

United States Army Alaska Regulation 190-3

DEPARTMENT OF THE ARMY
HEADQUARTERS, UNITED STATES ARMY ALASKA
Fort Richardson, Alaska 99505-5000

United States Army Alaska Regulation 190-3

1 June 1997

Military Police

Family Member Disciplinary Review Board

Summary. This regulation prescribes responsibilities, policies, and procedures for the investigation and administrative disposition of misdemeanor and petty offenses committed by military family members in areas under the control of United States Army Alaska (USARAK).

Applicability. This regulation applies to all military personnel assigned or attached to USARAK or residing in an area under USARAK's control and to their family members.

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Supplementation. Supplementation of this regulation is prohibited without prior approval from the Commander, USARAK, Attention: APVR-RLE-CO.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by the Director of Information Management. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is the USARAK Provost Marshal. Users are invited to send comments and suggested improvements on Department of the Army (DA) Form 2028 (Recommended Changes to Publications and Blank Forms) directly to APVR-RLE-CO.

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1. Purpose

This regulation prescribes responsibilities, policies, and procedures for the investigation and administrative disposition of misdemeanor and petty offenses committed by military family members at Forts Richardson, Wainwright, or Greely; the Seward Army Recreation Camp; or any other noncontiguous Alaskan site

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under USARAK's control in lieu of juvenile delinquency proceedings or prosecution in United States District Court before either a district judge or a magistrate judge. This regulation does not apply to traffic infractions processed through the Central Violations Bureau or to incidents of spouse or child abuse referred to the case review committee in accordance with Army Regulation (AR) 608-18.

2. References

Required and related publications are listed in appendix a. Referenced forms are also listed in appendix A.

3. Explanation of abbreviations and terms

a. Abbreviations.

- (1) AR..... Army Regulation
- (2) DA..... Department of the Army
- (3) SAUSA Special Assistant United States Attorney
- (4) USARAK..... United States Army Alaska

b. Terms.

(1) Juvenile. An unemancipated minor under the age of 18 years (i.e., any person who has not attained his or her 18th birthday, is not living separate and apart from the sponsor/parent, is not a member of the military service, and is not the spouse of a service member).

(2) Military family member. The spouse, child, relative, or guest of a sponsor.

(3) Misdemeanor. Any offense punishable by imprisonment not exceeding 1 year.

(4) Petty offense. A misdemeanor punishable by imprisonment for 6 months or less. Under Alaska law, this includes Class B offenses (punishable by imprisonment not exceeding 6 months), Class C offenses (punishable by imprisonment not exceeding 30 days), and infractions (punishable by imprisonment not exceeding 5 days). For purposes of this regulation only, "petty offense" does not include traffic offenses processed through the Central Violations Bureau of the United States Courts.

(5) Sponsor. Any service member assigned or attached to USARAK or residing in an area under USARAK's control.

(6) Supervised probation. A time period established by a proper authority that requires scheduled appearances by a military family member and the sponsor before a designated person. During this time, any violation of a federal, state, or local law or of the terms and conditions of the Agreement for Deferral of Prosecution requires mandatory review of the offenses covered by the Agreement for Deferral of Prosecution to determine if prosecution is warranted.

(7) Unsupervised probation. A time period established by a proper authority during which any violation of a federal, state, or local law or of the terms and conditions of the Agreement for Deferral of Prosecution requires mandatory review of the offenses covered by the Agreement for Deferral of Prosecution to determine if prosecution is warranted.

4. Responsibilities

a. The Garrison Commander will—

(1) Provide overall supervision of the Family Member Disciplinary Review Board (Board).

(2) Serve as appointing authority for the Board, and approve or take other action on Board findings and recommendations.

b. Each Post Commander will—

(1) Serve as president of the Board at his or her post.

(2) Determine the time, place, and dress for each session of the Board.

(3) Follow the general guidance and formal procedures contained in AR 15-6, chapters 3 and 5.

(4) Ensure that each session is conducted in a dignified, orderly, expeditious, fair, and impartial manner.

(5) Advise persons suspected of committing an offense of their rights under Article 31 of the Uniform Code of Military Justice or the Fifth Amendment, as appropriate, before questioning them about the suspected offense.

(6) Determine by a preponderance of the evidence whether military family members appearing before the Board committed the offense(s) listed in the Agreement for Deferral of Prosecution.

(7) Make appropriate recommendations consistent with the findings.

(8) Complete the findings and recommendations worksheet as shown at appendix B, and provide a copy to the military family member.

(9) Within 7 days after each session of the Board, forward the case file, including the findings and recommendations, to the Garrison Commander for approval.

(10) Monitor the military family member's compliance with the terms and conditions of the Agreement for Deferral of Prosecution, including any corrective actions approved by the Garrison Commander.

(11) Administer and supervise community service imposed pursuant to this regulation.

c. The Provost Marshal will—

(1) Investigate and report all offenses within the Provost Marshal's investigative jurisdiction per applicable law and policy, including this regulation.

(2) Notify the sponsor of his or her family member's alleged offense(s).

(3) Coordinate all investigations with the Special Assistant United States Attorney (SAUSA), Office of the Staff Judge Advocate.

(4) Prepare a report of investigation.

(5) Check the military family member's records, and report any prior arrests or convictions.

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(6) Provide the SAUSA, the Alcohol and Drug Control Officer, the Social Work Advisor, and the recorder a copy of the report of investigation.

(7) Maintain investigatory and statistical reports.

d. The recorder will—

(1) Be a nonvoting Board member who is a commissioned or warrant officer appointed by the Garrison Commander.

(2) Give timely notice (at least 7 days in advance) of the time, place, and dress for each Board session to all participants, including the military family member, sponsor, company-level commander, and any witnesses or other persons with special expertise requested by the president.

(3) Perform other duties as required by AR 15-6, paragraph 5-3.

(4) Prepare and maintain the docket and case files.

(5) Provide the president a copy of the docket and relevant case files before each Board session.

(6) Prepare a monthly status report on all military family member cases.

e. The Social Work Advisor will—

(1) Be a qualified social worker appointed by the Chief, Social Work Services. The Director of Community Activities may make qualified social workers on his/her staff available for this duty.

(2) Evaluate the referred military family member's and sponsor's interaction and home environment.

(3) Before each Board session, provide the Board a written recommendation whether therapeutic intervention or family education is appropriate.

(4) If the military family member has a psychological, psychiatric, or behavioral problem history, or has been a victim of non-accidental trauma or abuse, report the case to the Provost Marshal Office, Community Mental Health Services, and/or the Family Advocacy Program Case Review Committee, as appropriate.

f. The Alcohol and Drug Control Officer will, before each Board session, have a substance abuse counselor, if available, assess the referred military family member and provide the Board a written recommendation whether substance abuse counseling or other corrective action is appropriate.

g. The Staff Judge Advocate will—

(1) Provide legal advice to the Commander, USARAK, and subordinate unit commanders on the disposition of all offenses committed by military family members in areas under USARAK's control.

(2) Supervise the Federal Magistrate Court Program within USARAK.

(3) Request that the United States Attorney appoint an appropriate number of SAUSAs to carry out their responsibilities under this regulation.

h. Each SAUSA will—

(1) Provide legal advice to commanders, staff, and law enforcement personnel as necessary to carry out their responsibilities under this regulation.

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(2) Determine whether deferral of prosecution of misdemeanor and petty offenses committed by military family members in areas under USARAK's control is appropriate.

(3) Offer the military family member and his or her sponsor the opportunity to have the suspected offense(s) disposed of pursuant to this regulation in lieu of juvenile delinquency proceedings or prosecution in United States District Court before either a district judge or a magistrate judge. If the military family member and sponsor agree, obtain their signatures on the Agreement for Deferral of Prosecution as shown at appendix C.

(4) In appropriate cases, prosecute misdemeanor and petty offenses committed by military family members in areas under USARAK's control, under the supervision of the United States Attorney and in coordination with the appropriate state district attorney.

(5) Refer felony offenses to the United States Attorney or state district attorney, as appropriate.

i. Unit commanders will—

(1) Ensure that sponsors under their command comply with this regulation.

(2) Accompany sponsors under their command to all Board sessions. (This requirement applies to company commanders. Battalion commanders are encouraged to attend.)

j. Sponsors will—

(1) Be responsible for their family members' conduct.

(2) Upon co-signing an Agreement for Deferral of Prosecution, comply with the agreement's terms and conditions, including any corrective actions approved by the Garrison Commander.

(3) Pay, jointly and severally with their family members, up to \$500.00 in restitution to each victim for any damages resulting from their family members' misconduct, as approved by the Garrison Commander.

(4) Cooperate with commanders, staff, and law enforcement personnel in carrying out their responsibilities under this regulation.

k. Military family members will—

(1) Comply with all applicable orders, policies, regulations, and laws.

(2) Upon signing an Agreement for Deferral of Prosecution—

(a) Comply with the agreement's terms and conditions, including any corrective actions approved by the Garrison Commander.

(b) Regularly attend school or work at a lawful occupation. If unable to do so, notify the Post Commander within 72 hours.

(c) Continue to live in Alaska. Notify the Post Commander within 72 hours of any plan to move outside Alaska.

(d) Report with the military family member's sponsor at the time and place directed by the Post Commander.

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(e) Pay, jointly and severally with their sponsor, up to \$500.00 in restitution to each victim for any damages resulting from the military family members' misconduct, as approved by the Garrison Commander.

(f) Cooperate with commanders, staff, and law enforcement personnel to the extent necessary for them to carry out their responsibilities under this regulation.

5. General policies

a. Offenses involving military family members will be promptly identified, adjudicated, and disposed of in a manner that stresses both deterrence and rehabilitation.

b. Cooperation by military family members is voluntary; however, certain administrative actions may be taken against military family members whether or not they cooperate. Conversely, certain rehabilitative measures, such as referral to counseling or performance of community service, may be undertaken only if the military family member agrees to cooperate.

c. Military family members who refuse to enter into an Agreement for Deferral of Prosecution or, after having done so, fail to comply with the terms and conditions thereof are subject to juvenile delinquency proceedings or prosecution in United States District Court before either a district judge or a magistrate judge.

6. Procedures

a. Reporting and investigating offenses.

(1) General. Sponsors and their family members will report to the Provost Marshal's Office within 24 hours after discovery any facts and circumstances that tend to show that any person may have committed a crime in an area under USARAK's control.

(2) Military police duties. The military police will—

(a) Investigate and report all offenses within their investigative jurisdiction in accordance with applicable law and policy, including this regulation.

(b) If the military police apprehend a military family member, the military police will: 1) Summon the sponsor to the location where the military family member is being detained. If the military family member is a juvenile and the sponsor is not the juvenile's parent or guardian, the parent or guardian should be present during any questioning of the juvenile. 2) If the military police do not intend to question the military family member while he or she is in custody, inform the military family member of the nature of the suspected offense(s), that the military family member is free to leave, and that the military police would like to discuss the suspected offense(s) with the military family member. If the military family member chooses to stay, the military police need not give him or her a rights warning. 3) If the military police intend to question the military family member while he or she is in custody, advise the military family member of his or her rights, using DA Form 3881 (Rights Warning Procedure/Waiver Certificate). 4) Release the military family member to the sponsor when no longer needed for questioning or the gathering of other evidence.

(c) Prepare a report of investigation.

(d) Check the military family member's records, and report any prior arrests or convictions.

(e) Provide the SAUSA, the Alcohol and Drug Control Officer, the Social Work Advisor, and the recorder a copy of the report of investigation.

(f) Maintain investigative and statistical reports.

(3) Special Assistant United States Attorney duties. The SAUSA will—

(a) Offer the military family member and sponsor the opportunity to have the suspected offense(s) disposed of pursuant to this regulation in lieu of juvenile delinquency proceedings or prosecution in United States District Court before either a district judge or a magistrate judge in appropriate cases.

(b) If the military family member and sponsor agree, obtain their signatures on the Agreement for Deferral of Prosecution as shown at appendix C.

(4) Alcohol and Drug Control Officer duties. Before each Board session, the Alcohol and Drug Control Officer will have a substance abuse counselor, if available, assess the military family member and provide the Board a written recommendation whether substance abuse counseling or other corrective action is appropriate.

(5) Social Work Advisor duties. Before each Board session, the Social Work Advisor will evaluate the referred military family member's and sponsor's interaction and home environment and provide the Board a written recommendation whether therapeutic intervention or family education is appropriate. Therapeutic intervention may include, but is not limited to, family counseling therapy, group therapy or treatment, or individual counseling. The social work advisor may review a military family member's medical records to determine if the military family member has a history of psychological, psychiatric, or behavioral problems, or has been a victim of non-accidental trauma or abuse. When such a history exists or when non-accidental trauma or abuse is suspected, the Social Work Advisor will report the case to the Provost Marshal's Office, Community Mental Health Services, and/or the Family Advocacy Program Case Review Committee, as appropriate.

b. Board proceedings.

(1) General.

(a) The Garrison Commander will appoint one Board at each post by memorandum of appointment. Each board will consist of one voting member—the president, and one nonvoting member—the recorder. Appointment of advisory members or a legal advisor is unnecessary because the president may consult persons with special expertise whenever desired. The Post Commander at each post will serve as president. The Garrison Commander may appoint one or more commissioned or warrant officers at each post as recorder or assistant recorder.

(b) No person will be designated a respondent.

(c) The Board proceedings will be closed to the public.

(d) The president alone may call witnesses and question them.

(e) Witness statements may be sworn or unsworn in the president's discretion.

(f) The proceedings may be recorded.

(g) Military family members appearing before the Board will be accompanied by their sponsor. If the military family member is a juvenile and the sponsor is not the juvenile's parent or guardian, the parent or guardian also should be present.

(h) Military family members are not entitled to be represented by counsel or to have counsel present during the Board proceedings.

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(i) Military family members may present any relevant written matters, such as statements from witnesses, family members, friends, teachers, doctors, etc., to the recorder at least 3 days before the Board session.

(j) Military family members are not required to make a statement or produce evidence that would deprive them of the right against self-incrimination under the Fifth Amendment. They may, however, make an oral or written statement to the Board. The statement may be sworn or unsworn in the military family member's discretion.

(2) Recorder duties. The recorder will—

(a) Give timely notice (at least 7 days in advance) of the time, place, and dress for each Board session to all participants, including the military family member, sponsor, chain of command, and any witnesses or other persons with special expertise requested by the president.

(b) Perform other duties as required by AR 15-6, paragraph 5-3.

(c) Prepare and maintain the docket and case files. Each case file will contain the report of investigation, including all enclosures and exhibits, the Agreement for Deferral of Prosecution, the Social Work Advisor's recommendation, any matters submitted by the military family member, the Board's findings and recommendations, the Garrison Commander's action, and status reports of the military family member's compliance with and successful completion of the terms and conditions of the Agreement for Deferral of Prosecution, including any corrective actions approved by the Garrison Commander.

(d) Provide the president a copy of the docket and relevant case files before each Board session.

(e) Prepare a monthly status report on all military family member cases.

(3) President's duties. The president will—

(a) Determine the time, place, and dress for each Board session.

(b) Follow the general guidance and formal procedures contained in AR 15-6, chapters 3 and 5.

(c) Ensure that each session is conducted in a dignified, orderly, expeditious, fair, and impartial manner.

(d) Advise persons suspected of committing an offense of their rights under the Uniform Code of Military Justice, Article 31, or the Fifth Amendment, as appropriate, before questioning them about a suspected offense.

(e) Determine by a preponderance of the evidence whether military family members appearing before the Board committed the offense(s) listed in the Agreement for Deferral of Prosecution.

(f) Make appropriate recommendations consistent with the findings. If the president finds that the military family member did not commit the alleged offense(s), the president will recommend that the case be closed. If the president finds that there is insufficient evidence to determine whether or not the military family member committed the alleged offense(s), the president may return the case to the Provost Marshal for further investigation or recommend that the case be closed. If the president finds by a preponderance of the evidence that the military family member committed the alleged offense(s), the president will recommend appropriate corrective action, including, but not limited to, one or more of the corrective actions listed in appendix D.

(g) Complete the findings and recommendations worksheet shown at appendix B, and provide a copy to the military family member.

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(h) Within 7 days after each Board session, forward the case file, including the findings and recommendations, to the Garrison Commander for approval.

(i) Monitor the military family member's compliance with the terms and conditions of the Agreement for Deferral of Prosecution, including any corrective actions approved by the Garrison Commander.

(j) Administer and supervise community service imposed pursuant to this regulation.

(4) Garrison Commander's action.

(a) The Garrison Commander is neither bound nor limited by the Board's findings or recommendations, and may take any action he or she deems appropriate, consistent with applicable law and policy, including this regulation.

(b) There is no appeal of the Garrison Commander's decision, which is final.

7. Records

a. Records disclosure within the Department of Defense. To the extent permitted by law and regulation, social workers and law enforcement personnel are encouraged to share investigative leads, information, and records to ensure that the facts of each case are fully developed. Because of the sensitive nature of such records, however, care should be exercised to ensure that such information is disseminated only to those Department of Defense employees (military or civilian) who have a need for the information in the performance of their duties.

b. Record disclosure outside the Department of Defense. Under AR 340-21, paragraph 3-2, relevant records may be referred to an appropriate federal, state, local, or foreign law enforcement agency without the prior written consent of the subject if the record indicates a violation or potential violation of a statute, rule, regulation, or order that the agency is responsible for investigating, enforcing, implementing, or prosecuting.

FOR THE COMMANDER:

OFFICIAL:

CHARLES R. DEWITT
COL, GS
Chief of Staff

//Original Signed//
FREDERICK J. LEHMAN
LTC, SC
Director of Information Management

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1 - APVR-GPA-AE (MOS Library, Assistant Directorate of Community Activities, Education Branch,
Attention: Mr. Mauer)
1 - Commander, United States Army Pacific Command, Attention: APIM-OIR
Fort Shafter, Hawaii 96858-5100

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**Appendix A
References**

**Section I
Required Publications**

- AR 15-6..... (Procedures for Investigating Officers and Boards of Officers).
Cited in paragraphs 4 and 6b.
- AR 340-21..... (The Army Privacy Program). Cited in paragraph 7b.
- AR 608-1..... (Army Community Service Program). Cited in paragraph D-1.
- AR 608-18..... (The Army Family Advocacy Program). Cited in paragraph 1.

**Section II
Related Publications**

- AR 25-55..... (The Department of the Army Freedom of Information Act
Program).
- AR 27-10..... (Military Justice).
- AR 190-5..... (Motor Vehicle Traffic Supervision).
- AR 190-16..... (Physical Security).
- AR 190-29..... (Misdemeanors and Uniform Violation Notices Referred to US
Magistrates or District Courts).
- AR 190-45..... (Law Enforcement Reporting).
- AR 195-2..... (Criminal Investigation Activities).
- AR 210-50..... (Housing Management).
- AR 600-8-14 (Identification Cards, Tags, and Badges).
- Department of Defense
Directive 5525.7..... (Implementation of the Memorandum of Understanding Between
the Department of Justice and the Department of Defense
Relating to the Investigation and Prosecution of Certain Crimes).

Joint Federal Travel Regulation

**Section III
Referenced Forms**

- DA Form 2028 (Recommended Changes to Publications and Blank Forms).
Cited in the suggested improvements statement.
- DA Form 3881 (Rights Warning Procedures/Waiver Certificate). Cited in
paragraph 6a(2)(b).

**Appendix B
Findings and Recommendations Worksheet Sample**

**FINDINGS AND RECOMMENDATIONS
IN THE CASE OF**

Findings

In view of the allegations listed in the Agreement for Deferral of Prosecution, dated _____, and the notification, dated _____, to wit:

I, having carefully considered the evidence before me, find:

By a preponderance of the evidence that _____, committed the following offense(s):

That _____, did not commit the following offense(s):

Recommendations

In view of these findings and in accordance with USARAK Regulation 190-3, I recommend that the Garrison Commander do the following:

Close the case without further action.

Rehabilitative Actions

Community Service Program. _____ should (Choose any combination):

Be required to perform _____ hours (not to exceed 48 hours per offense) of community service work and report to _____ as he or she directs. Further, the sponsor (shall/shall not) be required to participate in such community service work.

Be placed on (supervised/unsupervised) probation for a period of _____ (not to exceed 1 year), and report to _____ as he or she directs.

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() **Curfew.** _____ should be subject to a curfew, prohibiting him or her from leaving his or her home or other authorized place between the hours of _____ and _____ daily for a period of _____.

() **Counseling.** _____ should be formally counseled by _____ regarding his or her conduct and (should/should not) be required to submit a letter explaining corrective actions that will be taken to prevent future incidents of misconduct.

() **Formal Treatment.** _____ (and his or her sponsor) should be referred to _____, an appropriate (social service agency, psychiatric clinic, counseling service, _____ (other)), for formal treatment or counseling.

() **"Scared Straight."** _____ should be referred to the _____ (name of program), a program designed to educate individuals about life in adult prisons.

() **Workshops.** _____ (and his or her sponsor) should be enrolled in an education, awareness, prevention, and developmental workshop or _____ (name of other workshop) to deter future misconduct.

() **Other actions.** _____ should _____.

Administrative Sanctions

() **Expulsion from the installation.** Pursuant to 18 United States Code 1382 and AR 190-16, _____ should be barred from all United States Army installations in Alaska. This action (should/should not) be suspended contingent upon _____'s compliance with the terms and conditions of the Agreement for Deferral of Prosecution. (Military family members will not be denied medical care or use of Army and Air Force Exchange Service, commissary, or other facilities to which they are otherwise entitled, and, if barred, will be admitted to the installation for those limited purposes.)

() **Termination of government quarters.** Pursuant to AR 210-50, Government quarters assigned to _____ should be terminated. This action (should/should not) be suspended contingent upon _____'s compliance with the terms and conditions of the Agreement for Deferral of Prosecution.

() **Suspension or revocation of installation driving privileges.** Pursuant to AR 190-5, _____ should not be permitted to drive on any _____ (post or area) USARAK installation (for a period of _____ (enter "revoked" for permanent revocation of installation driving privileges).

() **Revocation of activity privileges.** _____ should have his or her identification card over-stamped for the revocation of the following installation activities or privileges (Check, as appropriate):

() Use of the following Morale, Welfare, and Recreation activities: (all/ _____).

() Use of the Post Exchange (and/or) post shopettes.

() Use of the Commissary.

() Use of (other activities) _____.

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() **Restricted travel.** Pursuant to AR 190-16, _____ should be restricted from travel in or to the following areas under USARAK's control unless accompanied by his or her sponsor (or _____) for a period of _____.

() **Restitution.** The military family member and the sponsor should jointly and severally pay restitution to the following victim(s) _____ for damages caused by the military family member in the amount(s) of _____ (not to exceed \$500.00 per victim). A possible claim for damages to Government property (has/has not) already been referred to the Claims Office, Office of the Staff Judge Advocate, USARAK, for affirmative action.

() **Memorandum of reprimand.** Recommend that the Commander, USARAK, issue a memorandum of reprimand to the sponsor or, if he or she is not subject to USARAK jurisdiction, forward a similar request to the first general officer in the sponsor's chain of command.

() **Early return of dependents.** Pursuant to the Joint Federal Travel Regulation, paragraph U5240, _____ should be returned to the continental United States in advance of his/her sponsor's permanent change of station.

Date

President

Action of the Appointing Authority

The findings and recommendations of the Board are (approved/disapproved) (with the following exceptions and substitutions):

Date

Appointing Authority

**Appendix C
Agreement for Deferral of Prosecution Sample**

AGREEMENT FOR DEFERRAL OF PROSECUTION

**OFFICE OF THE UNITED STATES ATTORNEY
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA

UNITED STATES ARMY ALASKA
FAMILY MEMBER DISCIPLINARY
REVIEW BOARD

v.

AGREEMENT FOR DEFERRAL OF
PROSECUTION

On or about _____, you allegedly committed the offense(s) of _____

at _____, an area within the special maritime and territorial jurisdiction of the United States and within the State of Alaska. This conduct is a violation of _____

If prosecuted and convicted for this offense, you could receive up to _____ months/years in jail and/or receive a fine of _____. You may avoid prosecution for this offense if you agree to comply with the terms and conditions of this agreement, including any corrective actions recommended by the Family Member Disciplinary Review Board (hereafter, "the Board") and approved by the Commander, United States Army Garrison, Alaska.

Based upon the authority of the Attorney General of the United States through the United States Attorney for the District of Alaska, prosecution in this district for this offense will be deferred for a period of twelve (12) months from the date all parties have signed this agreement, provided you fulfill and abide by the terms and conditions set out in this Agreement.

If you violate any condition of this Agreement, the United States Attorney may revoke this Agreement and prosecute you for the underlying misconduct. If the United States Attorney decides to prosecute you for violating this Agreement, you will be notified of the conditions of the Agreement you have violated.

If you comply with the terms of this Agreement and successfully complete the corrective actions approved by the Garrison Commander, you will not be prosecuted for the underlying misconduct in United States District Court for the District of Alaska.

If you violate this Agreement and are prosecuted for the underlying misconduct, neither this Agreement nor any other document filed with the United States Attorney or prepared by the Board will be used against you, except for impeachment purposes.

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General Conditions.

I agree to the following general conditions:

a. I will not violate any applicable order, policy, regulation, or law. I will immediately notify _____ if I am arrested or questioned by any military policeman or other law enforcement officer.

b. I will regularly attend school or work regularly at a lawful occupation. If I become unable to do so, I will immediately contact _____.

c. I will continue to live in this judicial district. If I desire to move out of this district, I will immediately contact _____.

d. I will report to _____ with my sponsor as requested.

e. I will follow and successfully complete corrective actions, including any community service approved by the Garrison Commander.

I understand that if I fail to comply with the terms and conditions of this Agreement, the United States Attorney may revoke this agreement and prosecute me for the underlying misconduct.

Special Conditions.

I will pay up to \$500.00 in restitution to each victim for damages resulting from my misconduct, as approved by the Garrison Commander.

Rights Advisement.

I am aware of and understand the rights listed below.

I have a right to a speedy and public trial under the Sixth Amendment to the Constitution of the United States. The Federal Rules of Criminal Procedure permit a federal court to dismiss a criminal complaint or information for unnecessary delay in filing an information or in bringing a defendant to trial.

a. I knowingly and voluntarily request that the United States Attorney for the District of Alaska defer my prosecution.

b. I agree and consent that all delays that result due to this agreement shall be deemed a necessary delay requested by me. Such necessary delay shall begin upon the date of my signing this agreement.

c. I knowingly and voluntarily waive my right to a speedy trial under the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States, after consultation with my sponsor whose name appears below.

d. I further waive any defense to my prosecution on the grounds that such delay operated to deny my right to a speedy trial under the Sixth Amendment to the Constitution of the United States, 18 United States Code, section 3162, or Federal Rule of Criminal Procedure 48(b).

e. I further agree to waive any claim that my prosecution is barred by the running of the statute of limitations for a period of months equal to the period of this Agreement.

Agreement.

a. I have read the above agreement and it has been explained to me.

b. I understand that I am waiving my right to a speedy trial and I understand the conditions of my deferred prosecution.

c. I agree to comply with all of the terms and conditions of this agreement and any corrective actions recommended by the Board and approved by the Garrison Commander.

Printed Name—
Military Family Member

Date

Printed Name—
Witness Sponsor of Military Family Member

Date

Printed Name—
Special Assistant United States Attorney

Date

Appendix D
Corrective Actions

D-1. Community service program

The Post Commander will administer the community service program. A military family member may be placed on supervised or unsupervised probation in the community service program for a time period specified by the Garrison Commander. The community service program will be administered under the provisions of AR 608-1.

a. This program requires the military family member to perform community service work in areas under USARAK's control under the supervision of the Post Commander or his/her designee for a specified number of hours per week and a specified number of weeks as approved by the Garrison Commander.

b. The Post Commander will coordinate community service program placements with activities where the military family member offender is to work and will supervise the military family member's performance.

c. The Garrison Commander may require the military family member offender to perform up to 48 hours of community service for each violation committed.

d. The Garrison Commander may order the military sponsor to perform community service with the military family member offender.

D-2. Curfew

The Garrison Commander may impose a curfew on the military family member offender.

D-3. Counseling

a. A sponsor may be counseled regarding his or her responsibility to control the military family member's conduct.

b. Military family members may be counseled by the Garrison Commander, Post Commander, Social Work Advisor, or other person designated by the Garrison Commander.

c. The Garrison Commander may—

(1) Direct the sponsor and the military family member offender to prepare a letter explaining the corrective action they will take to preclude future misconduct.

(2) Refer the military family member and sponsor to an appropriate social service agency, psychiatric clinic, or counseling service (e.g., Family Counseling, STEP training, etc.).

(3) Order the military family member to attend "Scared Straight" or similar programs designed to give the military family member a first hand look at the adult prison system.

(4) Order the military family member to participate in education, awareness, prevention, and developmental workshops.

(5) Impose other lawful corrective actions, in addition to those listed above, to rehabilitate military family members.

USARAK Regulation 190-3

D-4. Expulsion from the installation

Pursuant to AR 190-16, the Garrison Commander may bar military family members from entering **any** USARAK installation. The Garrison Commander may suspend this recommendation contingent upon the military family member offender's compliance with the terms and conditions of the Agreement for Deferral of Prosecution, including making satisfactory progress in completing the corrective actions approved by the Garrison Commander. Military family members will not be denied medical care to which they are otherwise entitled, and, if barred, will be admitted to the installation for this limited purpose.

D-5. Termination of government quarters

Pursuant to AR 210-50, the Garrison Commander may terminate the sponsor's government quarters due to the misconduct of his or her military family members. The Garrison Commander may suspend the quarters termination contingent upon the military family member offender's compliance with the terms and conditions of the Agreement for Deferral of Prosecution.

D-6. Suspension or revocation of privileges

The Garrison Commander may—

- a. Suspend or revoke installation driving privileges and vehicle registration pursuant to AR 190-5.
- b. Overstamp the military family member offender's identification card to preclude the use of installation activities, such as the post exchange or commissary, pursuant to AR 600-8-14, chapter 14.
- c. Issue a letter denying the military family member offender's use of any or all recreational activities on USARAK installations, such as the Teen Center, swimming pools, theaters, and field houses, etc.
- d. Pursuant to AR 190-16, issue a letter restricting or limiting the military family member offender's travel or presence on the installation when not accompanied by the sponsor.

D-7. Probation

In conjunction with the actions listed above, the Garrison Commander may place the military family member on supervised or unsupervised probation for a period up to 1 year. The Post Commander will monitor the military family member's progress. The Post Commander will report violations of conditions of probation to the Garrison Commander and recommend whether the Garrison Commander should vacate the suspension of any sanctions imposed or refer the case to the SAUSA for prosecution.

D-8. Restitution

Upon signing the Agreement for Deferral of Prosecution, the military family member and the sponsor agree to pay, jointly and severally, up to \$500.00 in restitution to each victim for any damages caused by the military family member to the victim's person or property, as approved by the Garrison Commander.

D-9. Memorandum of reprimand

Recommend to the Commander, USARAK, that a general officer memorandum of reprimand be issued to the sponsor, or that a similar request be forwarded to the first general officer exercising court-martial jurisdiction over sponsors not subject to USARAK's jurisdiction.

D-10. Early return of dependents

Pursuant to the Joint Federal Travel Regulation, paragraph U5240, the Garrison Commander may return the military family member offender to the continental United States in advance of his/her sponsor's permanent change of station.