



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY JAPAN  
UNIT 45005  
APO AP 96343-5005

08 JUL 2021

APAJ-CG

## COMMAND POLICY MEMORANDUM

SUBJECT: Administration and Processing of Certain Uniform Code of Military Justice (UCMJ) Matters within U.S. Army Japan (UCMJ Withholding Policy)

### 1. References.

- a. Army Regulation 27-10, Military Justice, 20 November 2020
- b. Manual for Courts-Martial, 2019 Edition
- c. Headquarters, Department of the Army, General Order No. 16, dated 20 December 2002
- d. Headquarters, Department of the Army, General Order No. 3, dated 10 January 1981.
- e. U.S. Army Pacific Supplement, Army Regulation 27-10, 19 January 2018

2. Applicability. This policy applies to all units, commanders, and Soldiers assigned, attached, or present for duty in Japan or otherwise subject to the General Court-Martial Convening Authority (GCMCA) of the Commanding General, United States Army Japan (USARJ) (IAW HQDA, GO No. 3). Tenant units with different technical command lines shall follow this policy unless an exception is granted after coordination with the Office of the Staff Judge Advocate (OSJA), USARJ (IAW USARPAC Sup AR 27-10, Par 4).

### 3. Senior Leader Misconduct.

a. Pursuant to the Manual for Courts-Martial, Rules for Courts-Martial 306(a); Army Regulation 27-10, paragraphs 3-4 and 3-7(d); and USARPAC Regulation 27-10, I withhold from subordinate commanders the authority to dispose of alleged offenses committed by all commissioned officers, warrant officers, and noncommissioned officers in the grade of E-8 and above stationed in, assigned to, or otherwise present for duty in Japan on the islands of Hokkaido, Honshu, Shikoku, Kyushu and Okinawa. This reservation includes the authority to issue reprimands, relieve for cause, administrative separations, eliminations, administer non-judicial punishment under Article 15, Uniform Code of Military Justice, and convene courts-martial. Requests for exceptions to this policy will only be granted by me and will be staffed through the OSJA, USARJ.

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b. Actions upon learning of Senior Leader Misconduct. Commanders who receive information that one of their subordinate commissioned officers, warrant officers, or noncommissioned officers in the grade of E-8 and above may have committed misconduct will report a brief summary of the allegations to myself and the USARJ SJA within 24 hours via email. After coordinating with the Chief of Military Justice, USARJ, OSJA, Commanders will conduct an investigation or forward, if appropriate, the case to the correct law enforcement agency. Commanders will then coordinate through command channels to expeditiously forward all available evidence and their recommended disposition, in memorandum format, to the OSJA, USARJ.

c. Commanders who wish to request jurisdiction will submit a written request, in memorandum format, to me thru the OSJA, USARJ, Military Justice Division. I will consider each request and make my decision whether or not to return the action on a case-by-case basis.

#### 4. Sexual Assault Allegations:

a. I withhold disposition authority to the SPCMCA in the rank of colonel (O-6) for all alleged violations of Article 120, 120a, 120b, and 120c of the Uniform Code of Military Justice (UCMJ) in which probable cause has been determined to exist. Additionally, this withholding applies to all attempts to commit such offenses in violation of Article 80, UCMJ, and also applies to any alleged collateral misconduct arising from or relating to the same incident/investigation, whether committed by the alleged suspect or victim identified in the investigation. Nothing in this withholding prevents a subordinate commander from exercising their independent discretion and preferring charges if appropriate.

b. The SPCMCA shall be responsible for determining the appropriate disposition, to include whether further action is warranted and, if so, whether the matter should be resolved by court-martial, nonjudicial punishment, or adverse administrative action. Subordinate commanders are encouraged to provide their own recommendations regarding disposition.

c. Commanders who receive information that any of their Soldiers may have committed an offense in violation of Articles 120, 120a, 120b, 120c, and 125 of the UCMJ will immediately report the information to the United States Army Criminal Investigation Command (CID) and alert their supporting command legal office. This reporting is in addition to and does not take the place of any other required sexual assault reporting. If the nature of the misconduct does not fall within the purview of a law enforcement activity (CID, MPI, JNP), commanders

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should consult with their supporting command legal office and initiate their own inquiry into the alleged misconduct.

5. Pretrial confinement and restraint. Any commander may order a Soldier into pretrial confinement. Prior to doing so, the commander must coordinate with the Chief of Military Justice or the Deputy Staff Judge Advocate and must obtain the approval of the SPCMCA and the Staff Judge Advocate. The authority to order any form of pretrial restraint of commissioned officers, warrant officers, and noncommissioned officers in the grade of E-8 and above is specifically reserved for the Commander, USARJ, or a subordinate commander expressly granted this authority.

6. Processing Times for Legal Action:

a. I expect commanders to prioritize handling of legal actions.

b. Subordinate commanders will serve any legal action on the affected Soldier within 48 hours of the date of signature.

c. Once rebuttal matters are received, or once the Soldier has consulted Trial Defense Services, the affected Soldier's chain of command will forward their recommendations to their OSJA, within 5 business days. For delays beyond 5 business days the commander must notify their Staff Judge Advocate for the reasons for the delay and the date when the commander will forward their recommendation to their OSJA.

d. All extension requests must be sent to the Military Justice section in writing, and in a timely manner. Furthermore, the extension request must include the reason for the extension as well as the date the affected Soldier will submit his matters. I delegate to the Staff Judge Advocate or, in their absence, the Deputy Staff Judge Advocate the approval or the denial of the extension request.

7. Nothing in this policy statement should be interpreted to suggest that allegations must be disposed of in a particular manner, that predetermined types or amounts of punishment are appropriate, or that adverse action is required in all cases or in any particular case.

8. The USARJ, OSJA and 10th RSG, OSJA are responsible for providing legal advice to commanders and for preparing the necessary documents to implement commanders' decisions in accordance with this policy.

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9. This USARJ Command Policy Memorandum supersedes all USARJ Command Policy Memorandum addressing the administration of UCMJ matters within USARJ, and is effective until rescinded or superseded.

10. The point of contact for this policy is the Chief of Military Justice, USARJ at 262- 7233.

A handwritten signature in black ink, appearing to read 'JBV', with a long horizontal flourish extending to the right.

JOEL B. VOWELL  
BG, USA  
Commanding