



DEPARTMENT OF THE ARMY
HEADQUARTERS, 3D CAVALRY REGIMENT
BUILDING 9001 LEGENDS WAY
FORT CAVAZOS, TX 76544



AFZC-RCO

25 MAY 23

MEMORANDUM FOR RECORD

SUBJECT: Policy Letter #7 – Withholding Policy – Authority to Take Adverse Action

1. References:

- a. Army Regulation (AR) 600-20, Army Command Policy, 6 November 2014.
- b. Fort Hood Regulation 27-10, Military Justice, 1 November 2022.
- c. Secretary of Defense Memorandum, Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases, 20 April 2012.
- d. Policy Letter, 1st Cavalry Division (1CD), Military Justice Policy, 1 September 2021.

2. This policy applies to all Troopers assigned or attached to the 3d Cavalry Regiment.

3. Nothing in this policy letter should be construed to require a certain outcome in any particular case or class of cases. Each commander must continue to exercise independent judgement in disposing of allegations of misconduct as he or she sees fit.

4. Policy:

a. Senior Leader Misconduct.

(1) The Commanding General (CG), (1CD), withholds authority to dispose of alleged misconduct committed by a Senior Leader, which is defined as personnel in the grades of E-8 or above and personnel in the grade of E-7 serving in a first sergeant position. Misconduct includes, but is not limited to, violations of the UCMJ, violations of federal or state criminal codes, or violations of punitive Army regulations or policies. This authority extends to any adverse action including initiation of elimination or separation, non-judicial punishment, non-punitive reprimands issued pursuant to AR 600-37, reliefs, suspensions, and referred evaluation reports based on misconduct.

(2) The Regimental Commanding Officer (RCO) withholds authority to dispose of alleged UCMJ offenses committed by Troopers in the grade of E-7 not withheld to the CG, 1st Cavalry Division. Subordinate commanders may request authority to dispose of

misconduct involving E-7s or above in consultation with the Regimental Judge Advocate.

(3) Reports of Senior Leader Misconduct. No later than 48 hours from receipt of information that a Senior Leader has committed misconduct, Squadron Commanders will report the following information to me via e-mail: (1) the alleged crime in the form of 6Ws; (2) the accused's service record, family situation, and mitigating or extenuating circumstances known to the chain of command; (3) any potential victims (commanders must comply with SHARP policy and ensure victim confidentiality); and (4) the unit impact on good order, morale, and discipline.

b. Reservation of UCMJ Authority by the CG. IAW FH Regulation 27-10, disposition of weapons-related offenses, including registration, is withheld to the 1CD CG and the 1CD deputy commander.

c. Reservation of UCMJ Authority by the Regimental Commander. I withhold initial disposition of all allegations of misconduct that fall in the categories listed below. Commanders may request release of disposition in consultation with the Regimental Judge Advocate.

(1) Domestic Violence. I withhold initial disposition of all instances of domestic violence. Domestic violence includes but is not limited to: threats or acts of violence against a spouse, a former spouse, an intimate partner, or an immediate family member; threats or acts of violence against animals or property belonging to a class of persons listed above; and violations of protective orders with the intent to threaten or intimidate any class of persons listed above.

(2) Sexual Assault. I withhold initial disposition of all instances of penetrative and non-penetrative sexual offenses in violation of Article 120, violations of Article 120b, violations of Article 120c involving a minor, violations of Article 134 related to child pornography, violations of Article 125, UCMJ (pre-2019 offenses), and attempts to commit the above offenses, in violation of Article 80, UCMJ. Additionally, this withholding applies to all other alleged offenses arising or relating to the same incident(s), or involving the same parties, whether committed by the alleged perpetrator or the alleged victim of the rape, sexual assault, forcible sodomy, or the attempts thereof.

(3) UCMJ action on drug-related offenses, including positive urinalysis results, is reserved to Squadron Commanders.

d. Subordinate commanders may request release of any withholding in this policy from the CG, 1CD, or the RCO using the Fort Hood Form 4-50, which is available digitally from the Regimental Legal Section. Ensure all requests for release of disposition are coordinated with the Regimental Judge Advocate.

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5. Mandatory Initiation of Separation or Elimination.

a. Administrative separation or officer elimination is required to be initiated against any Trooper who is found guilty by a civilian court, at a court-martial where a punitive discharge is not adjudged, or by nonjudicial punishment under Article 15, UCMJ for domestic violence and sexual assault, to include non-penetrative offenses.


b. Administrative separation or officer elimination is required to be initiated against any Trooper when there has been a substantiated allegation of sexual harassment, after the Trooper has exhausted their appellate rights with regards to the investigation, unless I determine that the sexual harassment is minor in nature, in which case I will direct the Trooper be rehabilitated and defer initiation.

c. Administrative separation or officer elimination is required to be initiated against any Trooper who tests positive for illegal drugs a second time during their career.

6. Nothing in this policy prohibits a subordinate commander from preferring and forwarding court-martial charges as provided for in the UCMJ.

7. The point of contact for this memorandum is the Regimental Judge Advocate at 254-286-6972.

8. This memorandum supersedes Commanding Policy Letter #7, dated 1 December 2022. This policy will remain in effect until superseded or rescinded.


JEFFREY J. BARTA
COL, AR
Commanding
JJB

