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Legal Services

Misconduct by Civilians

***This regulation supersedes AE Regulation 27-9, 29 January 2009.**

For the Commander:

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Summary. This regulation establishes the position of civilian misconduct action authority (CMAA), the position of assistant CMAA, and the policy and procedures for taking appropriate administrative action in response to misconduct by civilians who receive individual logistic support (ILS).

Summary of Change. This revision—

- Clarifies CMAA authority when a designated CMAA has been authorized for a garrison (para 4b).
- Clarifies that civilian employee misconduct on the job need not be handled through the CMAA process (para 6b).
- Reorganizes how adverse administrative actions are described and discussed by including with each adverse action a separate discussion of appeal rights and authorities (para 11).
- Changes the “Community Supervision Program” to the “Rehabilitation and Restitution Opportunity Program” and clarifies the intent of that program (para 11a).
- Establishes recordkeeping and legal-review procedures (paras 14 and 15).
- Provides samples of notification letters to respondents (figs 1 thru 4).
- Includes the CMAA timeline, which provides general guidance on how long each step should take in a well-administered CMAA program (fig 5).
- Makes administrative changes throughout.

Applicability. This regulation applies to—

- Persons who are not on active military duty but who receive ILS from the U.S. Forces.
- Civilian personnel who are permitted to use U.S. Forces facilities, regardless of command-sponsorship status. Persons subject to this regulation (affiliated personnel) include but are not limited to the following:
 - Appropriated and nonappropriated fund DOD civilian employees, their Family members, and their “members of household” (glossary).
 - Family members of U.S. military personnel.
 - Members of households of U.S. military personnel.
 - U.S. military retirees and their Family members.
 - Employees of Government contractors and their Family members.
 - Government consular and diplomatic personnel and their Family members.
- Military and civilian personnel and other persons who sponsor Family members for logistic support when the Family member is involved in misconduct offenses.

NOTE: Other regulations and international agreements may establish policy and procedures for responding to incidents of misconduct by—

- Allied Forces Soldiers and civilians.
- Local national employees whose only affiliation with the U.S. Forces is their employment.
- Non-Government consular and diplomatic personnel and their Family members who are eligible to receive ILS from the U.S. Forces.

Supplementation. Organizations will not supplement this regulation without USAREUR Judge Advocate (JA) (AEAJA-MCD) approval.

Suggested Improvements. The proponent of this regulation is the USAREUR JA (AEAJA-MCD, DSN 370-6638). Users may suggest improvements to this regulation by sending DA Form 2028 to the USAREUR JA (AEAJA-MCD), Unit 29351, APO AE 09014-9351.

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SECTION I GENERAL

1. PURPOSE

This regulation—

a. Establishes policy and procedures for responding to misconduct by persons (excluding active-duty military personnel) eligible to receive individual logistic support (ILS) from the U.S. Forces and by persons who have access to U.S. military installations.

b. Provides guidance on administrative procedures and actions to be taken in response to civilian misconduct.

c. Establishes administrative actions to safeguard the resources, facilities, and welfare of U.S. Forces communities in Europe.

d. Does not prescribe criminal-justice procedures. Host nations have criminal jurisdiction over civilians during peacetime.

2. REFERENCES

Appendix A lists references.

3. EXPLANATION OF ABBREVIATIONS AND TERMS

The glossary defines abbreviations and terms.

4. RESPONSIBILITIES

a. Civilian Misconduct Action Authority (CMAA). Garrison commanders (GCs) are responsible for the morale, welfare, safety, and good order in their geographic areas of responsibility (AORs). To carry out this responsibility, they will normally serve as the CMAAs for their geographic AORs. CMAAs will—

(1) Not delegate their CMAA authority.

(2) Investigate and respond to incidents of civilian misconduct and take administrative action against persons who engage in civilian misconduct within their geographic AORs.

(3) Oversee the duties of assistant CMAAs (ACMAAs). CMAAs will ensure that ACMAAs keep them regularly informed of new and ongoing cases of civilian misconduct.

b. Direct-Reporting GCs.

(1) Direct-reporting GCs may carry out the responsibilities in subparagraph a above. Alternatively, they may request that a designated CMAA be appointed for their geographic locations. The request must be in writing, identify the individual or position to be designated as the CMAA, include a justification, and be sent to the USAREUR Judge Advocate (JA) (AEAJA-MCD), Unit 29351, APO AE 09014-9351. The designated CMAA, who may be a civilian, will report directly to the direct-reporting GC for all CMAA program purposes.

(2) On receipt of a request for a designated CMAA, the Military and Civil Law Division, Office of the Judge Advocate, HQ USAREUR, will assess the request and forward it with a recommendation to the Director, United States Army Installation Management Command, Europe Region (IMCOM-Europe), who will approve or deny the request. The designation will remain in effect until the GC withdraws the designated CMAA responsibility in writing. The designated CMAA will perform all duties and responsibilities of the CMAA as described in this regulation. When the designated CMAA is absent from the garrison, the GC may exercise CMAA duties until the designated CMAA returns.

c. ACMAA.

(1) The ACMAA is the administrative assistant to the CMAA and is responsible for—

(a) Managing the CMAA program.

(b) Receiving reports of misconduct.

(c) Coordinating with Department of Defense Dependents Schools (DODDS) and other community services and agencies on CMAA matters.

(d) Advising and making recommendations to the CMAA on CMAA actions.

(e) Preparing documentation of CMAA actions and proposed actions.

(f) Maintaining records.

(g) Monitoring the status of civilian misconduct incidents.

(2) Management officials and civilian personnel recruitment advisers should ensure that vacancy announcements for permanent ACMAA vacancies require applicants to be cross-qualified in other career series, where possible, to ensure their placement opportunities under the DOD Priority Placement Program are not diminished.

(3) The CMAA may direct the ACMAA to conduct and document necessary interviews and collect evidence on civilian misconduct incidents.

(4) The ACMAA will oversee the Rehabilitation and Restitution Opportunity (R&RO) program (para 11a).

d. Sponsors and Parents. Sponsors and parents will make every effort to prevent misconduct by their Family members. Sponsors will—

(1) Cooperate fully with garrison, school, and host-nation officials.

(2) Encourage Family members who commit misconduct offenses to demonstrate their desire to remain on the garrison and keep ILS (for example, by offering restitution or by taking part in the R&RO program).

(3) Use recommended services as appropriate (for example, Family counseling, consultation with school officials, parent effectiveness training) to encourage members to act responsibly.

e. DODDS Officials. DODDS officials will take appropriate internal administrative action to address student, teacher, and staff disciplinary problems that occur at schools, during school activities, or while using DODDS-run schoolbuses. DODDS officials will notify the CMAA of suspensions and expulsions from school and report criminal offenses to the CMAA and the local provost marshal (PM). DODDS school administrators will report to the ACMAA all cases of misconduct that warrant suspension or expulsion from school, even if such punishment is not actually executed. DODDS officials will cooperate with GCs to inspect for and remove contraband or when evidence of misconduct exists on school premises or in DODDS facilities.

f. University and College Officials. Officials of universities and colleges operating in the European theater will take administrative action to address violations of school rules and regulations. Whenever a student is suspended, expelled, or involved in criminal conduct, university and college officials will notify the CMAA of the student's sponsor and the CMAA who is responsible for the area in which the university or college is located. Criminal conduct should be reported to the PM responsible for that area.

g. Law-Enforcement Officials. Law-enforcement officials will ensure that—

(1) Investigations of offenses committed by civilians are thorough and accurately reported, with the appropriate nature of the violation cited in any resulting report. Violations of Army regulations and German law by civilians should be specifically indicated. Uniform Code of Military Justice provisions do not apply to civilians.

(2) Evidence is kept until any appeal on the case (including an appeal from administrative action) has been completed.

(3) ACMAAs receive law-enforcement blotters or other notices of incidents of civilian misconduct that are sufficient to assist them in administering the CMAA program.

h. Local Legal Liaison Authority (LLA). Only the LLA (normally the servicing JA) may communicate with German judicial authorities (prosecutors and court officials) and prison officials. Appendix B describes procedures for seeking criminal prosecution in host nations. The GC and anyone who is contacted by German judicial authorities or prison officials about prosecution or possible prosecution of U.S. personnel will notify and refer to the local LLA the German authorities or officials and any written communication.

i. Legal Advisors. Legal advisors (LAs) serve as LLAs in host nations other than Germany. LAs act under the supervision of the local U.S. country representative (AE Reg 550-50).

j. Commanders. Commanders at all levels will support CMAA actions. Regulations that prescribe a commander's authority to take certain administrative actions must be followed. If a sponsor's commander refuses to impose a sanction requested by the CMAA, the CMAA will refer the matter through the sponsor's chain of command to the first general officer.

k. All Personnel. All personnel will—

(1) Avoid misconduct.

(2) Promote good conduct.

(3) Cooperate fully with garrison, military, school, and host-nation authorities.

(4) Present proper identification when requested by military or civilian police, commissioned officers, and noncommissioned officers in the rank of sergeant first class or higher who are enforcing order, discipline, or security affecting the U.S. Forces, civilian components, or Family members.

I. Staff Judge Advocates (SJAs), Command JAs, and Officers in Charge (OICs). SJAs, command JAs, and OICs will—

(1) Provide technical assistance to help CMAAs develop administrative procedures for operating a civilian misconduct action program.

(2) Review the efficiency and effectiveness of administrative program procedures. These informal reviews will be conducted with CMAAs and ACMAAs. The results of the review will provide the basis for program modifications. If the review results in significant observations or recommendations, the SJA will send those to the USAREUR JA (AEAJA-MCD), Unit 29351, APO AE 09014-9351, for evaluation and distribution.

(3) Provide training for CMAAs and ACMAAs. Training will be structured to meet the specific needs of individual CMAAs and ACMAAs.

5. POLICY

a. Authority to Suspend or Revoke ILS. The CG, USAREUR, authorizes ILS to civilians who accompany the U.S. Forces on the condition of good behavior. The CG, USAREUR, has the authority to revoke or permanently suspend ILS (AE Reg 600-700) and bar personnel from entry to installations, housing areas, lands, buildings, and other structures and places under USAREUR control or jurisdiction.

(1) The authority of the CG, USAREUR, to revoke or permanently suspend any form of ILS is delegated to CMAAs in accordance with this regulation.

(2) There is no authority to revoke or suspend access to medical facilities if such services are authorized or to impede the access of school-aged children to DODDS schools.

(3) The SJA will provide assistance with ILS issues.

b. Authority to Bar Personnel From Installation Access. The authority of the CG, USAREUR, to bar personnel from installation entry has been delegated or is vested as follows:

(1) USAREUR Bar. Commanders with general court-martial convening authority (GCMCA), direct-reporting GCs, and the DCG, USAREUR, and CofS, HQ USAREUR, acting for the CG, USAREUR, may issue orders barring entry to all U.S. Army facilities in Europe (AE Reg 27-10, paras 21a and 21b(1)). These bars will apply throughout the USEUCOM area when implemented according to paragraph 11c(4) and appendix C of this regulation.

(2) Local Bar. Commanders with GCMCA and all GCs may bar personnel from entering areas under their local control (AE Reg 27-10, para 21b(2)).

NOTE: Only the commanders specified above, who may also be CMAAs, have the authority to impose a bar from entry. CMAAs who are not bar authorities may recommend bars to the appropriate bar authority. Reconsideration of bars from entry is prescribed in AE Regulation 27-10, paragraph 21d.

c. Application of Procedures and Sanctions. CMAA programs are most effective when procedures and sanctions are applied consistently.

(1) Appendix D provides guidance to help CMAAs and ACMAs select and effectively use administrative procedures for their programs. Failure to follow the guidance in appendix D does not constitute grounds to appeal or seek reconsideration of the CMAA's action or recommendation.

(2) Incidents of misconduct will be resolved as quickly and informally as possible. Commanders, staffs, and investigating officers (IOs) will process actions quickly, thoroughly, and fairly. The procedures in this regulation, along with recommendations from the ACMAA, law-enforcement officials, the SJA, DODDS officials, and any other competent source that has an interest in the matter, will help the CMAA establish facts and determine appropriate administrative actions. The CMAA determines which procedures to use and which actions to take. CMAA actions should be coordinated as much as possible with other organizations or agencies (for example, DODDS or case-review committees) to ensure they do not interfere with the missions of those organizations or agencies.

d. Host-Nation Jurisdiction. In peacetime, host-nation authorities have exclusive criminal jurisdiction over U.S. civilians in the host country. The CMAA may request local host-nation authorities to waive criminal jurisdiction over individuals when the CMAA believes suitable corrective administrative action is available. CMAAs will make requests through the local LLA in Germany (AE Reg 550-56) or the U.S. country representatives in other host nations (AE Reg 550-50).

e. Criminal Prosecution. When the CMAA believes criminal prosecution is appropriate and the misconduct is a serious criminal offense, he or she should consult the servicing SJA about the prosecution by U.S. authorities pursuant to the Military Extraterritorial Jurisdiction Act (18 USC 3261 et seq.) before requesting that host-nation authorities exercise criminal jurisdiction. The CMAA will make such requests through the local LLA in Germany or the U.S. country representatives in other host nations (AE Reg 550-50). Under German law, some acts will not be prosecuted unless the victim initiates a criminal complaint. For cases in which the U.S. Government is the victim and military authorities determine that a criminal complaint should be filed, the CMAA must consult with the servicing LLA. The LLA will be the liaison between the complainant (the U.S. Government) and German prosecutorial officials (app B).

f. Prosecution by Host-Nation Authorities. Prosecution by host-nation authorities does not prevent and should not delay the CMAA from taking appropriate administrative action. However, when a violation of host-nation law is involved, the offender may not be granted early return to the United States before host-nation authorities give permission through the local LLA or U.S. country representative. Furthermore, any administrative action that could affect host-nation prosecution (such as bar actions, which may induce a subject to leave the jurisdiction) must be coordinated with the LLA.

g. Referral to Another CMAA or Commander for Action.

(1) The CMAA of the garrison where an alleged offender receives logistic support has primary jurisdiction in civilian misconduct cases. The CMAA of the location where the misconduct occurs has secondary jurisdiction. When an offender engages in misconduct in an area outside primary jurisdiction, the CMAA with secondary jurisdiction will immediately refer the matter directly to the CMAA with primary jurisdiction, but will direct his or her ACMAA to assist with local evidence gathering and establishing a liaison with local investigators. Prompt coordination of misconduct cases and accountability in CMAA records are critical to force protection. The CMAA with primary jurisdiction will inform the referring CMAA of actions taken against an offender, through CMAA channels, within 10 workdays of the actions have been taken, regardless of any pending appeals. The CMAA with primary jurisdiction may waive jurisdiction on request by, or concurrence from, a CMAA with secondary jurisdiction.

NOTE: Each military community controls the access to its facilities. When misconduct is committed within a community, the bar authority of that community has the option of issuing a local bar to the community's facilities, regardless of where the offender is assigned, resides (Family member or nonaffiliated person), or receives logistic support.

(2) When regulations grant authority for administrative actions to an official other than the CMAA (for example, AE Reg 27-10 for bars from entry for civilians, AE Reg 190-1 for revocation of USAREUR drivers licenses, AE Reg 600-702 for revocation of Class-VI privileges for civilians) and the CMAA does not have independent authority under this regulation, the CMAA will notify that official of the misconduct and recommend appropriate action. If that official refuses to perform the actions recommended by the CMAA, the CMAA may refer the matter through the chain of command to the next higher supervisor or commander of the refusing official, whose decision will be final.

SECTION II PROCEDURES

6. REPORTING MISCONDUCT

a. The ACMAA is responsible for tracking potential cases of civilian misconduct. As part of the garrison command staff, he or she will have access to daily military police (MP) blotters. DODDS school administrators will report to the ACMAA all cases of misconduct that warrant suspension or expulsion from school, even if such punishment is not actually executed. The ACMAA will have access to case files and status reports from law-enforcement officials to monitor the progress of criminal investigations when the subjects are either civilians subject to this regulation or unknown but could possibly be civilians subject to this regulation. The ACMAA must not interfere with Criminal Investigation Division, host-nation, or MP investigations in any way.

b. When the approved findings of a 15-6 investigation establish that one or more individuals have engaged in misconduct, the ACMAA will be provided a copy of the report of investigation (ROI). However, if the misconduct is committed by one or more civilian employees while performing their civilian employment duties, the authority that approves the 15-6 investigation may choose not to send a copy of the ROI to the ACMAA if the approved recommendations include only employee discipline under Federal employment regulations. Misconduct committed entirely within the context of an individual's employment will generally be handled by the employing agency and will not require further CMAA action unless community interests are directly affected.

c. Local LLAs or other persons who receive official information that host-nation law-enforcement or social-services authorities suspect a civilian of an offense under German law will notify the ACMAA.

d. ACMAAs will establish a separate case file for each civilian respondent. As long as the case file is open, additional instances of misconduct may be added.

7. INVESTIGATING MISCONDUCT

a. The CMAA will normally rely on other investigative processes to establish the evidence for each instance of alleged misconduct by a respondent. If the official investigation process in a particular case is running inordinately long, the CMAA may task the ACMAA, with advice and assistance from the servicing legal office, to conduct a limited investigation to determine facts that are sufficient to complete the CMAA process (f below). ACMAAs will ensure that any such activity does not interfere with the official investigation.

b. The ACMAA will review each completed investigation, DODDS report, or ROI to determine whether the available information establishes by a “preponderance of the evidence” (glossary) that the civilian respondent committed the alleged misconduct.

c. A preponderance of the evidence means that the greater weight of credible evidence supports a finding rather than an opposite finding. The ACMAA may ask the servicing legal office for advice on whether the facts support the finding that a respondent committed the misconduct.

d. When reviewing the available information, the ACMAA should consider whether there are any unanswered questions that, if answered, would help determine if an act of misconduct occurred and, if so, the respondent (or someone else) committed it.

e. If there are additional items of information that would help determine if an act of misconduct occurred and, if so, the respondent (or someone else) committed it, the ACMAA or someone tasked by the GC will further investigate to uncover this information. If much of the information is unknown, the GC should initiate an investigation in accordance with AR 15-6. Otherwise, to expedite the case, the ACMAA may contact witnesses or investigators to obtain the missing information. The ACMAA should coordinate his or her plan of completing the investigation, including the review of questions for witnesses, with the servicing LA. Unless the investigation is conducted in accordance with the process described in AR 15-6, ACMAAs should try to complete all additional fact-finding inquiries within 3 workdays.

f. Once the ACMAA is confident that all available information has been collected, he or she will proceed as follows:

(1) If available information shows by a preponderance of the evidence that a respondent committed the misconduct, the ACMAA will prepare a summary of the facts of the case, including a recommendation of the proper minor administrative or adverse actions to impose, and, as appropriate, either a draft letter of counseling or warning or a draft notice of intent (NOI) to the respondent.

(2) If the ACMAA feels there is not enough information to show by a preponderance of the evidence that a respondent engaged in misconduct, the ACMAA will prepare a memorandum or a staff action summary (AE Form 1-10A) that includes—

(a) A summary of the facts of the case and the information that is lacking.

(b) A statement that further investigation is unlikely to uncover the missing information.

(c) A recommendation for the CMAA’s endorsement to close the case file with no action taken.

8. NOTICE TO RESPONDENT

a. Letter of Counseling or Warning. Letters of counseling or warning do not require an NOI and are not appealable (para 10). They require no further action, but are simply issued to a subject under general CMAA authority to address an incident of misconduct. If the respondent submits a reply, it will be included in the case file. Unless the CMAA chooses to reconsider his or her decision, the case file will be closed. Figure 1 shows a sample letter of counseling or warning.

b. NOI.

(1) Using the template at figure 2 as a sample, the notice to the respondent will identify the essential facts of his or her alleged misconduct and the action the CMAA intends to take in response. The NOI will be addressed to the respondent and his or her sponsor or to the respondent's parent or guardian if the respondent is a minor. A copy will be provided to the sponsor's commander or commander-equivalent civilian supervisor.

(2) The NOI will inform the respondent of the right to—

(a) Submit a written reply to the CMAA, which must be received by the ACMAA within 3 workdays from the date of the notice. The response may include letters or statements from other people and any other material the respondent believes the CMAA should have before taking final action.

(b) Review the evidence in the case file, except for parts that may be withheld for good cause as explained in subparagraph (4) below. The 3-day response period will not be extended to accommodate the review of the case file unless the respondent makes a reasonable request and the ACMAA cannot make the file available in sufficient time to meet the deadline.

(c) Request an opportunity to appear before the CMAA to present matters orally. However, there is no right to a hearing or appearance before the CMAA.

(3) If the CMAA intends to offer an R&RO, the NOI will explain the proposed R&RO and the terms and conditions that apply if the respondent accepts it. The NOI will also inform the respondent that if he or she declines the offer to volunteer for the R&RO, other adverse actions may be imposed. The notice will inform the respondent that he or she must accept or reject the R&RO offer within the 3-day response period (fig 3).

(4) Normally, the respondent and, in case of a minor, the parent or guardian will be provided an opportunity to examine the evidence in the CMAA case file. They are not entitled to obtain copies of this information through CMAA channels except for copies of their own statements that they provided to law-enforcement or investigating officers. Information in the case file may be withheld for good cause (for example, classified documents, investigative files that would endanger the life or physical safety of law-enforcement personnel, certain medical files). ACMAAs will coordinate with the LA before withholding case-file material.

(5) The respondent may waive the 3-day response period ((2)(a) above). In this situation, the CMAA may immediately take the next step in the process.

(6) The CMAA will consider any response submitted and will take appropriate action at the end of the 3-day response period. The CMAA or ACMAA may consult with interested parties (for example, supervisors, sponsors, school officials, medical and behavioral-health personnel) about the appropriateness of adverse actions that are being considered. In preparing the case file for CMAA action, the ACMAA should make recommendations for final actions based on the responses submitted or any other consideration.

c. Notice of Adverse Action (NAA). The CMAA will issue an NAA to the respondent and his or her sponsor, or to the respondent's parent or guardian of record if the respondent is a minor. A copy will be provided to the sponsor's commander or commander-equivalent civilian supervisor. The NAA will be prepared according to the sample in figure 4.

(1) When it includes an R&RO, the NAA must be prepared in accordance with the requirements in paragraph 11a of this regulation. The NAA will repeat the terms and conditions stated in the offer of R&RO, and a statement of acceptance to be signed by the respondent will be enclosed with the NAA.

(2) The NAA will explain what the respondent is required to do as a result of the adverse action or actions imposed, such as obtaining a new ID or ration card or relinquishing a USAREUR drivers license.

(3) The NAA will explain what appeal right is available, if any, who the appellate authority is, and that the respondent has 5 calendar days to submit the appeal through the CMAA to the proper appellate authority (para 13).

d. Processing Timeline. Figure 5 shows the processing timeline for a CMAA case.

9. GENERAL GUIDANCE ON SELECTING ADVERSE ACTIONS

The CMAA will consider the following factors when selecting responses to civilian misconduct:

a. Seriousness of the Misconduct.

b. Relationship of the Sanction to the Offense. The administrative action imposed should bear a rational relationship to the offense committed (for example, suspension of driving privileges for misconduct involving a privately owned vehicle, but not for shoplifting at an Army and Air Force Exchange Service (AAFES) store).

c. The Offender's Prior Record. The CMAA should take progressively stronger action against persons who have previously been involved in misconduct.

d. Age and Maturity of the Offender. The CMAA should handle vandalism committed by a 10-year-old child differently than vandalism committed by a teenager or adult.

e. Compensation for Victims. The CMAA will consider actions the offender has taken to rectify the effects of his or her misconduct. The CMAA cannot force offenders (or their military or civilian sponsors) to compensate victims for loss or damage. However, restitution by offenders for damaged property (including Government property) is one indication of the willingness to live responsibly in the community in the future. Compensation for victims need not be monetary. In determining appropriate sanctions, the CMAA may consider any type of compensation acceptable to the victim (for example, running errands, mowing the lawn).

f. Guidelines for CMAAs and ACMAAs. Appendix D lists factors to consider when determining which administrative actions are appropriate. The list only suggests administrative actions for cases without aggravating factors that would compel a more severe action. It is not intended to impose mandatory limitations on CMAAs. Failure to follow the list is not grounds for overturning the CMAA's decision.

SECTION III ACTIONS

10. NONADVERSE ACTIONS

a. Minor administrative actions are CMAA responses to civilian misconduct that do not impose a loss of a benefit or an obligation to perform some act. When the CMAA determines a minor administrative action is warranted, the initial notice should include that action and conclude the case without further process.

b. Minor administrative actions are not appealable, although the respondent may submit rebuttal matters, which will be included in the case file before closure.

c. The following are minor administrative actions:

(1) Counseling. CMAAs may counsel the offender, orally or in writing, on the nature of the misconduct committed and the basis for concluding that the respondent was the one who committed it, why the misconduct is improper and unacceptable in the military community, what the consequences will be if the respondent continues to engage in that misconduct, and recommendations on ways to avoid misbehavior or improve behavior. If the offender is a juvenile, the parents or sponsor will be given a reasonable opportunity to be present at an oral counseling.

(2) Letter of Warning. The CMAA may issue a letter of warning to the offender. The letter will explain the nature of the misconduct committed and the basis for concluding that the respondent was the one who committed it, why it is improper and unacceptable in the military community, and that future acts of misconduct will not be tolerated and may lead to serious adverse actions. If the offender is—

(a) A Family member or a member of household, the letter should be sent through the sponsor's commander or supervisor. A copy of the letter will be provided to the sponsor.

(b) An adult civilian employee, the letter should be sent through his or her supervisor. This channel of notification applies to appropriated fund (APF), nonappropriated fund (NAF), and local national employees.

(c) An employee of a Government contractor, the letter should be sent through the contracting officer or contracting officer's representative (COR).

11. ADVERSE ACTIONS

a. R&RO.

(1) The R&RO program offers an effective way to determine whether or not an offender is willing to be a responsible member of the community. Normally, an R&RO is offered instead of a more severe action. An R&RO should be tailored to the offense and to the offender. Examples include requiring the offender to—

(a) Make payments to or perform services for victims, including the garrison or other units affected by the misconduct, to reimburse or compensate them for damages or losses.

(b) Perform voluntary services in the community. Those community services may not involve services or activities that are currently covered by APF or contractor positions. Ideally, the services performed should have a direct relationship to the nature of the misconduct. Persons performing services under the R&RO program are not statutory volunteers as defined in 10 USC 1588.

(c) Attend and participate in social welfare services, medical programs, or community education or counseling programs intended to identify, diagnose, or treat underlying social or psychosocial disorders that affect an individual's behavior or to educate respondents in better ways to manage their personal lives (for example, anger-management training, marriage or Family counseling, alcohol- or substance-abuse programs, personal finance education, parenting skills training).

(d) Remain at home during specified hours of the day.

(e) Receive periodic home visits from the community supervision officer or an appropriate designee.

(f) Periodically report in person to the community supervision officer or an appropriate designee.

(2) ACMAAs will stay informed of the range of rehabilitative programs and opportunities available in the community. They will maintain contacts with POCs in social work services, the Army Community Service, and other activities that can be used for rehabilitation or restitution.

(3) An R&RO will not normally be offered to repeat offenders. It should, however, be considered in almost every case involving a first-time offender instead of other administrative action.

(4) If the rehabilitation program requires the participation of the sponsor or other Family members to be effective (for example, marriage and Family counseling), the CMAA may include a term or condition in the R&RO offer stating that all necessary parties must agree to participate.

(5) The NOI to the respondent will offer an R&RO in appropriate cases. The NOI will explain—

(a) The specific rehabilitation or restitution opportunity.

(b) That the respondent or guardian must voluntarily agree to the offer.

(c) How the respondent's failure to agree to or successfully complete the program will affect the CMAA's decision on other adverse actions (for example, by including a statement saying "If you agree to the R&RO, I will suspend the other intended adverse actions.").

(d) The NOI will include an endorsement to be signed by the respondent or guardian that states whether he or she agrees to undertake the rehabilitation or restitution duty. A sample NOI with an R&RO program offer is at figure 3.

(6) If the respondent or guardian consents to the R&RO by signing the NOI endorsement, the CMAA will prepare an agreement stating the terms and conditions of the R&RO (fig 3). The agreement will specify—

(a) That the respondent or guardian is entering the program voluntarily and willfully.

(b) The factors that constitute satisfactory compliance with the program (for example, regular attendance at weekly meetings, biweekly reporting to a community supervision officer).

(c) The factors that constitute successful completion of the program.

(d) The consequences of the failure to consent to or to satisfactorily participate in an R&RO in terms of the CMAA adverse action.

(e) The consequences of successfully completing the program.

(f) That the respondent or guardian must agree to—

1. Grant the CMAA and ACMAA access to any records maintained by the unit or agency conducting the rehabilitation program.

2. Permit the unit or agency to discuss the respondent's progress with the CMAA or ACMAA.

(g) Some method of verifying the completion of the project if the agreement includes a community service project. At his or her discretion, the CMAA may allow a parent or guardian to provide such verification if they have overseen a juvenile offender during the course of the community service project.

(7) Each respondent will sign a separate agreement even if all respondents share the same terms and conditions of an R&RO.

(8) At the ACMAA's discretion, the agreement may be provided as an attachment to the NAA or presented to the respondent or guardian separately before the NAA is issued. However, the ACMAA is not obligated to delay issuing the NAA to await the results of the R&RO.

(9) The NAA will state the adverse actions imposed, including the R&RO, and clearly state the consequences of failing to complete the R&RO duty.

(10) The respondent may not appeal the imposition of an R&RO duty, whereas other adverse actions imposed at the same time may be appealed. The respondent may, however, request a specific form of R&RO as a form of relief in any appeal. In this case, the CMAA will include in his or her written comments on the appeal (para 13b) a statement as to whether such R&RO or a similar form of it is available in the community, the respondent's eligibility for it, and an assessment as to whether or not the respondent might be a good candidate for the program requested. If the appellate authority grants relief in the form of an R&RO, the respondent or guardian must voluntarily enter into an agreement ((6) above).

(11) When the CMAA decides to take other appropriate action against the offender, he or she should consider the respondent's failure to agree to or successfully complete an R&RO duty.

b. Suspension or Revocation of Logistic-Support Privileges.

(1) AAFES Facilities. In accordance with AR 215-8, paragraph 6-6e, CMAAs may revoke AAFES privileges. Unless otherwise specified, revocation or suspension of AAFES privileges will include check-cashing privileges. In case of shoplifting, employee pilferage, or intentional presentation of dishonored checks, exchange privileges will be revoked for a minimum period of 6 months. The NOI and NAA must specify the facilities to which the revocation or suspension applies.

(2) Commissary. The CMAA may suspend or revoke commissary privileges if those privileges are abused (DOD Instruction 1330.17, encl 3, para 2). The respondent may appeal that decision to the next senior GC or the Director, IMCOM-Europe. Decisions made by direct-reporting GCs and the Director, IMCOM-Europe, are final and not subject to appeal.

(3) Rations. The CMAA may suspend or revoke ration privileges if they are abused (AE Reg 600-702). Decisions by direct-reporting GCs are final and not subject to appeal.

(4) Class VI. Class-VI privileges may be suspended or revoked if abused or if the misconduct is alcohol-related (AE Reg 600-702). Decisions by direct-reporting GCs are final and not subject to appeal.

(5) Morale, Welfare, and Recreation (MWR) Facilities or Activities (AR 215-1).

(a) Access to MWR facilities and services and participation in MWR activities, individually or collectively, may be suspended or revoked. Services that may be denied include—

1. Participation in youth sports; child, youth, and school services; and other youth programs.

2. Check-cashing privileges.

3. Patronage at lounges, bars, and other facilities that serve food and beverages.

(b) The ACMAA will furnish lists of individuals to whom entry to community facilities was denied to respective local facility managers to implement the preclusion for the duration specified. Individuals listed who enter facilities to which they have lost access will be treated as trespassers. Sponsors and local or host-nation law-enforcement authorities may be asked to remove them.

(c) The decision to deny access to MWR facilities or services or participation in MWR activities may be appealed to the next higher GC. If a direct-reporting GC is the CMAA, the action may be appealed to the Deputy Director, IMCOM-Europe.

(6) Government Housing.

(a) Assignment to Government housing may be terminated if a sponsor or Family member is involved in an illegal use of the premises or in misconduct that threatens the safety, health, or welfare of neighbors. Termination procedures will be conducted in accordance with AR 420-1, paragraph 3-16.

(b) A GC's decision to terminate Government housing because of misconduct is not appealable. If a CMAA recommends termination of Government housing to a senior GC, that recommendation may be appealed to the senior GC who will decide if termination of housing is appropriate.

(7) Installation Driving Privileges.

(a) The GC, who is responsible for the safety and welfare of a garrison, grants the authorization to drive a motor vehicle of any type on that installation. This privilege is not considered logistic support, nor is it automatically linked to the possession of a USAREUR drivers license ((8) below). CMAAs who are not GCs may recommend to GCs that a respondent's driving privileges for the installations on that garrison be revoked or suspended. They may not themselves impose a revocation or suspension.

(b) Decisions made by GCs are final and not subject to appeal.

(8) USAREUR Driving Privileges (Germany).

(a) Mandatory revocations and suspensions of USAREUR driving privileges are governed solely by AE Regulation 190-1. Suspension and revocation authorities for USAREUR personnel are defined in the glossary of AE Regulation 190-1. GCs will not use the CMAA process unless they have been designated by a tenant unit commander in writing as the revocation or suspension authority for that commander's unit. If the respondent is a garrison employee or Family member, the GC may either use the CMAA process or act independently of it.

(b) If a CMAA determines that civilian misconduct warrants a discretionary revocation or suspension of USAREUR driving privileges, he or she may refer his or her recommendation to the appropriate suspension or revocation authority as defined in AE Regulation 190-1. The recommendation may be appealed to the proper suspension or revocation authority.

(c) The appeal of the actual suspension or revocation will be based on AE Regulation 190-1, paragraph 2-19, and will not be part of the CMAA process.

(d) The individual's commander or supervisor is responsible for the physical revocation of a USAREUR Drivers License (AE Form 190-1F). The commander of the respondent's sponsor and the U.S. Forces Registrar, Provost Marshal Division, Office of the Deputy Chief of Staff, G3, HQ USAREUR, handle all assessments of points. CMAAs may recommend revocation or suspension to the appropriate supervisor or commander. If the CMAA is the appropriate supervisor or commander, he or she may take action in that capacity independent from the CMAA process.

c. Barment Orders.

(1) General. AE Regulation 27-10 governs the policy and procedures for barment actions. GCs may bar offenders from areas and facilities under their responsibility and control. This authority is not delegated any further. A barment order may be permanent or temporary. A CMAA who is not in a command billet may only recommend to his or her GC that a respondent be prohibited from entering an installation as a response to misconduct.

(2) Appeals. Barment orders are not subject to appeal, but a respondent may submit a request for reconsideration to the commander imposing the barment order. A CMAA's recommendation to a GC to impose a barment order may be appealed to the deciding GC.

(3) Theater-Wide Barment Orders.

(a) Direct-reporting GCs have delegated authority to impose a theater-wide bar on respondents. A CMAA's recommendation to impose a theater-wide bar on a respondent must be forwarded through the CMAA's chain of command.

(b) Figure C-1 is an interservice memorandum of agreement (MOA) on the acknowledgment, enforcement, and issuance of reciprocal installation bar-to-entry orders among and between the Services in the European theater, which became effective on 26 April 2002. This MOA gives rise to a presumption of reciprocity between the Services when one Service imposes a theater-wide bar. For a theater-wide barment order to become subject to the terms of the MOA, the imposing commander or designee must submit the order to a designated office. The Theater Personnel Services Support Branch, Host Nation Liaison Field Operating Activity (HNLFOA), IMCOM-Europe, is the successor to the office indicated in the MOA. The imposing commander or designee must submit the barment order and a summary of the circumstances of the barment, if not included in the barment order itself, to IMCOM-Europe (IMEU-HB), Unit 29055, APO AE 09081-9055.

(c) Direct-reporting GCs should notify the respondent of the interservice applicability of the barment order by including the following statement in the body of the order: “Pursuant to the interservice memorandum of agreement for installation bars, effective 26 April 2002, this action will bar your entry into all facilities under the operational control of the U.S. Armed Forces in Europe.”

(d) Direct-reporting GCs may issue a barment order that limits its applicability to Army in Europe installations.

(e) Direct-reporting GCs will ensure that the Theater Personnel Services Support Branch, HNLFOA, is notified when an interservice theater-wide barment is lifted or modified.

NOTE: The rescission or modification of a theater-wide barment order by the imposing commander does not force commanders of the other Services to allow the respondent to enter their facilities and installations. Such determinations remain matters of individual command discretion.

(4) APF and NAF Employee Barments. GCs must coordinate barment orders for current APF and NAF employees with the servicing civilian personnel advisory center (CPAC) and legal office before issuing them. It may be necessary to delay imposition of the barment until disciplinary action has been completed or to modify the terms of the barment order to allow an employee access for employment purposes. Barments against DODDS or AAFES employees must be coordinated with the respective employing agencies.

(a) Generally, APF employees have statutory due-process rights that must be observed in employment-related adverse actions. A bar from a place of employment may constitute a constructive termination triggering such rights. Therefore, before imposing a bar from a place of employment, the evidence should be sufficient to support a traditional removal action, and any applicable statutory processes surrounding a removal action should be followed prior to implementing the bar.

(b) All individuals, regardless of their present employment status, will be notified of the following in their barment orders:

1. Respondents must disclose the fact of this barment order on applications for employment with U.S. Forces installations in the areas covered by the order for the duration of the barment.

2. Failure to comply constitutes misconduct that may warrant removal from Federal service should the barred individual secure Federal employment in affected areas during the period of the barment.

(c) Selecting officials may consider the reasons for an employee’s inability to lawfully enter prospective places of employment. Applicants for competitive-service positions may have appeal rights when agencies deny them employment based on conduct-related reasons. (5 CFR 731 shows an example.) If such a barred applicant is selected as the best qualified, management should consult the servicing CPAC and legal office to determine whether a suitability determination is appropriate. The inability to gain lawful access to a prospective place of employment may be considered as a factor in the selection process.

(d) APF employees who are erroneously hired after a bar has been issued and before the bar is successfully appealed must still receive statutory due process based on their status. In such cases, the imposing authority should consult with the servicing SJA and may consider minimally amending the bar to allow the barred employee access to the place of employment in exchange for the employee’s entry into a “Last Chance” or “Alternative to Traditional Discipline” agreement.

(e) A barred NAF employee may be separated as disqualified in accordance with AR 215-3, paragraph 2-16i(1). Consequently, bars that prevent a NAF employee's entry into places of employment must be based on circumstances that ordinarily would support separation under NAF regulations.

(5) Contractor Employees. Contractor employees are not Federal employees. Before imposing a barment action, ACMAAs will coordinate with the appropriate COR to ensure that the Government's refusal to allow a contractor employee entry does not interfere with the contractor's performance, as required by the contract terms, and does not cause the Government to terminate the contract or incur liability in favor of the contractor.

(6) Limitations on Barment Authority. Barment may not prohibit a minor enrolled in a DODDS school from accessing the education facility, nor may it prohibit an offender from receiving military medical attention if entitled to it.

(7) Legal Coordination. All bars from entry must be coordinated with the servicing legal office before they are imposed.

(8) Early Departure of an Offender. If an offender departs a command before a bar action is initiated or concluded, the action may be held pending the return of the individual or processed by forwarding the barment letter to the offender at his or her forwarding address. Underlying information may be forwarded to the gaining commander for consideration. Certified mail with return receipt, or its equivalent, will be used to accomplish and record proper delivery. If possible, CMAAs and ACMAAs should determine the departure status of an offender when they learn of misconduct and attempt to conclude necessary actions before the offender departs.

d. Early Return of Dependents (EROD). This policy is based on Joint Travel Regulations and Joint Federal Travel Regulations (JFTR), volumes 1 and 2; AR 55-46; and AE Supplement 1 to AR 55-46).

(1) General. CMAAs will consider an early return of Family members or other civilian offenders to the continental United States when other administrative measures are not expected to be effective. However, if host-nation authorities indicate the intent to prosecute the offender or are likely to do so, an EROD will not be effected without host-nation approval, coordinated through the local LLA (para 4h).

(2) Voluntary EROD. In cases where the CMAA notifies the respondent and his or her sponsor that an EROD is being considered as an adverse action in response to the alleged misconduct, the NOI will include a statement encouraging the sponsor to consider requesting a voluntary EROD. The NOI will also inform the sponsor that he or she must include such a request, if desired, in any response to that NOI. If the sponsor requests a voluntary EROD, the request will be forwarded to the sponsor's unit to be processed in accordance with the controlling regulations. The CMAA may consider the request in his or her decision as to what adverse actions to impose. He or she may, but is not required to, suspend other adverse actions pending completion of the voluntary EROD process.

(3) Involuntary EROD. An involuntary EROD may be imposed only when the sponsor is a military member. It is not an available adverse action for a dependent of a civilian employee. In cases where the CMAA determines that an EROD is in the best interest of the community and the sponsor has not requested an EROD for his or her dependent, the CMAA will proceed as follows:

(a) If the CMAA is also the O6 GC, the NAA will inform the military sponsor that an involuntary EROD is being directed under the authority of the JFTR. The case will be processed in accordance with the controlling regulations. According to the JFTR, no appeal is available for involuntary ERODs directed by an appropriate authority (that is, O6 or above).

(b) If the CMAA is not the O6 GC, the NAA will inform the respondent and the military sponsor that an involuntary EROD is one of the adverse actions that will be recommended through garrison command channels to the direct-reporting O6 GC for action. It will also notify the sponsor and the respondent that if the EROD is effected and the respondent refuses to depart or returns to the European theater soon after departure, the garrison may take further action, such as ILS revocation or barment, without further notice or opportunity to respond. The respondent may appeal that recommendation to the O6 GC in the CMAA's chain of command.

e. Curtailment of Tour.

(1) **Military Sponsors.** In appropriate cases, the CMAA may request a curtailment of an overseas tour of a military sponsor (AR 614-30). The request must be sent to IMCOM-Europe (IMEU-HB), Unit 29055, APO AE 09081-9055, for approval. A CMAA's recommendation for curtailment of a sponsor's tour is not appealable. The respondent will have an opportunity to be heard in the curtailment process.

(2) **Civilian Sponsors.** A Family member's inability to adapt to the overseas environment may be an indication that the employee is unable to fully adapt. This may be a factor in any decision on extending the sponsor's tour beyond 3 years and every 2 years thereafter. If an employee's reassignment involves an abridgment of the employee's initial overseas or renewal tour, curtailment rules in applicable travel and transportation regulations must also be observed. Managers should consult the servicing CPAC and SJA before they make such decisions.

12. SUSPENDED ACTIONS

The CMAA may suspend one or more administrative actions on the condition of good behavior by the offender or based on an agreement to perform R&RO duties as described in paragraph 11a. Suspension means that the imposition of the adverse action is delayed for the period or purpose described in the NAA or a subsequent notice to the respondent. Administrative actions may not be suspended for periods longer than those specified in the underlying regulation, and ordinarily the suspension should not exceed 1 year. If the respondent complies with the conditions of the suspension, the adverse action will be terminated.

13. APPEALS

a. Paragraph 11 includes appeal options on individual adverse actions.

b. When an adverse action is subject to appeal, the appeal may be presented by the respondent or his or her sponsor. The appeal must be submitted to the ACMAA's office within 5 calendar days after the NAA has been received and should be addressed to the appellate authority as identified in paragraph 11. It should state why the respondent considers the appealed action inappropriate and the relief he or she is requesting. The respondent may include character statements and other material, but the CMAA will normally not grant extensions to the appeal period for the respondent to get character references.

c. The CMAA may delay the effective date of adverse actions pending an appeal.

d. The CMAA will review the appeal submitted. The CMAA may grant the full relief requested by the respondent, notify the respondent of the decision, and consequently close the case without further opportunity for an appeal. If the CMAA does not grant the full relief requested, he or she will forward the appeal within 3 workdays through command channels to the appellate authority, including the completed case file with a summary of the facts of the case, a summary of the information submitted and the relief requested by the respondent, information on any relief already granted by the CMAA, and a recommendation to the appellate authority.

e. The appellate authority will provide a written response through the CMAA to the respondent, either a denial of the appeal or a statement as to what relief is granted. The appellate authority may provide any relief that he or she deems appropriate, including some or all of the relief that the respondent requested. The CMAA will ensure that the decision made by the appellate authority is implemented.

SECTION IV PROGRAM ADMINISTRATION

14. RECORDKEEPING

a. The ACMAA will maintain records of actions taken against respondents for acts of misconduct. ACMAAs will maintain the records for 3 years after the date the CMAA case file is closed.

b. The case file will be closed when—

(1) No minor administrative action or adverse action is taken in a case opened under paragraph 6d.

(2) Minor administrative action is taken.

c. If adverse action is taken, the case file may be closed after all adverse actions have been concluded. However, it will remain open—

(1) Until the respondent successfully accomplishes the duties assigned under the R&RO program or, if duties are not successfully accomplished, all other adverse actions have been completed.

(2) For the time period for which an adverse action is suspended.

d. If a respondent engages in additional misconduct, the ACMAA may add the new misconduct to the original file. In such cases, the information of past misconduct will be maintained in the ACMAA's active records.

e. As a minimum, the case file will include all documents associated with the reporting and investigation of the case; correspondence with the respondent, victims, and other agencies; legal reviews; all documents related to minor or adverse actions taken; appeals; suspensions; and barment orders.

f. A chronology will be maintained for each case file detailing key facts, dates, correspondence, and actions taken.

15. LEGAL REVIEW

When a legal review is required, the CMAA or ACMAA will coordinate with a legal counsel and obtain a written legal review before taking action. Legal reviews are required when—

a. An offender appeals an adverse administrative action.

b. The adverse action considered is a barment, an EROD, or a tour curtailment.

c. The case is complex.

d. The offender, sponsor, or parent wants to review the file and the CMAA wishes to withhold information for good cause.

e. An adverse action is proposed against NAF or APF employees.

f. An adverse action is proposed against contractor employees, whether or not they are USAREUR-sponsored and receiving ILS.

16. Notification of U.S. Hiring Authorities

If the offender is a Federal (APF or NAF) or contractor employee, the CMAA will inform the servicing CPAC, the employee's supervisor, the contracting officer, or the COR, as appropriate, of the respondent's misconduct and the adverse action taken.

17. Host-Nation Judicial or Administrative Proceedings

A CMAA may take action against an offender even when host-nation judicial or administrative authorities are taking action against the offender, provided that the proposed actions do not adversely affect any host-nation interest in the case or the individual. Such actions must be coordinated with the local LLA. Appendix B describes procedures for seeking criminal prosecution in host nations.

LETTERHEAD
Office of the Commander
(USAG CMAA Address)

Office symbol

Date

To: *(Respondent/Parents/Guardian/Sponsor)*

SUBJECT: Civilian Misconduct of *(Respondent's Name)* on or About *(Date/Dates of Incident/Incidents)*

Mr./Mrs./Ms. (name of recipient):

1. It has come to *my attention (if the GC is the CMAA)/the attention of the Commander, USAG (garrison name) (if the CMAA is not the GC)* that you have/*(respondent's name) has (state the offense)* within the USAG *(garrison name)* community. Such conduct is unacceptable and prejudicial to the order and discipline of this military community and cannot be tolerated.
2. Garrison commanders are authorized by Army in Europe regulations and inherent legal authority to take action in response to such misconduct. As the Civilian Misconduct Action Authority, *I am responsible (if the GC is the CMAA)/I have been designated as the officer responsible (if the CMAA is not the GC)* for ensuring the preservation of order and discipline in this community.
3. You are hereby *warned/counseled/admonished* that such behavior will not be ignored. Your misconduct is serious and poses a threat to the safety and good order of our military and local community members. Should you/*(respondent's name)* engage in any further misconduct of any sort, I will take appropriate adverse administrative action against you/*(respondent's name)*, up to and including barment from access to military installations in Europe.
4. The POC for this action is *(name, phone number, e-mail address, and mailing address of the ACMAA)*.

CMAA Signature Block

CF:
Sponsor's commander or supervisor

Figure 1. Letter of Counseling or Warning

LETTERHEAD
Office of the Commander
(USAG CMAA Address)

Office symbol

Date

To: (Respondent/Parents/Guardian/Sponsor)

SUBJECT: Civilian Misconduct of (Respondent's Name) on or About (Date/Dates of Incident/Incidents)

Mr./Mrs./Ms. (name of recipient):

1. It has come to my attention (if the GC is the CMAA)/the attention of the Commander, USAG (garrison name) (if the CMAA is not the GC) that you have/(respondent's name) has (state the offense) within the USAG (garrison name) community. Such conduct is unacceptable and prejudicial to the order and discipline of this military community and cannot be tolerated.

2. Garrison commanders are authorized by Army in Europe regulations and inherent legal authority to take action in response to such misconduct. As the Civilian Misconduct Action Authority, I am responsible (if the GC is the CMAA)/I have been designated as the officer responsible (if the CMAA is not the GC) for ensuring the preservation of order and discipline in this community.

3. Such behavior will not be ignored. Your conduct is offensive to your neighbors and sets a bad example in the eyes of our host nation. I am considering the following actions in response to the misconduct described above:

(List of adverse administrative actions)

4. In accordance with AE Regulation 27-9, you have the right to submit a—

a. Written response to me to be received within 3 workdays from the date of this notice. The response may include letters or statements from other people and any other material you believe I should have before taking final action. Additionally, you may request a hearing before me in person, which I will only grant if you provide a sufficient and compelling reason for me to do so.

b. Request to review the evidence in the case file, except for those portions that I am legally required to withhold. This does not entitle you to receive or make a copy of any piece of the evidence, and the 3-day period to respond to this letter will not be extended solely for you to exercise this privilege.

5. You will acknowledge receipt of this letter by completing the enclosed receipt and returning it to the office address above.

6. The POC for this action is (name, phone number, e-mail address, and mailing address of the ACMAA).

Encl

CMAA Signature Block

CF:

Sponsor's commander or supervisor

Figure 2. Notice of Intent Without Offer of R&RO

MEMORANDUM FOR ACMAA, USAG (*garrison name*), APO AE 09xxx-xxxx

SUBJECT: Receipt of Notification of Intent to Impose Adverse Administrative Action

1. Reference memorandum, USAG (*garrison name*), (*office symbol*), (*date*), subject: Civilian Misconduct of (*Respondent's Name*) on or About (*Date/Dates of Incident/Incidents*).
2. I acknowledge receipt of the referenced memorandum and understand the rights provided to me by AE Regulation 27-9.

DATE _____
Sponsor / SIGNATURE _____

DATE _____
Respondent / SIGNATURE _____

Figure 2. Notice of Intent Without Offer of R&RO (Continued)

LETTERHEAD
Office of the Commander
(USAG CMAA Address)

Office symbol

Date

To: *(Respondent/Parents/Guardian/Sponsor)*

SUBJECT: Civilian Misconduct of *(Respondent's Name)* on or About *(Date/Dates of Incident/Incidents)*

Mr./Mrs./Ms. (name of recipient):

1. It has come to my attention *(if the GC is the CMAA)/the attention of the Commander, USAG (garrison name) (if the CMAA is not the GC)* that you have/*(respondent's name) has (state the offense)* within the USAG *(garrison name)* community. Such conduct is unacceptable and prejudicial to the order and discipline of this military community and cannot be tolerated.
2. Garrison commanders are authorized by Army in Europe regulations and inherent legal authority to take action in response to such misconduct. As the Civilian Misconduct Action Authority, *I am responsible (if the GC is the CMAA)/I have been designated as the officer responsible (if the CMAA is not the GC)* for ensuring the preservation of order and discipline in this community.
3. Such behavior will not be ignored. Your conduct is offensive to your neighbors and sets a bad example in the eyes of our host nation. I am considering the following actions in response to the misconduct described above:

(List of adverse administrative actions)
4. I am also considering to offer you the opportunity for rehabilitation or restitution: *(explanation of the R&RO that the respondent may voluntarily accept)*.
5. Should you voluntarily agree to accept this opportunity, you will have to *(explanation of the conditions that will demonstrate successful completion of the R&RO measure)*. Upon completion, *no further action will be taken against you/no further action will be taken against you other than (any actions listed above that will be taken even with successful completion of the R&RO measure)*. If you fail to comply with these conditions, I will consider imposing other adverse actions as described above.
6. In accordance with AE Regulation 27-9, you have the right to submit a—
 - a. Written response to me to be received within 3 workdays from the date of this notice. The response may include letters or statements from other people and any other material you believe I should have before taking final action. Additionally, you may request a hearing before me in person, which I will only grant if you provide a sufficient and compelling reason for me to do so.
 - b. Request to review the evidence in the case file, except for those portions that I am legally required to withhold. This does not entitle you to receive or make a copy of any piece of the evidence, and the 3-day period to respond to this letter will not be extended solely for you to exercise this privilege.
7. You will acknowledge receipt of this letter by completing the enclosed receipt and returning it to the office address above.
8. The POC for this action is *(name, phone number, e-mail address, and mailing address of the ACMAA)*.

Encl

CMAA Signature Block

CF:
(Sponsor's commander or supervisor)

Figure 3. Notice of Intent with an Offer of R&RO

MEMORANDUM FOR ACMAA, USAG (*garrison name*), APO AE 09xxx-xxxx

SUBJECT: Receipt of a Notification of Intent to Impose Adverse Administrative Action and an Offer of Rehabilitation and Restitution Opportunity (R&RO)

1. Reference memorandum, USAG (*garrison name*), (*office symbol*), (*date*), subject: Civilian Misconduct of (*Respondent's Name*) on or About (*Date/Dates of Incident/Incidents*).
2. I acknowledge receipt of the referenced memorandum. I *accept/do not accept* the terms and conditions of the R&RO offered to *me/the respondent* and acknowledge that this acceptance is voluntary on *my part/my part and the respondent's part*, given without reservation. *I/We* acknowledge and understand what *I/the respondent* must do to successfully complete the R&RO measure and also understand that failure to successfully complete the R&RO measure will result in other adverse action being considered in response to the subject misconduct.
3. *I/We* agree and hereby consent to the release of personal information, including relevant medical information, about our participation in (*the program that constitutes the R&RO*) directly to the ACMAA or CMAA, or both. We understand and agree that this consent is an essential element of successful completion of the R&RO and will cooperate fully with the ACMAA or personnel conducting (*the R&RO measure*) to provide all information deemed necessary to demonstrate successful completion.

DATE _____
Sponsor / SIGNATURE

DATE _____
Respondent / SIGNATURE

Figure 3. Notice of Intent with an Offer of R&RO (Continued)

LETTERHEAD
Office of the Commander
(USAG CMAA Address)

Office symbol

Date

To: (Respondent/Parents/Guardian/Sponsor)

SUBJECT: Notification of Adverse Administrative Action Regarding (Respondent's Name)

Mr./Mrs./Ms. (name of recipient):

1. Reference memorandum, USAG (garrison name), (office symbol), (date), subject: Civilian Misconduct of (Respondent's Name) on or About (Date/Dates of Incident/Incidents).

2. I have reviewed all material you provided in response to the referenced memorandum and have decided to take the following adverse action/actions in response to your (description of misconduct) on (date/dates of misconduct):

(List of adverse administrative actions)

NOTE: If this list includes a recommendation for an action that is not within the authority of the CMAA, the following statement must be included:

I am also recommending to (authority) that he/she (description of the recommended adverse action).

NOTE: If one or more adverse actions have an appeal right as explained in this regulation, paragraph 3 of the memorandum will include the following:

3. You may appeal (action) to (appellate authority). To do so, within 5 calendar days from the date of this notification, you must provide a written notice of appeal and any additional information you wish the appellate authority to consider to (name of the ACMAA). You may include in your appeal a request that the appellate authority consider imposing a lesser or different adverse action. If I decide to grant your request, your appeal will be considered final and it will not be forwarded to the appellate authority. No appeal will automatically stop the adverse actions from being imposed. Should part or all of the appeal be granted, the part of the adverse action that has already been imposed will be rescinded.

NOTE: If no suspension or appeal right exists, paragraph 3 of the memorandum will state the following:

3. You will report immediately/within (XX) workdays to the following: (a list of the offices to which the respondent must report to process the adverse action (for example, the ID card office, the Director of Motor Vehicles office, the ration authority) and a description of what he or she must do there). Your failure to follow these instructions will result in additional adverse actions against you/the respondent.

4. If the CMAA intends to suspend the adverse action or actions, this paragraph will be used to describe the portions suspended, the duration of the suspension, and the conditions that will terminate the suspension. Otherwise, the following paragraphs will be renumbered accordingly.

5 (or 4). You will acknowledge receipt of this letter by completing the enclosed receipt and returning it to the office address above.

6 (or 5). The POC for this action is (name, phone number, e-mail address, and mailing address of the ACMAA).

Encl

CMAA Signature Block

CF:

Sponsor's commander or supervisor

Figure 4. Notice of Adverse Action

MEMORANDUM FOR ACMAA, USAG (*garrison name*), APO AE 09xxx-xxxx

SUBJECT: Receipt of Notification of Adverse Administrative Action

1. Reference memorandum, USAG (*garrison name*), (*office symbol*), (*date*), subject: Notification of Adverse Administrative Action Regarding (*Respondent's Name*).

2. I acknowledge receipt of the referenced memorandum. I understand and acknowledge that *I/(respondent's name)* must report immediately to (*the offices to which the respondent or sponsor must report for imposition of adverse action, including phone numbers, building numbers, and addresses as needed to prevent the respondent or sponsor from arguing that he or she did not know where to go*). I understand that my failure to follow these instructions will result in additional adverse action against *me/(respondent's name)*.

DATE _____
Sponsor / SIGNATURE

DATE _____
Respondent / SIGNATURE

Figure 4. Notice of Adverse Action (Continued)

APPENDIX A REFERENCES

SECTION I INTERNATIONAL AGREEMENTS, LAWS, AND CODES

NATO Status of Forces Agreement

Supplementary Agreement to the NATO Status of Forces Agreement

United States Code, Title 5, Government Organization and Employees

United States Code, Title 18, section 3261 et seq., Criminal Offenses Committed by Certain Members of the Armed Forces and by Persons Employed by or Accompanying the Armed Forces Outside the United States

Code of Federal Regulations, Title 5, Administrative, parts 352, 715, and 752

Fourth Law to Amend the German Criminal Law of 11 June 1957

German Code of Criminal Procedure

SECTION II PUBLICATIONS

Joint Federal Travel Regulations, volume 1, Uniformed Service Members

Joint Travel Regulations, volume 2, Department of Defense Civilian Personnel

DOD 1342.6-M, Administrative and Logistic Responsibilities for DOD Dependents Schools

AR 15-6, Procedures for Investigating Officers and Boards of Officers

AR 25-55, The Department of the Army Freedom of Information Act Program

AR 25-400-2, The Army Records Information Management System (ARIMS)

AR 55-46 and AE Supplement 1, Travel Overseas

AR 215-1, Military Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities

AR 215-3, Nonappropriated Funds Personnel Policy

AR 215-8, Army and Air Force Exchange Service Operations

AR 420-1, Army Facilities Management

AR 600-8-14, Identification Cards for Members of the Uniformed Services, Their Eligible Family Members, and Other Eligible Personnel

AR 614-30, Overseas Service

AR 690-700, Personnel Relations and Services (General)

AE Regulation 10-5, Headquarters, United States Army Europe

AE Regulation 27-10, Military Justice

AE Regulation 190-1, Driver and Vehicle Requirements and the Installation Traffic Code for the U.S. Forces in Germany

AE Regulation 550-50, Exercise of Foreign Criminal Jurisdiction Over United States Personnel

AE Regulation 550-56, Exercise of Jurisdiction by German Courts and Authorities Over U.S. Personnel

AE Regulation 600-1, Regulated Activities in Europe

AE Regulation 600-700, Identification Cards and Individual Logistic Support

AE Regulation 600-702/CNE-C6F Instruction 10110.1E/USAFE Instruction 34-101, Ration Policy

SECTION III FORMS

DA Form 2028, Recommended Changes to Publications and Blank Forms

AE Form 1-10A, Staff Action Summary (SAS)

AE Form 190-1F, U.S. Forces Certificate of License/United States Forces in Germany

APPENDIX B

INITIATION OF CRIMINAL COMPLAINTS

B-1. PURPOSE

This appendix provides guidance and procedures for U.S. military authorities to follow when criminal complaints are filed against civilians for offenses committed against the U.S. Government.

B-2. INITIATION OF CRIMINAL COMPLAINTS IN GERMANY

a. U.S. military authorities may file criminal complaints with the local German police or with the appropriate local German prosecutor's office on behalf of the U.S. Army agency that is the victim of an offense. Criminal complaints may be filed against U.S. civilians and German or third-country national personnel suspected of having committed the offense. The following are examples of offenses:

(1) Criminal trespassing on a fenced installation made available to the U.S. Army for its exclusive use.

(2) Larceny or destruction of U.S. Government property.

(3) Fraud or embezzlement of U.S. Government property.

(4) Offenses listed under Article 7 of the Fourth Law to Amend the German Criminal Law of 11 June 1957, as amended, when an agency of the U.S. Forces is the victim.

b. The military authority determining whether or not a complaint should be filed must consult the servicing staff judge advocate (SJA). The SJA will refer the matter to the appropriate legal liaison authority (LLA). The LLA will be the only POC between the military authority filing the complaint and German prosecutorial officials.

c. When the U.S. Government rather than a private individual is the victim of an offense, the agency that has control over or responsibility for the property should file the complaint. The authority, responsibility, and procedures for filing criminal complaints through the LLA are as follows:

(1) When criminal trespassing has occurred in, on, or against a fenced U.S. Forces-controlled installation, the garrison commander should file the complaint.

(2) When larceny of Government-owned property other than money has occurred, the complaint should be filed by—

(a) The property book officer responsible for the property (appropriated fund (APF) property).

(b) The fund custodian (nonappropriated fund (NAF) property).

(3) When larceny or embezzlement of Government funds (APF or NAF) has occurred, the person responsible for the funds involved should file the complaint (for example, finance officer, commissary officer, fund custodian).

(4) When an offense is against the security of the U.S. Army (other than (1) above), the commander of the USAREUR major subordinate or specialized command (AE Reg 10-5, app A) who has jurisdiction over the area where the offense occurred should file the complaint. Commanders should make these requests for prosecution, since these offenses are politically sensitive. The Federal prosecutor general (*Generalbundesanwalt*) or the State prosecutor general (*Generalstaatsanwalt*) at the applicable superior State court (*Oberlandesgericht*) normally prosecutes.

(5) LLAs should submit a complaint either by a notification of offense (*Strafanzeige*) or a request for prosecution (*Strafantrag*). No standard format exists for the notice or request. LLAs will submit enough factual information with the complaint to indicate that an offense has been committed. Except for those offenses described in (4) above, the LLA should submit the notice or request either to the local police or to the office of the public prosecutor (*Staatsanwaltschaft*) who has jurisdiction for the area in which the offense occurred.

(6) Most offenses will be prosecuted without a request for prosecution when there is a firm suspicion that an offense has occurred. Certain offenses (for example, trespassing, larceny of property with little value) may be prosecuted only on request of the property holder. An exception is when the prosecutor determines that prosecution is required in the public interest. When requests for prosecution are necessary, the victim must submit the request for prosecution (not the notification of offense) within 3 months after he or she suspects the offense occurred. When a request for prosecution is submitted, the complainant becomes entitled to certain rights including the right to—

- (a) Be notified if the charges are dismissed and to file objections to such a disposition.
- (b) Take part in the criminal proceedings as an intervener (*Nebenkläger*).
- (c) Be informed of the results of the prosecution.

d. When determining the propriety of filing a complaint, military authorities (c above) must consider the following possibilities:

(1) If the court determines that a false complaint was filed intentionally or frivolously (*leichtfertig*), the court must assess against the complainant the costs of the proceedings and the necessary expenditures (including attorneys fees) of the person against whom the complaint was filed (German Code of Criminal Procedure, sec 469).

(2) If the complaint is withdrawn, the complainant may under certain circumstances be required to pay the costs and expenditures described in (1) above (German Code of Criminal Procedure, sec 470). Because APFs may not be available to pay such costs and expenditures, the person who knowingly or frivolously files a false complaint or withdraws a complaint (even when the complaint is valid) may be personally liable for payment of the costs and expenditures.

e. AE Regulation 550-56, appendix B, designates the appropriate LLA for offenses in subparagraphs c(1) through (3) above. Commanders should coordinate with the State (*Land*) LLA listed in AE Regulation 550-56, paragraph 6a, for offenses indicated in subparagraph c(4) above.

B-3. INITIATION OF COMMAND COMPLAINTS IN COUNTRIES OTHER THAN GERMANY

a. The propriety of initiating criminal complaints may be affected by political considerations and policy established by the designated commanding officer or U.S. country representative of the country concerned.

b. Criminal complaints will not be filed without coordination with and approval of the U.S. country representative of the country concerned (AE Reg 550-50).

APPENDIX C

INTERSERVICE MEMORANDUM OF AGREEMENT FOR A THEATER-WIDE BAR

C-1. GENERAL

Figure C-1 is the interservice memorandum of agreement (MOA) signed by General Montgomery C. Meigs, former CG, USAREUR/7A; General Gregory S. Martin, former Commander, USAFE; Admiral Gregory G. Johnson, former Commander, USNAVEUR; and Lieutenant General R. P. Ayers, former Commander, USMARFOREUR. The provisions of the MOA, which became effective on 26 April 2002, will remain in effect until modified or superseded.

C-2. PURPOSE

The intent of the MOA is to—

- a. Provide an interservice acknowledgment, enforcement, and issue authority of theater-wide bars from entry to installations and facilities under the operational control of the U.S. Forces in Europe.
- b. Prevent personnel who are barred from installations and facilities of one Service of the U.S. Forces in Europe from legally entering the installations and facilities of the other Services of the U.S. Forces in Europe.
- c. Improve the security, welfare, good order, and discipline of the U.S. Forces in the European theater.

Memorandum of Agreement

Between

**The Commanding General,
United States Army, Europe, and Seventh Army (USAREUR/7A)**

and

**Commander,
United States Air Forces in Europe**

and

**Commander in Chief,
United States Naval Forces, Europe**

and

**Commander,
United States Marine Corps Forces, Europe**

This memorandum of agreement (MOA) is made by and among the Commanding General, US Army Europe and Seventh Army (CG USAREUR), the Commander, US Air Forces in Europe (COMUSAFE), the Commander in Chief, US Naval Forces, Europe (CINCUSNAVEUR), and the Commander US Marine Corps Forces, Europe (COMMARFOREUR).

1. **Purpose.** To coordinate and agree upon the acknowledgment, enforcement, and issuance of reciprocal installation bar to entry orders. In this agreement, CG USAREUR, COMUSAFE, CINCUSNAVEUR, and COMMARFOREUR are referred to as “the parties.”
2. **General.** All parties are in accord that the security and integrity of the US military forces are the paramount reasons for entering into this agreement. Barred personnel are a continuing danger to the safety, welfare, and good order and discipline of personnel stationed at our overseas installations. By entering into this agreement of mutual cooperation and recognition, the US Forces will enhance their ability to identify and prevent barred individuals who have committed serious misconduct on other installations from entering the respective party’s installation, and thereby preserve the security of their personnel.
3. **Implementation.** The parties agree as follows:
 - a. To recognize, consistent with applicable Service regulations, theater-wide bar from entry orders issued by each of the parties to this agreement. This acknowledgment is to extend recognition to bar orders issued “by direction” from a designated representative of the parties. A summary of the facts of the case that resulted in the bar shall be attached to each letter or contained in the bar document itself. Bar orders issued pursuant to this MOA shall indicate their validity at all installations under the parties’ control.

Figure C-1. Interservice Memorandum of Agreement

b. To assist in enforcing any bar from entry order issued by each of the other parties to this agreement.

c. To forward copies of all theater-wide bar from entry orders issued pursuant to this MOA, to the 1st PERSCOM, HQ USAREUR/7A, ATTN: AEUPE-PSSD-PSB, Unit 29058, APO AE 09081, which will act as the executive agent of the parties to maintain and distribute the consolidated list. The 1st PERSCOM will consolidate the bar list by service and distribute the updated list monthly to a central addressee designated by the parties. The parties are responsible for further distribution of the list within their commands. The parties agree to ensure this information will be available to their respective civilian personnel offices to forward for selecting official consideration should barred personnel apply for employment with the US Forces in the area affected by the bar order.

4. The parties further agree:

a. To thoroughly investigate and examine all facts and circumstances before issuing a bar from entry order to any individual or entity.

b. To provide a fair and reasonable appeal process to personnel issued bar from entry orders in which all new facts and information are completely investigated and reviewed. Complete appellate authority will rest with the party initiating the bar. Bars under this MOA that are lifted or modified will be coordinated by the party taking action with 1st PERSCOM to alert the other parties to any changed status and to allow them to consider re-initiating bar action for areas under their control.

c. To keep a summarized incident report file on all barred personnel for a minimum of five years unless the individual is barred for a lesser period of time.

5. Nothing in this MOA shall be construed as infringing or limiting the authority of each installation Commander to independently assess and authorize which personnel shall be granted entry onto installations under that commander's authority.

6. **Effective Date.** This MOA is effective on the date of the last party's signature on page three of this agreement, and shall remain in effect unless otherwise modified or superseded.

Signature Page, Inter-Service Memorandum of Agreement, Installation Bars

FOR USAREUR:

 Date: 17 Jan '02

FOR USAFE:

 Date: 29 Mar 02

FOR USNAVEUR:

 Date: 4/26/02

FOR USMARFOREUR:

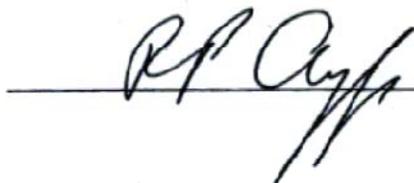
 Date: 9 MAR '02

Figure C-1. Interservice Memorandum of Agreement (Continued)

APPENDIX D GUIDELINES FOR CIVILIAN MISCONDUCT ACTION AUTHORITIES AND THEIR ASSISTANTS

D-1. PURPOSE

This appendix provides guidance for the civilian misconduct action authority (CMAA) and the assistant civilian misconduct action authority (ACMAA) on selecting and effectively using administrative procedures to handle cases of civilian misconduct. It also provides guidance on using administrative sanctions that are available to the CMAA.

D-2. ESTABLISHING CMAA PROGRAMS AND PROCEDURES

a. This regulation provides CMAAs great flexibility in structuring their individual programs, subject to specified minimum due-process requirements. With the help of the servicing judge advocate (JA), CMAAs should evaluate their community needs and organize their individual programs accordingly.

b. Due-process requirements mandate certain procedural steps. CMAAs will do the following in every CMAA case:

(1) Notify and coordinate with the local legal liaison authority (LLA) for the types of cases described in paragraph 5f of the basic regulation.

(2) Review available facts.

(3) Take the following actions after determining that sanctions beyond minor administrative action (basic reg, para 10c) are appropriate:

(a) Notify the offender, sponsor, parents, or guardian of intended administrative actions when the information establishes that pertinent facts and sanctions are appropriate.

(b) Provide the offender an opportunity to respond in writing within 3 workdays (basic reg, para 8b(2)(a)).

(c) Provide the offender an opportunity to examine the file (basic reg, para 8b(2)(b)).

(d) After reviewing responses to notifications, provide the offender a written notice of the decision, administrative sanctions (if any), and the opportunity to submit a written appeal within 5 calendar days (basic reg, para 8c(3)).

(e) Forward appeals to the appellate authority (basic reg, para 13d).

c. Other actions may be adopted to help the CMAA in the fact-finding or adjudication process. Although not required, these measures may be particularly helpful in resolving cases of civilian misconduct by adding clarity and consistency to the process. Additional measures may include—

(1) Immediately suspending individual logistic support (ILS) privileges to prevent further misconduct until the case is decided (basic reg, para 11b).

(2) Conducting a preliminary inquiry to collect more information (basic reg, para 7a).

(3) Appointing an investigating officer (IO).

(4) Conducting hearings. This may include personal appearances by the offender, witnesses, or interested parties.

(5) Delaying the effective date of sanctions pending an appeal (basic reg. para 13c).

D-3. SELECTING THE BEST METHOD FOR DISPOSITION OF THE CASE

a. No further inquiry is necessary when an offender admits misconduct or when pertinent facts are otherwise established. When the ACMAA is unsure about the sufficiency of the evidence, he or she should refer the available evidence to the servicing legal officer for review.

b. In most cases, the military police (MP) or other agency report will include enough information to establish facts needed to determine whether minor administrative action or adverse administrative action should be taken. Notice and appeal rights do not apply when minor administrative actions are taken.

(1) Reports from initial MP investigations may provide enough information to determine whether a person committed the offense.

(2) CMAAs and ACMAAs should not conduct formal investigations. When additional investigation is necessary, the garrison commander should appoint an IO. Appointing an IO should be a last resort.

c. Hearings or board proceedings are not required or recommended. Such procedures are at the CMAA's discretion and should be applied only in cases involving serious criminal misconduct and when the CMAA is considering severe adverse administrative action. Severe adverse administrative actions may include—

(1) Revoking logistic support privileges.

(2) Terminating access to Government housing facilities.

(3) Barring entry into an area of responsibility (for example, garrison installations).

(4) An early return of Family members.

(5) Curtailing a tour.

d. When the person is not affiliated with the military or civilian workforce, the administrative due-process procedures in paragraph 11 of the basic regulation do not apply. For example, if the offender is not an employee of the U.S. Forces, a U.S. Forces Family member, or a contractor employee, the CMAA may bar the person from the area (when the offense warrants such action) without advance notice and without allowing an opportunity to respond or appeal.

D-4. ADDITIONAL GUIDANCE FOR SELECTING APPROPRIATE ADMINISTRATIVE ACTIONS (SANCTIONS)

a. Paragraph 9 of the basic regulation describes the factors that the CMAA should consider when determining which administrative actions are appropriate in response to civilian misconduct.

b. Table D-1 suggests penalties to help CMAAs select an appropriate administrative action for a particular act of misconduct. CMAAs are not limited to taking only the actions listed in this table. Taking an action that is not suggested in this table is not a basis for appealing the CMAA action or recommendation.

(1) Table D-1 does not list every act of misconduct. When an act of misconduct is committed that is not listed, the CMAA may determine an appropriate administrative action by comparing the misconduct with other acts of misconduct listed.

(2) A particular adverse administrative action is not mandatory solely because it is listed in table D-1. Selecting an appropriate administrative action requires balancing the relevant factors in each case. For example, even for acts of misconduct for which an early return of Family members or a curtailment of tour is not listed for a first offense, an early return or a curtailment for a first offense may be appropriate for an aggravated offense or multiple offenses.

c. In determining the appropriate administrative action for subsequent acts of misconduct, the CMAA should consider how much time has passed since the previous offense or offenses in relation to the most recent act of misconduct.

(1) Previous acts of misconduct may form the basis for proposing a more severe administrative action. Although counseling and letters of warning are not considered adverse administrative actions, they may be considered when determining an appropriate administrative action for a subsequent act of misconduct.

(2) Aggravating factors that the CMAA intends to consider (for example, previous acts of misconduct, the severity of the current misconduct) should be included in the notice of the proposed administrative action provided to the offender. The offender should have an opportunity to respond to those factors.

d. The CMAA should also consider the offender's willingness to take part in a community supervision program voluntarily when determining the appropriate administrative action or penalty (basic reg, para 11a). The CMAA may allow the offender to perform community service instead of imposing an administrative sanction or penalty.

Table D-1**Table of Suggested Penalties**

Offense	Nature of Offense	First Offense	Second Offense	Third Offense	Remarks
1. Fighting or assault	Creating a disturbance	Counseling or letter of warning to suspension of privileges for up to 60 days	Letter of warning to suspension of privileges for up to 60 days	Suspension of privileges for 6 months to early return of Family members or tour curtailment	More severe administrative action may be appropriate based on the seriousness of the disturbance.
	Threatening or attempting to inflict bodily harm without bodily contact	Letter of warning to suspension of privileges for up to 30 days	Suspension of privileges for up to 60 days to early return of Family members or tour curtailment	Suspension or revocation of privileges to early return of Family members or tour curtailment	
	Hitting, pushing, or other acts against another without causing injury	Letter of warning to suspension of privileges for up to 60 days	Suspension of privileges for up to 60 days to early return of Family members or tour curtailment	Early return of Family members to tour curtailment	More severe administrative action may be taken based on such factors as provocation and status of victim.
	Hitting, pushing, or other acts against another causing injury	Letter of warning to early return of Family members or tour curtailment	Early return of Family members to tour curtailment		More severe administrative action may be taken based on factors such as provocation, extent of injuries, and status of victim.
2. Truancy	Unexcused absence from school by child	Counseling or letter of warning	Letter of warning to suspension of privileges for up to 30 days	Suspension of privileges for up to 60 days to early return of Family members	
3. Insubordination	Refusal to obey orders or community or school rules; defiance of military police, German police, or commander's authority	Counseling or letter of warning to early return of Family members	Suspension of privileges for up to 30 days to early return of Family members	Early return of Family members	Revocation of all logistic support privileges may be appropriate when Family members refuse to leave.
4. Unauthorized use of alcohol or drugs	Unauthorized possession or transfer of alcoholic beverages or drugs while on Government property or in a Government housing area	Letter of warning to suspension of privileges for 30 days	Suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members or tour curtailment	More severe administrative action may be appropriate when aggravating factors are present (for example, giving alcohol or drugs to a child under the age of 16).
	Unauthorized use of alcoholic beverages or drugs	Letter of warning to suspension of privileges for up to 60 days	Suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members	
5. Drunk and disorderly conduct	Drunk and creating a disturbance on Government property or in a Government housing area	Letter of warning to suspension of privileges for up to 60 days	Suspension of privileges for up to 1 year	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members or tour curtailment	

Table D-1**Table of Suggested Penalties**

Offense	Nature of Offense	First Offense	Second Offense	Third Offense	Remarks
6. Child neglect	Failure to properly care for a child in violation of law, regulation, or policy	Counseling or letter of warning to suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members or tour curtailment		Early return of Family members or tour curtailment may be appropriate for a first offense when the child's life or health is endangered.
7. Arson	Intentionally setting fire to a building, structure, or property of another	Letter of warning to early return of Family members or tour curtailment			If arson is in Government quarters, termination of quarters may be appropriate for a first offense.
8. Damage to property	Intentional or willful damage to private or Government property	Suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members or tour curtailment	Appropriate administrative action depends on factors such as the value of the property, the amount of damage, and the age of the offender.
9. Misuse of ration card, purchase, or postal privileges	Violation of AE Reg 600-1 governing the use of ration cards, purchase privileges, and postal services	Letter of warning to suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year	Suspension of privileges for up to 1 year, revocation of privileges, to early return of Family members or tour curtailment	More severe administrative action may be appropriate when evidence shows that the misuse was for profit.
10. Vehicle and traffic violations	Moving and parking violations within areas subject to U.S. Forces jurisdiction	Letter of warning to proposed suspension of driving privileges under AE Reg 190-1	Proposed suspension of driving privileges under AE Reg 190-1	Proposed suspension of driving privileges to early return of Family members	If the appropriate suspension or revocation authority declines to take action, the CMAA should consider a bar from entry or an early return of Family members.
11. Drunk or drugged driving	Driving any vehicle while under the influence of alcohol or drugs	Proposed suspension of driving privileges under AE Reg 190-1 (mandatory suspension)	Proposed revocation of driving privileges under AE Reg 190-1		The second offense within 5 years requires mandatory revocation for 5 years.
12. Shoplifting		Suspension of privileges for up to 6 months	Suspension of privileges for up to 1 year	Revocation of privileges to early return of Family members or tour curtailment	AAFES privileges must be suspended for at least 6 months under AR 215-8, para 6-6e. Indefinite suspension for the third offense is authorized.
13. Receipt of stolen goods	Knowingly receiving, possessing, or purchasing stolen property	Letter of warning to early return of Family members or tour curtailment			

Table D-1**Table of Suggested Penalties**

Offense	Nature of Offense	First Offense	Second Offense	Third Offense	Remarks
14. Unauthorized use or possession of a controlled substance	Introduction of a controlled substance to Government property or housing area for personal use	Suspension of privileges for up to 30 days to early return of Family members or tour curtailment	Early return of Family members or tour curtailment		
	Introduction of a controlled substance to Government property or housing area in amounts sufficient for distribution on Government property in a Government housing area	Early return of Family members or tour curtailment			
15. Trespassing	Normally an offense involving a non-affiliated person	Bar to entry			

NOTE: A particular adverse administrative action is not mandatory solely because it is listed in this table. The selection of an appropriate administrative action requires balancing relevant factors in each case.

GLOSSARY

SECTION I ABBREVIATIONS

AAFES	Army and Air Force Exchange Service
ACMAA	assistant civilian misconduct action authority
AEPUBS	Army in Europe Library & Publishing System
AOR	area of responsibility
APF	appropriated fund
AR	Army regulation
CG	commanding general
CG, USAREUR	Commanding General, United States Army Europe
CG, USAREUR/7A	Commanding General, United States Army Europe and Seventh Army
CINCUSNAVEUR	Commander in Chief, United States Naval Forces, Europe
CMAA	civilian misconduct action authority
COMMARFOREUR	Commander, United States Marine Corps Forces, Europe
COMUSAFE	Commander, United States Air Forces in Europe
COR	contracting officer's representative
CPAC	civilian personnel advisory center
DA	Department of the Army
DCG, USAREUR/7A	Deputy Commanding General, United States Army Europe and Seventh Army
DOD	Department of Defense
DODDS	Department of Defense Dependents Schools
EROD	early return of dependents
GC	garrison commander
GCMCA	general court-martial convening authority
HNLFOA	Host Nation Liaison Field Operating Activity, United States Army Installation Management Command, Europe Region
HQ USAREUR	Headquarters, United States Army Europe
HQ USAREUR/7A	Headquarters, United States Army Europe and Seventh Army
ID	identification
ILS	individual logistic support
IMCOM-Europe	United States Army Installation Management Command, Europe Region
IO	investigating officer
JA	judge advocate
JFTR	Joint Federal Travel Regulations
LA	legal advisor
LLA	legal liaison authority
MOA	memorandum of agreement
MP	military police
MWR	morale, welfare, and recreation
NAA	notice of adverse action
NAF	nonappropriated fund
NATO	North Atlantic Treaty Organization
NOI	notice of intent
OIC	officer in charge
PM	provost marshal
POC	point of contact

POV	privately owned vehicle
R&RO	Rehabilitation and Restitution Opportunity
ROI	report of investigation
SJA	staff judge advocate
U.S.	United States
USAFE	United States Air Forces in Europe
USAG	United States Army garrison
USAREUR	United States Army Europe
USC	United States Code
USEUCOM	United States European Command
USMARFOREUR	United States Marine Corps Forces, Europe
USNAVEUR	United States Naval Forces, Europe

SECTION II TERMS

appellate

Of, relating to, or recognizing appeals.

civilian misconduct action authority

The officer (usually the garrison commander) responsible for determining and taking action in response to civilian misconduct.

direct-reporting garrison commander

A garrison commander who reports directly to the Director, IMCOM-Europe.

due process

A course of formal proceedings carried out regularly and according to established rules and principles.

Family member

The lawful spouse, legitimate child, legitimized child, adopted child, stepchild, or unmarried student up to 23 years old who is attending an accredited institution of higher learning full-time, whose sponsor is a military member or DOD civilian employee.

individual logistic support

Support that includes but is not limited to Government-provided or -supported housing, Government employment, the use of commissaries, and the use of Army and Air Force Exchange Service facilities.

legal advisor

Normally the servicing judge advocate in host nations other than Germany. The legal advisor provides services similar to those of the legal liaison authority at the request of the U.S. country representative for the host nation (AE Reg 550-50).

legal liaison authority

The POC (normally the servicing judge advocate) for the U.S. Forces response in cases involving foreign criminal jurisdiction. The legal liaison authority is the sole POC with host-nation judicial and prison authorities.

member of household

A person who is either one of the following:

- A close relative who does not qualify as a dependent Family member but who currently is and intends to remain a member of a sponsor's household and who is financially or for health reasons dependent on and supported by the sponsor.
- A child who reached age 21 during his or her sponsor's overseas tour.
- An illegitimate grandchild born during the sponsor's overseas tour.

misconduct

Conduct or behavior by persons subject to this regulation that violates or is inconsistent with the standards of host-nation laws, the United States Code, or the rules, regulations, and other directives of military authorities. Also included are disorderly conduct; conduct prejudicial to good order, discipline, or accomplishment of the mission; truancy; and conduct contrary to directions of persons exercising police authority of a commander.

offender

A person who is found to have engaged in misconduct as defined in this regulation.

preponderance of the evidence

The level of proof sufficient to show that a thing is more likely to be true than not.

primary jurisdiction

Jurisdiction of the commander of the area in which the civilian is housed. In the absence of housing support to a civilian, the commander of the garrison in which the civilian is employed will have primary jurisdiction. In the absence of either of these two forms of support, primary jurisdiction will be determined by the garrison commander of the area in which the misconduct occurred.

Service

A branch of the U.S. Forces (for example, U.S. Army, U.S. Navy, U.S. Air Force, U.S. Marine Corps).

sponsor

A Soldier, member of the civilian component, or other person authorized individual logistic support according to the terms of his or her employment (for example, contractor personnel) whose Family members are eligible to receive individual logistic support at a U.S. Forces installation.