



DEPARTMENT OF THE AIR FORCE  
HEADQUARTERS AIR FORCE SPECIAL OPERATIONS COMMAND

MEMORANDUM FOR AFSOC COMMANDERS

7 AUG 2014

FROM: AFSOC/CC

SUBJECT: Withhold of Authority Regarding Commissioned Officer, Senior Master Sergeant, and Chief Master Sergeant Misconduct in Air Force Special Operations Command (AFSOC)

1. Commanders below the general officer, General Court-Martial Convening Authority (GCMCA), or MAJCOM Commander level have limited options in imposing nonjudicial punishment or pursuing courts-martial against officers, Chief Master Sergeants (E-9), and Senior Master Sergeants (E-8).

a. In many cases it is perfectly appropriate for a wing or lower level commander to handle a particular disciplinary matter. In other cases, it is more appropriate for me as AFSOC's GCMCA and MAJCOM Commander, to take action.

b. Even in cases in which a wing or lower level commander ultimately disposes of a disciplinary matter, due to the sensitivity of allegations of misconduct by commissioned officers, Chief Master Sergeants, or Senior Master Sergeants, I, and frequently the Chief of Staff of the Air Force, need to have visibility of such allegations as soon as they become known.

2. I hereby withhold authority to dispose of allegations of misconduct and incidents more serious than minor infractions by an AFSOC commissioned officer, Chief Master Sergeant, or Senior Master Sergeant.

a. You must inform me and AFSOC/CV of all allegations of misconduct and incidents more serious than minor infractions by commissioned officers, as you become aware of them.

b. You must inform me, AFSOC/CV, and AFSOC/CCC of all allegations of misconduct and incidents more serious than minor infractions by Chief Master Sergeant and Senior Master Sergeants, as you become aware of them.

c. "Misconduct" is defined as a *non-trivial* violation of the Uniform Code of Military Justice (UCMJ) or civilian (including state, federal, and host nation) criminal law.

d. A "minor infraction" is defined as something similar to a simple traffic violation or something that would normally merit a Letter of Counseling or less.

(1) A first-time PT failure meriting a Letter of Counseling would be considered a *minor infraction* and would *not be subject to this withhold*, unless it is otherwise significant (for example, a first time PT failure by a squadron commander would be significant and *subject to this withhold* due to the commander's central role in the fitness program).

(2) A traffic violation involving alcohol or other intoxicants would be considered *misconduct* and *is subject to this withhold*.

(3) A traffic violation involving significant property damage, or death or serious injury to any person would be either *misconduct* or *more serious than a minor infraction* and is subject to this *withhold*.

(4) A violation of an AFSOC or COCOM General Order would be either *misconduct* or *more serious than a minor infraction* and is subject to this *withhold*.

e. If there is any doubt as to whether a particular incident is reportable, report it.

f. After consulting your staff judge advocate (SJA), if you want a case handled at your level, inform me, AFSOC/CV, and, in the case of Chief Master Sergeants or Senior Master Sergeants, AFSOC/CCC, of your recommendation and have your SJA contact AFSOC/JA.

3. These steps ensure effective communication, support good order and discipline, and ensure that the appropriate level of response is available for allegations of misconduct in AFSOC.

4. The previous AFSOC/CC policy on "Reporting and Disposition of all Commissioned Officer and Senior Noncommissioned Officer Misconduct in Air Force Special Operations Command (AFSOC)," dated 1 Sep 2011, is hereby rescinded and replaced by this policy letter.



BRADLEY A. HEITHOLD  
Lieutenant General, USAF  
Commander

1 Attachment:

Article 15 Permissible Punishments

## Article 15 Enlisted Punishments

Punishment	Imposed by Lt or Capt	Imposed by Major	Imposed by Lt Col or Above
Additional Restrictions	May not Impose NJP on CMSgt or SMSgt	May not Impose NJP on CMSgt or SMSgt	See Note 2 for reduction of CMSgt or SMSgt
Correctional Custody	Up to 7 days	30 days	30 days
Reduction	CMSgt – No; SMSgt – No; MSgt – No; TSgt – No; SSgt – One Grade; SrA – One Grade; A1C – One Grade; Amn – to AB	CMSgt – No; SMSgt – No; MSgt – No; TSgt – One Grade; SSgt – One Grade; SrA – to AB; A1C – to AB; Amn – to AB	CMSgt – See Note 2; SMSgt – See Note 2; MSgt – One Grade; TSgt – One Grade; SSgt – One Grade; SrA – to AB; A1C – to AB; Amn – to AB
Forfeiture	7 days pay	1/2 of 1 month's pay per month for 2 months	1/2 of 1 month's pay per month for 2 months
Reprimand	Yes	Yes	Yes
Restriction	14 days	60 days	60 days
Extra Duties	14 days	45 days	45 days

### NOTE:

1. See MCM, Part V, paragraph 5d, for further limitations on combinations of punishments. For example, restriction and extra duties can be combined to run concurrently, but the combination must not be for a period in excess of the maximum duration imposable for extra duties. This means a field grade officer may combine 45 days of extra duties to run concurrently with 45 days of restriction when imposing NJP on an enlisted member.
2. CMSgt or SMSgt may be reduced one grade only by MAJCOM commanders, commanders of unified or specified commands, or commanders to whom promotion authority to these grades has been delegated. See AFI 36-2502, *Airmen Promotion Program*.
3. Neither bread and water nor diminished rations punishments are authorized.
4. Frocked commanders may exercise only that authority associated with their actual pay grade. No increased punishment authority is conferred by assumption of the title and insignia of the frocked grade.

## Article 15 Officer Punishments

Punishment	Imposed by Colonel	Imposed by General Officer or GCMCA
Correctional Custody	No	No
Reduction	No	No
Forfeiture	No	1/2 of 1 month's pay per month for 2 months
Reprimand	Yes	Yes
Arrest in Quarters	No	30 days
Restriction	30 days	60 days
Extra Duties	No	No

### NOTE:

5. Officers in the grade of Lieutenant Colonel and below (includes frocked Colonels) may not impose NJP on an officer.
6. Only MAJCOM commanders, commanders of unified commands, and their equivalents, or higher may impose NJP on general officers.
7. See MCM, Part V, paragraph 5d, for further limitations on combinations of punishments.



## DEPARTMENT OF THE AIR FORCE

325TH FIGHTER WING (ACC)  
TYNDALL AIR FORCE BASE FLORIDA

JUN 26 2013

MEMORANDUM FOR TYNDALL AIR FORCE BASE COMMANDERS

FROM: 325 FW/CC

SUBJECT: Withholding Initial Disposition Authority for Sexual Harassment Cases

1. In order to maintain high visibility and consistency in cases of sexual harassment, pursuant to my authority as the installation commander, 10 USC §1561, Rule of Court-Martial 306 (a), and as the Special Court-Martial Convening Authority I withhold initial disposition authority from all commanders with respect to any allegation of sexual harassment on or involving personnel at Tyndall AFB. This includes civilian and military personnel.

2. Sexual harassment is defined by 10 USC §1561 as:

a. Conduct (constituting a form of sex discrimination) that--

(1) involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when--

(a) submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;

(b) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; and

(2) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive.

b. Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the armed forces or a civilian employee of the Department of Defense.

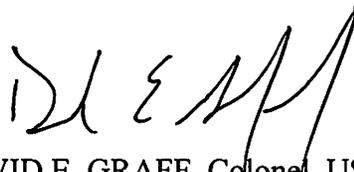
c. Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature in the workplace by any member of the armed forces or civilian employee of the Department of Defense.

3. To the extent practicable, I shall be notified of complaints of sexual harassment within 72 hours of the incident. Include a description of the complaint and plan for investigation.

4. I shall be responsible in determining what initial disposition action is appropriate in sexual harassment cases to include whether further action is warranted, and if so, whether the action should be resolved by court-martial, nonjudicial punishment or adverse administrative action. In the case of civilians, I will determine the proper type of civilian discipline if warranted. I will base my decision on my review of all evidence, consultation with a judge advocate and your recommendation. Your recommendation is vital to my decision. In many cases, I anticipate returning the case to you for disposition. If I elect to forward the matter to you for further disposition, please note you are not bound by your previous recommendation(s) to me and you may dispose of the case in any manner authorized by the UCMJ, Rules for Courts-Martial, or other regulations as they relate to civilian personnel. Understanding that most disciplinary action takes place at the supervisor or OIC level, it is incumbent upon you to make all members of your unit aware of this policy and to ensure all allegations of sexual harassment are brought forward for my review through you.

5. The effective date of this action will be the date of this memorandum.

6. Nothing in this memorandum removes the responsibility of commanders at every level to maintain an environment free of sexual harassment and maintain good order and discipline in their units.

A handwritten signature in black ink, appearing to read 'D E GRAFF', written in a cursive style.

DAVID E. GRAFF, Colonel, USAF  
Commander



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

APR 20 2012

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
COMMANDERS OF THE COMBATANT COMMANDS  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

SUBJECT: Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases

Pursuant to my general court-martial convening authority under Article 22 of the Uniform Code of Military Justice (UCMJ) and Rules for Courts-Martial 306, 401, and 601, I hereby withhold initial disposition authority from all commanders within the Department of Defense who do not possess at least special court-martial convening authority and who are not in the grade of O-6 (i.e., colonel or Navy captain) or higher, with respect to the following alleged offenses: (i) rape, in violation of Article 120; (ii) sexual assault, in violation of Article 120 of the UCMJ; (iii) forcible sodomy, in violation of Article 125 of the UCMJ; and (iv) all attempts to commit such offenses, in violation of Article 80. Additionally, 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 the attempts thereof.

The effective date of this action will be June 28, 2012. The Services have discretion to further elevate initial disposition authority for these offenses.

The special court-martial convening authority shall be responsible for determining what initial disposition action is appropriate, 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. The special court-martial convening authority's initial disposition decision shall be based upon his or her review of the matters transmitted, any independent review and recommendation received (including court-martial charges, if any), and consultation with a judge advocate. Subordinate unit commanders are encouraged to provide their own recommendations regarding initial disposition.

Nothing in this directive removes the responsibility of commanders, at every level, to maintain an environment free of sexual assault, to provide support and assistance to victims, and to maintain good order and discipline within their units.

A handwritten signature in black ink, appearing to be "John M. McHale", written in a cursive style.

cc:  
Acting USD(P&R)  
Director, Sexual Assault Prevention and Response Office



UNDER SECRETARY OF THE AIR FORCE  
WASHINGTON

17 JUN 2013

MEMORANDUM FOR AF/CC

SUBJECT: General Court-Martial Convening Authority (GCMCA) Review in Certain Sexual Assault Cases

Effective ten days after the signing of this memorandum, I hereby direct that all cases involving the covered alleged offenses defined in paragraph 3 below, the Special Court-Martial Convening Authority (SPCMCA) is required to provide the GCMCA in the grade of O-7 or above written notice of the initial disposition action he or she has taken in the case within 30 days following the date of the initial disposition decision.

When disposition of the alleged offense is complete, the GCMCA will sign the written report of command action required to be produced on all covered offenses and maintained by the Air Force Office of Special Investigations (AFOSI) or Security Forces Office of Investigation (SFOI). This requirement is not delegable. AFOSI and SFOI will not close out investigative files regarding these covered offenses until receipt of the memorandum from the GCMCA.

Covered alleged offenses include (i) rape, in violation of Article 120, UCMJ; (ii) sexual assault, in violation of Article 120, UCMJ; (iii) forcible sodomy, in violation of Article 125, UCMJ; and (iv) all attempts to commit such offenses, in violation of Article 80, UCMJ.

  
Eric K. Fanning



DEPARTMENT OF THE AIR FORCE  
PACIFIC AIR FORCES

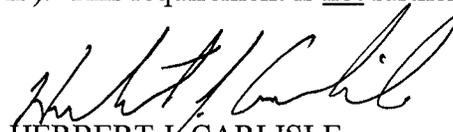
FEB 21 2014

MEMORANDUM FOR ALL PACAF NAF COMMANDERS

FROM: COMPACAF  
25 E Street, Suite G-214  
JBPH-H HI 96853-5420

SUBJECT: Further Withholding of Superior General Court-Martial Convening Authority  
(GCMCA) Review in Certain Sex-Related Offenses

1. In accordance with the provisions of the 2014 National Defense Authorization Act, Sec. 1744(d), when a staff judge advocate, pursuant to Article 34 of the Uniform Code of Military Justice (UCMJ), recommends that charges of a sex-related offense should not be referred to trial by court-martial and the convening authority decides not to refer any charges to a court-martial, the convening authority shall forward the case file for review to the next superior commander authorized to exercise general court-martial convening authority. The specified alleged sex-related offenses include (i) rape under Article 120(a) and sexual assault under Article 120(b), UCMJ; (ii) forcible sodomy under Article 125, UCMJ; and (iii) all attempts to commit such offenses under Article 80, UCMJ.
2. This review is hereby further restricted within PACAF. For all PACAF installations, the required superior GCMCA review referenced in the 2014 NDAA, Sec. 1744(d), will be made by the Commander, Pacific Air Forces (COMPACAF). This requirement is not further delegable.

  
HERBERT J. CARLISLE  
General, USAF  
Commander

cc:  
PACAF/JA  
All PACAF Wing Commanders