

DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON HUMPHREYS
UNIT #15228
APO AP 96271-5228

IMHM-ZA

4 September 2015

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: United States Army Garrison Humphreys Policy Letter #100, Limitation on the Exercise of Uniform Code of Military Justice (UCMJ) Authority

1. REFERENCES.

- a. Manual for Courts-Martial, United State, 2012 (MCM).
- b. Army Regulation 27-10, Military Justice, 3 October 2011.
- c. Army Regulation 600-20, Army Command Policy, 6 November 2014.
- d. Army in Korea Regulation 27-10, Military Justice, dated 16 March 2012.
- e. Eighth Army Command Policy Letter #15, Withholding Authority to Dispose of Certain Cases.

2. AUTHORITY. As the Special Court Martial Convening Authority (SPCMCA) for the United States Army Garrison Humphreys (USAG-H), I hereby withhold from subordinate commanders the authority to dispose of certain misconduct, detailed below in subparagraph 5, pursuant to my authority under Rule for Courts-Martial (RCM) 306(a) and Army Regulation (AR) 27-10, paragraph 3-7(d).

3. APPLICABILITY. This limitation on exercise of authority applies to all military personnel assigned or attached for administrative control to USAG-H.

4. GENERAL COURT MARTIAL CONVENING AUTHORITY (GCMCA) RETAINS THE FOLLOWING AUTHORITY: The authority to make final disposition on cases of misconduct committed by officers, warrant officers, and noncommissioned officers in the grade of E8 and above is withheld to the GCMCA of Eight Army, as described in reference e.

5. DISCUSSION.

- a. Authority to make final disposition of cases of misconduct committed by noncommissioned officers in the grade of E-6 and E-7 is withheld to the SPCMCA. This reservation includes the authority to administer non-judicial punishment under Article 15, Uniform of Military Justice, and convene courts-martial.

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b. The authority to convene courts-martial, to impose nonjudicial punishment under Article 15, UCMJ, and to issue administrative reprimands for acts of misconduct involving noncommissioned officers in the ranks of E-5 is reserved for the following offenses:

(1) Incidents involving the possession and use of substances controlled or prohibited by Article 112a, UCMJ, or by other order or regulation (e.g. spice, salvia divinorum, bath salts, or inhalants used for huffing);

(2) Incidents involving prohibited relationships as defined in AR 600-20 and Article 134 of the UCMJ;

(3) Incidents involving weapons, as defined in USFK Regulation 27-5.

c. In addition to the limitations based on categories of misconduct mentioned in paragraph 5a-5b, I withhold the authority to dispose of the following offenses regardless of rank including the authority to impose nonjudicial punishment and to issue administrative reprimands. This withholding applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the alleged perpetrator or the alleged victim of the rape, sexual assault, forcible sodomy, or attempts thereof:

(1) Incidents involving sexual misconduct including rape, sexual assault, abusive sexual contact, forcible sodomy, and other sexual misconduct described in Articles 120 and 125, UCMJ);

(2) Incidents involving sexual harassment as defined in AR 600-20;

(3) Incidents involving violation of the Army's Equal Opportunity Program IAW AR 600-20;

(4) Breach of the peace (Article 116, UCMJ);

(5) Stalking (Article 120a, UCMJ);

(6) Robbery (Article 122, UCMJ);

(7) Maiming (Article 124, UCMJ);

(8) Incidents involving assault, when the victim requires medical treatment (Article 128, UCMJ);

(9) Burglary (Article 129, UCMJ); and

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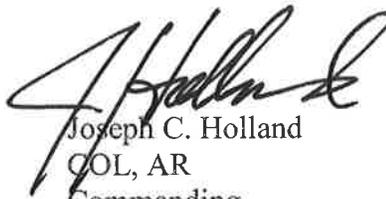
(10) Incidents of domestic violence, specifically, assaults or other violent acts committed against the dependents of a Soldier or other persons who ordinarily live in the Soldier's family housing or who are members of a Soldier's immediate family.

d. The authority to dispose of an offense by a Service Member who has a prior record of substantiated serious misconduct is withheld to the SPCMCA, so long as the offense is not withheld to the GCMCA. Serious misconduct is the commission of a serious military or civil offense the circumstances of which warrant separation and punitive discharge is, or would be, authorized for the same or closely related offense under the MCM. Upon notification of a Service Member's second substantiated allegation of misconduct, the immediate commander will submit a detailed memorandum through the chain of command to the SPCMCA regarding the offense. The memorandum will include a recommendation as to disposition of the offense along with acknowledgement of the requirement to initiate separation under AR 635-200, Chapter 14, or to recommend retention. Investigations reporting misconduct include, but are not limited to: Military Police Investigations, Criminal Investigation Division Investigations, Army Regulation 15-6 investigations, Commander's Inquiries conducted pursuant to RCM 303, and Investigations conducted by Civil and or Foreign authorities.

6. Commanders at all levels are required by law to provide their honest and independent recommendation on how misconduct should be addressed. Nothing in this policy letter should be interpreted to indicate that allegations must be disposed of in a particular matter, that pre-determined types of punishment are appropriate, or that adverse action is required in all cases or a particular case.

7. This policy applies to all actions currently under investigation, pending, or contemplated. It will remain in effect until formally rescinded.

8. The point of contact for this policy memorandum is the Camp Humphreys Command Judge Advocate at DSN 753-8497.


Joseph C. Holland
COL, AR
Commanding

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