

Headquarters  
US Army Cadet Command and Fort Knox  
Fort Knox, Kentucky 40121-5123  
30 October 2012

\*Fort Knox Reg 27-11

## Legal Services

### JUVENILE OFFENDER PROGRAM (JOP)

**Summary.** This regulation sets forth the policies and procedures for addressing and disposing of incidents of juvenile misconduct within the jurisdiction of Fort Knox, KY (FKKY).

Organizational responsibilities are specified so that all parties involved have a clear understanding of their respective obligations and responsibilities, all of which are necessary to effectively implement and execute this program.

**Applicability.** This regulation governs the disposition of criminal offenses, other than vehicular offenses, alleged to have been committed by juveniles within the jurisdiction of Fort Knox.

**Participation.** Juvenile offenders in appropriate cases may elect to participate in the JOP, but participation is not an individual right. Participation by the government, as expressed through the prosecutors assigned to a particular case, is discretionary as the JOP is not appropriate for every case or every juvenile offender. The JOP will only be utilized following a case-by-case review conducted by the assigned prosecutors, and is reserved for those cases that serve best the interests of both the juvenile offender and the government.

**Suggested Improvements.** The proponent agency of this regulation is the Fort Knox Office of the Staff Judge Advocate (OSJA). Comments and suggestions for improvements are welcome, encouraged and should be submitted on DA Form 2028<sup>1</sup> thru command channels to the attention of the: Commander, US Army Cadet Command and Fort Knox, ATTN: ATCC-SJA, Fort Knox, Kentucky 40121.

1. **Purpose.** The purpose of this regulation is to prescribe policies, procedures, and responsibilities for disposing of juvenile offenders alleged to have engaged in misconduct within the jurisdiction of Fort Knox or during FKKY activities.

2. **References.**

a. United States Code, Title 18, Sections 5031-5042 (Federal Juvenile Delinquency Act of 1974), as amended.

b. AR 420-1, Army Facilities Management, (RAR 002), 24 Aug 12, as amended.

c. AR 215-8/AFI 34-211(I), Army and Air Force Exchange Service (AAFES) Operations, 5 October 2012, as amended.

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<sup>1</sup> Recommended Changes to Publication and Blank Forms-<http://www.apd.army.mil/da2028/daform2028.asp>

d. All applicable Policy Memoranda and other official Army and Fort Knox publications or policies incorporated herein by reference.

3. Policy. For purposes of juvenile justice, Fort Knox has concurrent jurisdiction with the Commonwealth. Additionally, the Juvenile Delinquency Act of 1974 (United States Code, Title 18, Sections 5001-5042) applies to Fort Knox and provides that juvenile criminal cases should be disposed of outside of Federal district courts wherever possible. This regulation establishes a voluntary alternative resolution program in conjunction with juvenile delinquency proceedings. As such, it complies with the policy rationales of the Federal Juvenile Delinquency Act of 1974 by ensuring that offenses involving juveniles are identified, adjudicated, and disposed of in a manner that stresses both general deterrence and rehabilitation of juvenile offenders while removing the covered cases from federal courts to state courts following coordination. The Memorandum of Agreement between Fort Knox and the Commonwealth Kentucky (Appendix J) specifies that non-serious type offenses (with the exception of repeat offenders) will be handled first by the installation and that serious offenses *may* be referred to the state courts for prosecution, with Staff Judge Advocate concurrence.

4. Definitions.

a. Juvenile Action Committee (JAC)- Committer of individuals appointed by the appropriate authority to convene at regular intervals to review, hear and recommend the disposition of juvenile offenses and offenders that are in the best interests of all parties involved.

b. Juvenile. A person under the age of 18 that is not a member of the Armed Forces

c. Juvenile Offender. A juvenile who commits or aids another juvenile or adult in committing an act of misconduct.

d. Misconduct. An act or series of acts that, when committed by any person, constitutes a criminal offense under the laws of the United States or the Commonwealth of Kentucky.

e. Juvenile Probation Officer (JPO). A person appointed by the Provost Marshal or United States Probation Office to oversee the probation of a juvenile offender.

f. Probation. A period of evaluation in which the prosecution of a juvenile offender who has admitted to misconduct is suspended on the promise of good behavior, as defined by the Prosecutor.

g. Supervised Probation. Probation that requires the continuous appearance by juvenile offenders and their parents before the Juvenile Probation Officer.

h. Unsupervised Probation. Probation that does not require continuous appearance by juvenile offenders and their parents before the Juvenile Probation Officer.

i. Prosecutor. The Judge Advocate serving as the Special Assistant, United States Attorney (SAUSA), as nominated by the Staff Judge Advocate and approved by the United States Attorney or a designee of the United States Attorney.

j. Felony. Any offense punishable by death or imprisonment for a term exceeding 12 months.

k. Class A Misdemeanor. Any offense, the possible penalty for which falls between 6 months and 12 months of imprisonment, as set forth in the provision defining the offense.

l. Class B Misdemeanor. Any offense, the possible penalty for which does not exceed 6 months of imprisonment, as set forth in the provision defining the offense.

m. Violations/infractions. Any offense the possible penalty of which is a fine or greater, as set forth by lawful authority or other provision defining such offense/infraction.

5. Responsibilities.

a. Garrison Commander. Directs efforts to ensure the health, safety, and welfare of all military personnel and family members assigned or attached to Fort Knox.

b. Staff Judge Advocate (SJA). Coordinates the administration of the juvenile offender program, ensuring justice and fairness in the process. Delegates to the Prosecutor the authority to make decisions regarding incidents of juvenile misconduct.

c. Prosecutor. Determines whether there is sufficient evidence from which to conclude that an offense has been committed by a juvenile and determines whether to dispose of such cases by either prosecuting<sup>2</sup> the offender or offering the juvenile offender an opportunity to participate in the JOP by executing a Juvenile Pretrial Diversion contract.

d. Provost Marshal. Investigates and reports acts of juvenile misconduct within the jurisdiction of Fort Knox that are not within the jurisdiction of the Criminal Investigation Division (CID). Coordinates all juvenile cases with the Prosecutor. Appoints Fort Knox Juvenile Probation Officers.

e. Criminal Investigation Division (CID). Investigates and reports acts of juvenile misconduct at Fort Knox if the offense at issue is subject to CID jurisdiction<sup>3</sup>. Coordinates all juvenile cases with the Prosecutor.

f. Military Police Investigators (MPI): Similar to CID, above, except that their jurisdiction is over those offense not within the jurisdiction of CID.

g. Juvenile Probation Officer. Oversees the probation and the community service obligations of all juvenile offenders who are deferred from prosecution by means of a Juvenile Pretrial Diversion contract.

h. The Family Advocacy Program Manager (FAPM) oversees the Juvenile Diversion Program and all related services for juveniles referred by the Prosecutor as part of the Juvenile Pretrial Diversion contract.

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<sup>2</sup> Subject to authorization by the United States Attorney or a designee of the United States Attorney.

<sup>3</sup> As established in CID Regulation 145-1.

i. Chief, Social Work Services. Oversees the counseling of juvenile offenders who are referred to the Family Advocacy Program of Social Work Services (SWS) by the Prosecutor as part of their Juvenile Pretrial Diversion contracts

j. District Court Liaison Office (DCLO): As the DCLO: Responsible for official coordination/notification of JAC proceedings to both Sponsors and Juveniles. Responsible for completing and sending the appropriate form out of the forms contained in the appendices to communicate formally with sponsors/dependants.

6. Procedure for Handling Juvenile Offenders.

a. Investigation. Military Police Investigations (MPI) and/or CID will investigate juvenile misconduct, as determined by their respective jurisdictional authorities, and coordinate with the Prosecutor the investigation of each case and cooperate with the prosecution thereof .

b. Determination. After coordinating with the MPI and/or CID, the Prosecutor will determine whether there is sufficient evidence to conclude that a juvenile has committed an act of misconduct.

c. Disposition. If there is sufficient evidence to conclude that an act of misconduct was committed by a juvenile, the Prosecutor must decide the disposition of the matter, by either prosecuting the juvenile or offering the juvenile the Juvenile Pretrial Diversion (JPTD) contract (see Exhibit A) as supervised by the Juvenile Probation Officer. The following guidelines normally should be adhered to in deciding the disposition of incidents of juvenile misconduct:

(1) Status Offenses, i.e., Truancy, Runaways, and Children Beyond the Control of their Parents -- Such acts are not criminal; they are essentially social or behavioral problems. The disposition of such cases shall be handled by the FAPM (after investigation by MPI and/or CID). The FAPM will coordinate with the OSJA to ascertain whether the matter may or should be referred to the Commonwealth for disposition.

(2) Class B Misdemeanor/violation/infraction, First Offense-- JPTD contract, consisting of unsupervised or supervised probation, counseling and/or other appropriate conditions determined by the JAC.

(3) Class B Misdemeanor/violation/infraction, Repeat Offender<sup>4</sup>--Prosecution.

(4) Class A Misdemeanor/violation/infraction, First Offense--JPTD contract, consisting of supervised probation and counseling alone, or together with community service time.

(5) Class A Misdemeanor/violation/infraction, Repeat Offender<sup>5</sup>-- Prosecution.

(6) Felony/violation/infraction, First Offense<sup>6</sup>--Prosecution.

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<sup>4</sup> Note: If the United States Attorney (or an authorized designee of the United States Attorney) fails to authorize prosecution, the juvenile offender shall be placed in the JPTD Program consisting of supervised probation, counseling, and community service time.

<sup>5</sup> See note 2, above.

(7) Felony/violation/infracton, Repeat Offender<sup>7</sup>--Prosecution.

7. Juvenile Pretrial Diversion Contracts.

a. When *both* the juvenile offender *and* the United States agree that it is in their collective, individual and mutual best interests, the offender will not be prosecuted but will instead be allowed to execute the JPTD contract instrument. See appendices A and B. Prosecution will be deferred in favor of the JPTD contract instrument only so long as the Prosecutor, in his or her sole discretion, concludes that the juvenile offender is adhering to and abiding by the terms of the JPTD contract.

b. The JPTD contract shall consist of the following five (5) parts:

(1) Admission of Guilt. *In every case*, juvenile offenders must freely and voluntarily admit that they committed each of the elements of the referenced act of misconduct and in lieu of prosecution, request to be enrolled in the JPTD Program. The juvenile offender (with parental consent) has the right to consult with a duly licensed attorney at their own expense before deciding whether to enroll in the JPTD Program, but if the juvenile (with parental consent) declines to exercise that right, the right is knowingly and voluntarily waived and the admission of guilt can and will be used against the juvenile in future prosecution if the juvenile fails to satisfactorily complete the JPTD Program.

(2) Probation. On a case by case basis, as deemed appropriate by the prosecutor, juvenile offenders will agree to a period of probation, the length, nature and conditions of which are set forth in the JPTD contract and by the JAC. The contract will state that the Juvenile Probation Officer, along with the juvenile offender's parent(s), will supervise such probation. See appendices B, C, D, and G.

(3) Community Service. On a case by case basis, as deemed appropriate by the prosecutor, juvenile offenders will agree to perform a period of community service, the length of which will be set forth in the contract. Such obligation will serve as part of the deterrence against future misconduct by the juvenile offender.

(4) Counseling. On a case by case basis, as deemed appropriate by the prosecutor, the juvenile offender will agree to attend counseling under the supervision of either the Family Advocacy Program (ACS) or the Family Advocacy Programs of SWS. See appendix D. Such counseling will serve as part of the rehabilitation of the juvenile offender. The successful completion of counseling shall count towards a juvenile offender's community service obligation.

(5) Financial Restitution. On a case by case basis, as deemed appropriate by the prosecutor, juvenile offenders and their parent(s) will agree to pay restitution for all damages and/or losses (if any) caused by their misconduct.

c. Parent(s) of juvenile offenders shall also sign the JPTD contract, thus consenting to their juvenile's participation in the program as a corrective measure and acknowledging that they will

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<sup>6</sup> See note 2, above.

<sup>7</sup> See note 2, above.

directly and personally supervise the juvenile to ensure the juvenile's full compliance with the terms of the contract.

d. In any case where the above disposition guidelines do not warrant prosecution or the United States Attorney or a designee of the United States Attorney decline to prosecute; and the juvenile offender and/or the juvenile's parent(s) refuse to enter into a JPTD contract, the matter will then be referred to the SJA, the Provost Marshal, and Garrison Commander for a determination of other possible, appropriate administrative actions, to include a ban on entering or residing on post.

#### 8. Additional Sanctions Against Juvenile Offenders.

a. A juvenile offender *may* be banned completely from FKKY unless special circumstances warrant otherwise. The decision on whether to ban a juvenile and/or the juvenile's family from post will be made by the Garrison Commander, following consultation with and recommendation from the SJA, the Provost Marshal, and the brigade level commander of the service member sponsor(s) of the juvenile offender (if any).

b. A first-time juvenile offender who commits a crime of larceny or theft against the Post Exchange shall, at a minimum, be excluded from the Post Exchange for such length of time as the Garrison Commander decides, taking into consideration the age of the juvenile offender, the nature of the offense, the demeanor of the juvenile upon and after arrest, and the input of the juvenile's parent(s). Such first-time offenders may, under the appropriate circumstances, be banned from FKKY in accordance with paragraph 8(a), above.

#### 9. Monitoring of Juvenile Sentences.

a. The JPO will ensure that all juvenile offender community service obligations are fulfilled, and that the terms of probation are adhered to. The JPO will also ensure that all community service performed by a juvenile offender is supervised by a competent, trustworthy adult.

b. Parent(s) will be responsible for ensuring that their juvenile satisfactorily fulfills the JPTD contract's terms and obligations. If a juvenile offender does not comply with the contractual terms and obligations, a notice will be sent to the parents directing the juvenile offender and parent(s) to re-appear before the JPO to show cause why the JPTD contract should not be terminated for breach by the juvenile and forwarded for later prosecution in federal or state court. See appendix H. If the juvenile and parent(s) show adequate cause why the JPTD contract, the JPO may increase the juvenile's obligations in consideration of not terminating the contract for breach and/or refer the case back to the Prosecutor for further action, which may include (but is not limited to) the following recommendations that:

(1) The family's authorization to reside in government/government contractor-managed family quarters be terminated; and/or

(2) The juvenile offender be barred from the installation; and/or

(3) Referred for a possible prosecution in Federal or state court; and/or

(4) Any and all other actions determined by the JPO to be appropriate under the circumstances.

10. Curfew. Any person under the age of 18 (who is not a service member) is prohibited from remaining in or upon any public assembly, building (excluding quarters), place, parking lot, street, or highway within Fort Knox at night during the following hours, as further explained below:

2100 Friday until 0600 Saturday  
2100 Saturday until 0600 Sunday  
1900 Sunday until 0600 Monday  
1900 Monday until 0600 Tuesday

1900 Tuesday until 0600 Wednesday  
1900 Wednesday until 0600 Thursday  
1900 Thursday until 0600 Friday

a. Parental responsibility. Parent(s) having legal custody of a minor may not allow the minor to be in violation of the above. Exceptions are when child is accompanied by an adult authorized by the parent; child is accompanied by the parent; when written notice signed by minor and parent is in child's possession so that they may attend a religious function; when attending school or civic functions sponsored by Fort Knox and supervised by adults; when engaged in a business or occupation that the law of Kentucky authorizes a person under 18 years of age to perform; when a minor is involved in an emergency; when a reasonable necessity arises but only after minor's parents have communicated to the MPs the facts establishing such reasonable necessity; or when a minor is a passenger in a motor vehicle on/within the installation for the purpose of passing through, by direct route, to another location. Parents of children who fail to perform under the terms of the JPTD contract will receive a show cause letter similar Appendix H notifying them of their child's failure.

b. Enforcement. A military police officer or other authorized law enforcement official, upon finding or being notified of any minor being reasonably believed to be in violation of the foregoing section, shall take or receive the child into custody for violating the curfew.

(1) Before taking any enforcement action under this section, a Military Police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a notice of violation or take the child into custody under this section unless the officer reasonably believes an offense has occurred and that, based on any response and other circumstances, no defense or approved exception applies. See appendix I.

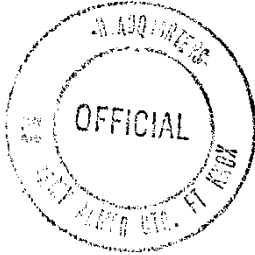
(2) A Military Police officer, upon finding or being notified that a minor is or appears to have violated this section shall confront the minor and request such information as name, age, and address of parent or legal guardian. A minor who violates this section and/or refuses or declines to cooperate with the Military Police Officer will be apprehended and held until retrieved by their parent(s) pursuant to the following paragraph. That apprehension and the preceding violation of this section will be promptly reported by the Military Police and the service member parent through the chain of command and IAW with this regulation so that appropriate action can be taken to punish the current offense and determine future offenses.

c. Penalty. Violation of the curfew by a minor shall constitute grounds for issuing a notice of violation. Minors who are unaffiliated with the installation will be issued a letter of exclusion barring them entering or being on the installation, and may be cited with trespassing. Minors who

Fort Knox Reg 27-11 (15 December 2012)

reside on the installation will be issued a notice of violation, a copy of which will be forwarded to their service member parent's chain of command. The accumulation of three (3) notices of violation will serve as a basis for exclusion from the installation.

FOR THE COMMANDER:



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