

# COMMAND POLICY

NUMBER

SJA-05

AFZF-JA

26 January 2004

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Disposition of Drunk Driving Offenses by the Federal Magistrate

## 1. REFERENCES:

- a. Uniform Code of Military Justice (UCMJ), Article 11 (10 U.S.C. § 911).
- b. Rules for Court-Martial 306(a) and 401(a), Manual for Courts-Martial.
- c. Order of the United States District Court for the Western District of Texas (Waco Division) (March 14, 2000) (Enclosure 1).
- d. Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes, Army Regulation 27-10.
- e. Texas Penal Code Ann. §§ 49.01, 49.04, 49.09.
- f. 18 U.S.C. § 13.
- g. DoD Directive 5525.4, Enforcement of State Traffic Laws on Military Installations.
- h. Army Regulation 190-5, Motor Vehicle Traffic Supervision.
- i. Fort Hood Regulation 190-2, Motor Vehicle Traffic Supervision.

2. APPLICABILITY. This policy applies to all Soldiers who operate a vehicle on Fort Hood.

## 3. GUIDANCE.

- a. Policy. Except as otherwise provided, authority to exercise UCMJ jurisdiction over drunk driving offenses committed on the installation by Soldiers is hereby withdrawn. All such cases will be referred to the Federal Magistrate for disposition.

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b. Exception. In exceptional cases where disposition of drunk driving offenses under UCMJ is deemed essential to good order and discipline, general officer commanders may retain jurisdiction over such offenses. In these cases, the Soldier's brigade level commander will request authority to exercise UCMJ to the installation commander, through the installation Office of the Staff Judge Advocate.

c. Administrative Proceedings. This policy does not affect the initiation and imposition of administrative sanctions for drunk driving, such as general officer memoranda of reprimand, suspension and revocation of installation driving privileges, bars to reenlistment, administrative reductions, and separation for misconduct. This policy also does not affect the referral of Soldiers to remedial driving classes or alcohol and drug abuse counseling.

#### 4. RATIONALE.

a. Impact of Drunk Driving. Drunk driving endangers the personal safety and property of Fort Hood Soldiers, family members, civilian employees, and visitors. Drunk drivers must not be permitted to continue operating motor vehicles on Fort Hood or in the surrounding community.

b. Increased Effectiveness of Civilian Courts. Civilian tribunals, both state and federal, are generally better suited to deal with drunk driving offenses than the military justice system because an adjudication of guilt by a state court judge or the Federal Magistrate triggers enhanced penalties for multiple drunk driving offenses under Texas law, whereas nonjudicial punishment under article 15, UCMJ, and administrative sanctions do not.

c. Current Role of Civilian Courts. Civilian tribunals already adjudicate most drunk driving offenses committed by Fort Hood personnel. State authorities dispose of virtually all off-post offenses. The Federal Magistrate disposes of all on-post drunk driving offenses committed by Soldiers. The Federal Magistrate also disposes of all drunk driving offenses committed on Fort Hood by civilian employees, civilian family members, and civilian visitors to the installation.

d. Perception of Equitable Adjudication of Cases. Trial by the Federal Magistrate of drunk driving offenses committed by Soldiers will ensure more uniform disposition of such offenses on Fort Hood and enhance the perception of fairness and equal treatment in their adjudication.

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5. EXPIRATION. This policy memorandum remains in effect until superseded or rescinded.



JAMES E. SIMMONS  
Brigadier General, USA  
Commanding

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1 Each III Corps MSC