current MPO is expiring upon transfer.
	Gaining Commander	After being notified by Detaching Commander, evaluate circumstances and make an independent determination whether to issue an MPO to the service member. If an MPO is issued, notify applicable installation commander/NCIS field office (above).

Installation Commander Submission Requirement
<p>Installation Commanders will submit all issued, modified, and terminated MPOs to NCIS.</p> <p>Email: mposubmission@ncis.navy.mil</p>

Civilian Protective Orders (CPOs)	
Definition	Order issued by civilian judge or magistrate to protect health & safety of an alleged victim of a crime.
Enforceability	Military authorities <u>must</u> enforce a CPO on base.
Effect on MPO	<p>Existence of a CPO does <u>not</u> prevent a Commander from issuing an MPO. Commanders may issue an MPO that is more restrictive than a CPO.</p> <p><i>Note: Commanders should modify any existing MPO to ensure it does not contradict a CPO.</i></p>
On-Base Civilians & CPOs	Commanders may bar civilians—including DoD civilian employees—from an installation if they fail to comply with a CPO.

Best Practices	
Contact a Judge Advocate	<p>Contact a judge advocate before issuing or extending any MPO for an accused.</p> <p>Contact a judge advocate before issuing an MPO to an alleged victim.</p>
Contact NCIS	<p>Contact NCIS before issuing an MPO.</p> <p>Issuing an MPO may notify an alleged offender of an ongoing investigation, potentially interfering with NCIS' investigatory options.</p>
Durations & Extensions	<p>MPOs remain in effect until modified or rescinded. Commanders should monitor whether an MPO remains necessary as time goes on. Consult a judge advocate if you have questions about MPO duration.</p>

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Link to all past issues:

https://www.jag.navy.mil/legal_services/rlso/rlso_eurafswa.htm

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