

**BY ORDER OF THE COMMANDER  
35TH FIGHTER WING**

**35TH FIGHTER WING INSTRUCTION  
51-301**



**9 DECEMBER 2020  
Certified Current, 13 June 2024  
Law**

**MISAWA CONDUCT  
ADJUDICATION PROGRAM (PA)**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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This instruction implements AFPD 51-3, Civil Law, Acquisition Law and Litigation. This instruction establishes the Misawa Conduct Adjudication Program (MCAP) and MCAP processes. The MCAP assists the United States Air Force in maintaining safe and secure living and working conditions and assists in maintaining appropriate interaction with the local community. The MCAP is one process to address misconduct by persons with status under Articles I (b), and XIV of the SOFA (Department of Defense (DoD) Air Force civilians, non-appropriated funds instrumentalities (NAFI) employees, DoDEA employees, AAFES and DeCA employees and contractors of all types), family members of all SOFA-status personnel, and other non-military persons who live with, or who are visiting, a member of the United States armed forces or civilian component. The MCAP applies without regard to component or Departmental affiliation. Corrective actions under the MCAP are separate from disciplinary and adverse actions for employees and may occur without regard to other administrative or criminal actions contemplated or taken. Records created and maintained as result of the MCAP process are subject to the Privacy Act of 1974. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, Management of Records, and disposed of in accordance with Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS) located at <https://www.my.af.mil/afrims/afrims/afrims/rims.cfm>. Additionally, if the publication generates a report(s), alert readers in a statement and cite all applicable Reports Control Numbers in accordance with AFI 33-324. Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847,

Recommendation for Change of Publication; route AF Form 847s from the field through the appropriate functional's chain of command.”

### ***SUMMARY OF CHANGES***

This publication should be reviewed in its entirety as substantial changes have been made. This revision defines the roles of the MCAP Manager versus the Civilian Misconduct Authority, clarifies the appeal process, and clarifies the jurisdictional reach of the MCAP. This revision also substantially revises the corrective action matrix ([Attachment 2](#)).

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## 1. General.

1.1. Individuals accompanying the U.S. Armed Forces in Japan have an obligation to act lawfully and responsibly during their stay. This means they have a duty to maintain a safe and secure environment on Misawa AB which requires strict compliance to the regulations and policies of the DoD and all subordinate commands, including policies unique to Misawa AB (e.g., Misawa Air Base Community Standards), and to abide by both United States and Japanese law.

1.1.1. This Instruction applies to U.S. civilian employees, U.S. contractors, and dependents of members of the Armed Forces, civilian employees and contractors who are currently living in Japan and attached to Misawa AB or who have temporarily left the Misawa area but who are expected to return. This instruction does not apply to U.S. civilian employees, U.S. contractors, and dependents of members of the Armed Forces, civilian employees and contractors who, after committing misconduct that would normally be a basis for action under this instruction while living at or near Misawa AB, moved away from Misawa AB and are not expected to return unless the person in question continues to present an immediate risk to the safety or security of living and working conditions on the installation and the MCAP is likely to substantially mitigate any immediate risk. Military member misconduct is handled through the member's chain of command, in accordance with the Uniform Code of Military Justice.

1.1.2. Other guests of Misawa AB, including those who work on Misawa AB, may have their access to the installation restricted, revoked, or denied without resorting to the MCAP.

1.2. The MCAP is not a criminal proceeding. Findings and decisions made under the MCAP are not a judicial finding of guilt or innocence and should not be treated as such for other purposes.

1.3. The objectives of the MCAP are to:

1.3.1. Maintain good order and discipline in the Misawa AB community.

1.3.2. Promote a safe and secure environment on Misawa AB.

1.3.3. Screen acts of civilian misconduct.

1.3.4. Work with assisting organizations and other community groups to reduce and correct instances of civilian misconduct on Misawa AB.

1.3.5. Refer individuals and families to appropriate resources both on and off the installation.

1.4. Misconduct includes, but is not limited to:

1.4.1. Acts or omissions that violate the laws of the United States or Japan.

1.4.2. Violations of the regulations and/or policies of the DoD, United States Indo-Pacific Command (USINDOPACOM), Department of the Air Force, Pacific Air Forces (PACAF), United States Forces Japan (USFJ), Fifth Air Force (5 AF), or 35th Fighter Wing (35 FW).

1.4.3. Acts or omissions, which, although lawful, degrade or may degrade the image of the U.S. Forces in Japan.

1.4.4. Acts of violence and/or acts which bully, harass, demean, or degrade another person.

1.4.5. Acts or omissions which initiate, directly contribute to, instigate, or encourage any form of misconduct described in [paragraph 1.4](#) of this publication.

1.4.6. Acts or omissions which undermine, obstruct, or delay timely and effective law enforcement or investigative efforts.

1.4.7. Acts or omissions which violate the terms of WEASEL NOTAM 35 FW-19-00, *Misawa Air Base Community Standards*

1.4.8. Acts or omissions which violate the terms of AFI 31-218, *Motor Vehicle Traffic Supervision*, 22 May 2006.

1.5. Through a strong partnership among the sponsor, the chain of command, and installation agencies/organizations, the MCAP will tailor corrective actions (see [paragraph 4](#) of this instruction) for misconduct and provide the necessary counseling services to prevent future misconduct.

## **2. MCAP Management and Responsibilities.**

2.1. 35 FW/CC. The MCAP is 35 FW/CC's program. 35 FW/CC delegates to 35 MSG/CC responsibility over MCAP and appoints 35 FW/CV as appellate authority for appeals from decisions of the CMA. 35 FW/CC has the sole authority for barment and makes the ultimate decision whether to bar individuals from Misawa AB. 35 FW/CC also decides whether to authorize reentry of previously-barred individuals onto Misawa AB.

2.2. 35 FW/CV. 35 FW/CV is the appellate authority for appeals from decisions of the CMA. 35 FW/CV may grant in full, grant in part, or deny in full any appeal.

2.3. 35 MSG/CC. 35 MSG/CC is responsible for the MCAP. 35 MSG/CC appoints 35 MSG/DD as the CMA. 35 MSG/CC may detail up to two additional CMAs in the grade of Lt Col (O-5) or GS-14 or higher with 35 FW/CC concurrence.

2.4. 35 MSG/DD. 35 MSG/DD is the CMA. 35 MSG/DD may further delegate CMA responsibilities to an officer in the grade of Lt Col (O-5) or GS-14 or higher with 35 MSG/CC concurrence.

2.5. CMA. Upon receipt of an MCAP case file, the CMA reviews the facts, weighs all documentary evidence in the file and determines whether the alleged misconduct occurred. If necessary, and at the CMA's discretion, a hearing may be directed to further develop or clarify existing evidence. If the CMA determines that misconduct occurred, the CMA decides what corrective action(s), if any, should be imposed. Cases of misconduct are brought to the CMA by the MCAP Manager.

2.6. 35th Fighter Wing Staff Judge Advocate (SJA). The SJA is the MCAP legal advisor. The SJA may delegate responsibility for the MCAP within the Office of the Staff Judge Advocate, 35th Fighter Wing (35 FW/JA).

2.7. MCAP Manager. The MCAP Manager acts under the supervision of the SJA. The MCAP Manager exercises daily management responsibilities over, and serves as the primary point of contact for, the MCAP.

2.7.1. The MCAP Manager coordinates actions with the CMA. The MCAP Manager assists the CMA with the application of this instruction.

2.7.2. The MCAP Manager assembles and maintains all case files. In instances of barment, the MCAP Manager provides relevant records to the 35th Security Forces Squadron (35 SFS).

2.7.3. The MCAP Manager ensures incoming personnel and dependents are briefed on the consequences of civilian misconduct at newcomer briefings. The MCAP Manager works with DoDEA to ensure students are reminded of the consequences of misconduct and have access to the corrective action matrix ([Attachment 2](#)).

2.8. Unit Commanders and First Sergeants. Unit commanders and first sergeants maintain good order and discipline and ensure the safety and security of the Misawa AB community. They identify personnel or family members at risk, take appropriate actions, and offer appropriate referrals. Unit commanders and first sergeants ensure sponsors comply with this instruction.

2.9. Advisory positions. The CMA will invite one or more individuals who have an interest in any case to sit as an advisory board during any hearing directed by the CMA.

2.9.1. Individuals who might be invited to an advisory position include:

2.9.1.1. DoDEA personnel with regard to school-aged children;

2.9.1.2. AAFES for its employees and their dependents;

2.9.1.3. The Defense Commissary Association (DeCA) for its employees and their dependents;

2.9.1.4. Any other individual or agency representative the CMA believes is appropriate.

2.9.2. The function of the advisory position is to provide advice and information only. The CMA is solely responsible for deciding whether the alleged misconduct is substantiated and what action is appropriate.

### **3. MCAP Procedures.**

3.1. The MCAP Manager reviews the daily Security Forces blotter for any acts of civilian misconduct and obtains appropriate incident reports. Civilian misconduct identified through other means may also be considered by the MCAP Manager for referral. The MCAP Manager will establish and maintain a case file on all alleged respondents involved in misconduct.

3.1.1. If the MCAP Manager determines that an incident of misconduct should be referred to the MCAP, the MCAP Manager will notify the alleged respondent's sponsor or the alleged respondent of his or her options. The MCAP Manager need not personally serve the notice, but rather may request assistance from other agencies or the First Sergeant for the Respondent or the Respondent's sponsor. Before referring an incident to the MCAP, the MCAP Manager will carefully consider alternate processes that are ongoing to address the misconduct and will coordinate, upon SJA advice, with the Civilian Personnel Office, 35th Contracting Squadron, DoDEA, and Family Advocacy as appropriate.

3.1.2. A respondent, their sponsor, or both, have the right to respond to a MCAP referral. Responses may include, but are not limited to, presenting facts and circumstances, addressing matters in mitigation, or proposing appropriate disposition.

3.1.2.1. In cases where a minor child is referred to the MCAP, the child's parent(s) or guardian(s) may submit a response on the child's behalf.

3.1.2.2. All responses must be in writing and submitted according to the instructions in the MCAP referral notice.

3.1.2.3. Before responding, an alleged respondent may request, but may not necessarily be granted, relevant law enforcement or other records. Records requests will be processed in accordance with the Privacy Act, the Freedom of Information Act (FOIA), and other applicable regulations.

3.1.2.3.1. Copies of Security Forces' incident reports and blotter entries may be requested by contacting the Misawa AB Security Forces.

3.1.2.3.2. Copies of reports of investigation from the Air Force Office of Special Investigations may be requested by contacting the Chief, Freedom of Information/Privacy Acts Release Branch (DADF), HQ Air Force Office of Special Investigations, Bolling AFB, DC 20332.

3.1.2.4. Responses or proposals of appropriate disposition submitted by a military member or Department of Defense civilian employee shall be completed in the official Air Force memorandum format. The reply must be provided to the MCAP Manager no later than three duty days after the date of the notification. The MCAP Manager may extend or shorten the reply time, with SJA concurrence, if special circumstances so warrant.

3.1.3. The MCAP Manager may compile relevant background information to assist the CMA in making an informed decision on an incident of misconduct. This may include conducting an installation and DoDEA record check.

3.1.3.1. The MCAP Manager will inform the alleged respondent or the alleged respondent's sponsor that the alleged respondent may admit to the allegation, contest the allegation, present documents and propose witnesses to clarify factual matters, present information on the mitigation of damages or restitution, and suggest what proposed corrective action, if any, should occur. The alleged respondent may request an opportunity to present this information personally to the CMA; however, there is no right to a hearing. (**Attachment 3 or Attachment 4**).

3.1.4. Upon receiving a response from the alleged respondent, the MCAP Manager will provide the CMA with a complete case file including any incident reports, witness statements, DoDEA disciplinary records, and any responses in its possession. If the CMA requires additional information or assistance from the MCAP Manager, the CMA will coordinate with the SJA.

3.2. At its discretion, the CMA may direct a hearing to evaluate a case's facts and/or assess appropriate corrective action.

3.2.1. Hearings are not public.

3.2.2. The CMA may order military members to appear as witnesses.

3.2.3. The CMA may extend an invitation for non-military individuals to appear.

3.2.4. The alleged respondent or the alleged respondent's sponsor may ask individuals to attend the hearing; however, their attendance is at the discretion of the CMA.

3.2.5. The CMA may invite a command representative to attend the hearing.

3.2.6. The CMA may invite an advisory board to attend the hearing as described in [paragraph 2.9](#)

3.2.7. If the alleged respondent or the alleged respondent's sponsor is a member of a collective bargaining unit, that individual may request assistance IAW the collective bargaining agreement.

3.3. After the CMA has reviewed all the information presented, the CMA determines whether the individual engaged in misconduct by a preponderance of the evidence. Preponderance of the evidence means simply the greater weight of credible evidence (i.e., more likely than not).

3.3.1. In weighing the evidence, the CMA may consider all sources of information. The CMA gives the evidence its due weight considering the reliability and credibility of the source, the probability or improbability of the evidence, and his or her understanding of the ways of the world.

3.4. If the CMA concludes that the allegation is not substantiated, the MCAP case will be closed. The alleged respondent, the alleged respondent's sponsor, and the sponsor's unit will be informed of the decision.

3.5. If the CMA determines the respondent engaged in misconduct, the CMA will use the corrective action matrix as a baseline from which to determine what corrective action, if any, shall be given ([Attachment 2](#)). The CMA may vary from the matrix upon consideration of factors in aggravation and mitigation and with the advice of the SJA. In cases involving civilian employees or contractors, the SJA will consult with the Civilian Personnel Office and 35th Contracting Squadron, respectively, to ensure appropriate action.

3.5.1. The corrective action matrix is not an all-inclusive list of every act of misconduct that is eligible for action under MCAP. When an act of misconduct is committed that is not listed, the CMA may determine an appropriate administrative action by comparing the misconduct with other acts of misconduct listed.

- 3.5.1.1. A particular adverse administrative action is not mandatory solely because it is listed in the corrective action matrix.
- 3.5.2. Upon making a determination as to whether or not a respondent engaged in misconduct, the CMA will complete 35 FW Form 138, Misconduct Decision Notification. The MCAP Manager will ensure delivery of the completed form to the sponsor and obtain a copy signed by the sponsor for inclusion in the case file.
- 3.5.2.1. The CMA may hold a personal meeting with the respondent and the respondent's sponsor to convey the decision. Information provided during this meeting shall not be used for additional disciplinary purposes. The CMA will determine the appropriate attire for both the sponsor and the respondent.
- 3.5.3. The MCAP Manager will inform the victim, if any, that action has been taken against the respondent, but will not disclose the details of the action.
- 3.5.4. Failure to meet any specific time standard in this instruction creates no substantive rights.
- 3.5.5. The respondent or the respondent's sponsor will be notified of appellate rights at the time of corrective action notification.
- 3.5.6. Nothing in this instruction prevents 35 FW/CC from immediately barring an individual IAW appropriate Air Force and DoD regulations, and federal law. In such cases, barment may occur without prior notice to the alleged respondent and without CMA review.

#### **4. Possible Corrective Actions.**

- 4.1. Corrective actions available to the CMA include but are not limited to:
- 4.1.1. No action.
- 4.1.2. Verbal counseling.
- 4.1.3. A letter of reprimand.
- 4.1.4. A requirement that the respondent submit an essay, meeting a minimum number of words or pages, on a subject selected by the CMA.
- 4.1.5. A recommendation for suspension or revocation of AAFES privileges.
- 4.1.6. Suspension or revocation of installation driving privileges in conjunction with AFI 31-218, *Motor Vehicle Traffic Supervision*.
- 4.1.7. Termination of military family housing in conjunction with AFI 32-6001, *Family Housing Management*.
- 4.1.8. Restriction from specified areas of the installation, e.g., base beach, playgrounds, sports fields.
- 4.1.9. Imposition of a curfew, after which the respondent must be at home or off the installation.
- 4.1.10. If the respondent agrees to participate, referral to appropriate counseling or other resources.

4.1.11. A requirement to perform community service for a specified number of hours or until a specified project is completed.

4.1.12. A requirement to personally and formally apologize to the victim(s).

4.1.13. A requirement of restitution for stolen, damaged, or destroyed property.

4.1.14. A recommendation for barment from the military installation.

4.1.15. Any other corrective action the CMA deems appropriate, after consultation with the SJA, based upon the specific circumstances of the case. Corrective action shall not be imposed solely for the purpose of public embarrassment or scorn.

4.2. The actions taken under the MCAP are independent of any other administrative or disciplinary procedures.

4.3. If the respondent fails to comply with the corrective actions imposed, the CMA may reopen the case and take additional action on both the original misconduct and the failure to comply.

## **5. Barment.**

5.1. The authority to bar an individual from the installation rests solely with 35 FW/CC. If the CMA determines barment is the most appropriate action, the CMA forwards his barment recommendation ([Attachment 5](#)), a proposed barment letter ([Attachment 6](#)), and case materials to 35 FW/CC. The MCAP Manager notifies the unit and the sponsor that barment is being considered.

5.1.1. The CMA shall state reasons for recommending barment. Those reasons may be included in the 35 FW Form 138 or in any another document.

5.2. Generally, barment should be recommended only as a last resort. However, it may also be appropriate if the respondent fails to comply with prior CMA-directed corrective actions.

5.3. Within three (3) duty days of receiving notice that the CMA has recommended barment to the 35 FW/CC, a respondent may provide written matters to 35 FW/CC, via the MCAP Manager, for consideration.

5.4. In the event barment is the only corrective action recommended and the 35 FW/CC denies the recommendation, the case file will be returned to the CMA for further review and appropriate action. This means the CMA can consider and impose corrective actions short of barment.

5.5. If 35 FW/CC bars a respondent, the MCAP Manager will place one copy of the barment letter in the case file and give one to the sponsor. The MCAP Manager will also ensure a copy of the completed barment package is delivered to 35 SFS/SFAR.

## **6. Community Service Program (CSP).**

6.1. The CMA is responsible for designating appropriate CSP work sites and counseling programs.

6.2. Decisions regarding voluntary service should consider the skills of the respondent. Licensure, background checks, occupational health and safety standards, and other considerations apply equally for respondents. The respondent's religious beliefs shall be reasonably accommodated.

6.3. The respondent shall forward a Community Service Action Plan (CSAP) to the MCAP Manager for approval prior to performing voluntary services and/or attending counseling. If the CMA decides a parent must accompany a minor dependent, the parent shall also complete the CSAP prior to performing voluntary services and/or attending counseling. Copies of the CSAP will be maintained by the MCAP Manager for inclusion in the case file.

6.4. Once community service is agreed to, the MCAP Manager and the unit or activity receiving the services will ensure adequate supervision is available during CSP tasks.

6.5. The MCAP Manager, through the first sergeant or unit representative, will monitor and ensure compliance with the CSP.

6.6. Once the Community Service and/or counseling requirement has been completed and certified by the unit or activity receiving/providing the services, that certification will be forwarded to the CMA by the MCAP Manager demonstrating completion of the required service.

## 7. Appeals.

7.1. The respondent or respondent's sponsor may appeal the CMA's decision.

7.2. Appeals will be submitted in writing using the attached format ([Attachment 7](#)) and may include attachments as deemed appropriate. Appeals should state why the respondent considers the CMA's action inappropriate and must include any relief being requested.

7.3. Appeals may:

7.3.1. Address a misunderstanding of the facts.

7.3.2. Present information previously unknown or other changed circumstances.

7.3.3. Address factors in extenuation or mitigation that may render the proposed disposition difficult or ineffective.

7.4. Appeals must be filed with the MCAP Manager within five duty days of being informed of the decision unless the CMA or 35 FW/CV grants an extension.

7.5. Upon receipt of the appeal, the MCAP Manager forwards the appeal to the CMA who may grant the appeal in full, grant in part, or deny the appeal. If the CMA grants full relief, a corrected decision document will be prepared ([Attachment 8](#)). If the CMA does not grant the appeal in full, the CMA will forward the appeal within three (3) duty days to 35 FW/CV, including the completed case file and a summary of his or her decision.

7.5.1. 35 FW/CV serves as the MCAP's final Appellate Authority.

7.6. The Appellate Authority may grant the appeal in full, grant in part, or deny the appeal ([Attachment 8](#)). No further appeals are permitted.

7.7. The respondent or respondent's sponsor may request a personal appearance with the Appellate Authority. At its discretion, the Appellate Authority may grant a request for a personal appearance by the respondent or respondent's sponsor, but there is no right to a personal appearance on appeal.

7.8. The MCAP Manager will transmit the Appellate Authority's decision to the respondent and will ensure that the decision made by the appellate authority is implemented.

7.9. Corrective action will not be suspended pending an appeal except as determined by the CMA or 35 FW/CV.

## **8. Request for Review.**

8.1. The respondent or the respondent's sponsor may submit a request, in writing, for relief from any outstanding corrective action no earlier than four months from the date the corrective action was imposed.

8.2. Requests for review must be made to the CMA. At its discretion, the CMA may grant a request for a personal appearance by the respondent.

8.3. If a review is granted, consideration during the review may include, but is not limited to, the respondent's remorse, restitution, rehabilitation, or unexpected change in circumstances.

JESSE J. FRIEDEL, Colonel, USAF  
Commander

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-3, *Civil Law, Acquisition Law and Litigation*, 28 Nov 2018  
WEASEL NOTAM 35 FW-19-00, *Misawa Air Base Community Standards*  
AFI 31-118, *Security Forces Standards and Procedures*, 5 Mar 2020  
AFI 31-218, *Motor Vehicle Traffic Supervision*, 22 May 2006  
AFI31-218\_IP\_35FWSUP, *Motor Vehicle Traffic Supervision*, 6 Nov 2017  
AFI 32-6000, *Housing Management*, 18 Mar 2020  
AFI 33-332, *Air Force Privacy and Civil Liberties Program*, 10 Mar 2020  
AFI 36-2110, *Total Force Assignments*, 5 Oct 2018  
AFI 36-2906, *Personal Financial Responsibility*, 30 Jul 2018  
AFI 36-3012, *Military entitlements*, 23 Aug 2019  
DoDI 1330.17, *Commissary Program*, 14 Sep 2018  
DoDD 5400.7 *DoD Freedom of Information Act Program*, 5 Apr 2019  
DoDD 1342.20, *Department of Defense Education Activity (DoDEA)*, 7 July 2020  
DoDI 1100.21, *Voluntary Services in the Department of Defense*, 27 March 2019  
DoDI 5200.8, *Security of DoD Installations and Resources and the Dod Physical Security Review Board (PSRB)*, 10 Dec 2005  
USFJI 31-205, *Motor Vehicle Operations and Traffic Supervision*, 15 Aug 2017

***Prescribed Forms***

35FW Form 138, *Misconduct Decision Notification*

***Adopted Forms***

AF Form 847, *Recommendation for Change of Publication*

***Abbreviations and Acronyms***

**AB**—Air Base

**AF**—Air Force

**AFI**—Air Force Instruction **AFB**—Air Force Base **AFMAN**—Air Force Manual

**AFOSI**—Air Force Office of Special Investigations

**CC**—Commander

**CCF**—First Sergeant

**CMA**—Civilian Misconduct Authority **CSP**—Community Service Program **DeCA**—Defense Commissary Agency **DoD**—Department of Defense

**DoDD**—Department of Defense Directive

**DoDEA**—Department of Defense Dependents Schools

**DoDI**—Department of Defense Instruction

**DD**—Deputy Director

**ERD**—Early Return of Dependents **FW**—Fighter Wing

**FWI**—Fighter Wing Instruction

**JA**—Judge Advocate

**MCAP**—Misawa Conduct Adjudication Program **MSG**—Mission Support Group

**PACAF**—Pacific Air Forces

**SFS**—Security Forces Squadron

**SJA**—Staff Judge Advocate

**SOFA**—Status of Forces Agreement **USC**—United States Code

**USFJ**—United States Forces Japan

**USFJI**—United States Forces Japan Instruction

### *Terms*

**Aggravating**—Circumstances that increase the seriousness or outrageousness of a given misconduct, and that in turn increase the wrongdoer's corrective action

**Appeal**—A written request to a higher authority to modify or reverse the corrective action of the CMA

**Barment**—The state of being excluded from, and prohibited from reentering, the installation

**Mitigating**—Conditions or happenings which do not excuse or justify misconduct but are considered out of mercy or fairness in deciding the degree of the corrective action

**Preponderance of the Evidence**—When the greater weight of the credible evidence supports the findings and conclusions and it is more likely than not that the alleged events have occurred.

## Attachment 2

## CORRECTIVE ACTION MATRIX

Table A2.1. Corrective Action Matrix.

Offense	First Offense	Second Offense	Third Offense
Assault/Battery	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> 15-50 hours community service and/or anger management counseling	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> 50-100 hours community service and/or anger management counseling <input type="checkbox"/> Essay discussing non-violent methods of conflict resolution and offender's plan to implement such in future disagreements	Barment Recommendation
Unauthorized Distribution (drugs and/or alcohol)	<input type="checkbox"/> Apology <input type="checkbox"/> 15-50 hours community service and/or appropriate counseling (alcohol) <input type="checkbox"/> 50-100 hours community service and/or appropriate counseling (drugs)	<input type="checkbox"/> 50-100 hours community service (alcohol) <input type="checkbox"/> Barment Recommendation (drugs)	Barment Recommendation
Driving Under the Influence	<input type="checkbox"/> Revocation of installation driving privileges IAW AFI31-218_IP_35FWSUP, <i>Motor Vehicle Traffic Supervision</i> <input type="checkbox"/> 15-50 hours of community service <input type="checkbox"/> Rehabilitative counseling highly encouraged	<input type="checkbox"/> Revocation of installation driving privileges IAW AFI31-218_IP_35FWSUP, <i>Motor Vehicle Traffic Supervision</i> <input type="checkbox"/> 50-100 hours community service and/or rehabilitative counseling	Barment Recommendation
Drunk and/or disorderly conduct	<input type="checkbox"/> Apology <input type="checkbox"/> 15-50 hours community service and/or rehabilitative counseling	<input type="checkbox"/> Apology <input type="checkbox"/> 50-100 hours community service and/or rehabilitative counseling	Barment Recommendation

Child neglect/failure to supervise	<input type="checkbox"/> No injuries – Reprimand <input type="checkbox"/> Injuries Involved or Egregious Case – Counseling; 15-50 hours community service	<input type="checkbox"/> 15-100 hours community service and/or family counseling	Barment Recommendation
Property Damage	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> Restitution <input type="checkbox"/> 15-50 hours community service and/or anger management counseling	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> Restitution <input type="checkbox"/> 50-100 hours community service and/or anger management counseling	Barment Recommendation
Unauthorized Use or Possession of a Controlled Substance	<input type="checkbox"/> 15-50 hours community service and/or substance abuse counseling	<input type="checkbox"/> 50-100 hours community service and/or substance abuse counseling	Barment Recommendation
Minor in possession of a weapon	<input type="checkbox"/> Reprimand	<input type="checkbox"/> 15-100 hours community service and/or appropriate counseling	Barment Recommendation
Theft/Shoplifting	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> Restitution <input type="checkbox"/> 15-50 hours community service and/or appropriate counseling <input type="checkbox"/> Recommendation for 6-month loss of AAFES Privileges, if applicable	<input type="checkbox"/> Apology to Victim <input type="checkbox"/> Restitution <input type="checkbox"/> 50-100 hours community service and/or appropriate counseling <input type="checkbox"/> Recommendation for 12-month loss of AAFES Privileges, if applicable	Barment Recommendation; recommendation for permanent loss of AAFES Privileges, if applicable
Violation of Other Community Standard(s)	<input type="checkbox"/> Apology <input type="checkbox"/> 15-50 hours community service and/o appropriate counseling	<input type="checkbox"/> Apology <input type="checkbox"/> 50-100 hours community service and/or appropriate counseling	Barment Recommendation

\*If aggravating factors present, CMA may impose higher level of corrective action. CMA must articulate aggravating factors on Misconduct Decision.

## Attachment 3

## DEPENDENT MEMORANDUM

Figure A3.1. Dependent memorandum.

MEMORANDUM FOR (SPONSOR) (UNIT)

FROM: MISAWA CONDUCT ADJUDICATION PROGRAM MANAGER

SUBJECT: Notification of Referral to Misawa Conduct Adjudication Program (MCAP)

1. On (DATE), your dependent, (NAME), was referred to the MCAP pursuant to 35FWI 51-301, paragraph(s) (1.5.1, 1.5.2, 1.5.3). Your dependent is alleged to have engaged in the following misconduct: (**MISCONDUCT**), in violation of (INSERT AUTHORITY; e.g. WEASEL NOTAM 35 FW-19-00, *Misawa Air Base Community Standards, paragraph 5.1*).

a. Specifically, on (DATE), (ALLEGATIONS OF MISCONDUCT).

b. FOR OFFENSES BASED ON AGE, (OFFENDER NAME) was (AGE) years old and under the supervision of (NAME) when the alleged misconduct occurred.

2. The Civilian Misconduct Authority (CMA), (NAME), 35 MSG/DD, will review the facts of this case. He will then make a determination of whether or not your dependent engaged in the alleged misconduct. If the CMA determines that your dependent committed the alleged misconduct, he may institute corrective action IAW 35FWI 51-301, paragraph 4.1. Corrective action under the MCAP is not a judicial or law enforcement function; nor is it an adverse employment action.

3. Failure to comply with CMA-directed corrective action may result in a recommendation for barment from Misawa Air Base.

4. You and/or your dependent may submit a written response to this notification. In your response, you may submit evidence, provide additional facts, describe mitigating circumstances, or present other written matters that you believe are relevant to the CMA's decision. You may also request a hearing in front of the CMA Authority, IAW 35FWI 51-301, paragraph 3.1.3.1; however, hearings are granted at the CMA's discretion.

**5. Responses must be submitted to the MCAP Manager at the Office of the Staff Judge Advocate (Torii Building, room 2135) within three (3) duty days of the date that this notification was served to you. Responses and requests for hearings should conform to official Air Force memorandum format.** Deciding not to submit a response will not bar this case from proceeding to the CMA for adjudication.

6. Should the CMA decide to hold a hearing on this matter, the MCAP Manager will issue you a separate Notice of Hearing, which will include the date, time, and location of hearing, as well as a listing of all parties requested to attend.

7. **Please sign, date, and return this notification to the MCAP Manager at the Office of the Staff Judge Advocate (Torii Building, Room 2135).** Refusal to accept service will be documented and will not bar this case from proceeding to the CMA for adjudication.

8. If you have any questions, please contact the undersigned at DSN 226-4022.

(NAME), (RANK), DAF  
MCAP Manager

Attachments:

- 1. Copy of 35FWI 51-301
- 2. Response Template

1st Ind, (SPONSOR), (UNIT)

MEMORANDUM FOR MISAWA CONDUCT ADJUDICATION PROGRAM MANAGER

I received this memorandum on \_\_\_\_\_, 20\_\_\_\_. I understand that I have **(3) duty days** to submit a written response or a request for hearing to the MCAP Manager. I understand that should I choose not to submit a response, this case will proceed to the CMA for adjudication based on the information contained in paragraph 1 above.

\_\_\_\_\_  
Signature

## Attachment 4

## CIVILIAN EMPLOYEE MEMORANDUM

Figure A4.1. Civilian Employee Memorandum.

MEMORANDUM FOR (NAME)

FROM: MISAWA CONDUCT ADJUDICATION PROGRAM MANAGER

SUBJECT: Notification of Referral to Misawa Conduct Adjudication Program (MCAP)

1. On (DATE), you were referred to the MCAP pursuant to 35FWI 51-301, paragraph(s) (1.5.1, 1.5.2, 1.5.3). Your dependent is alleged to have engaged in the following misconduct: **(MISCONDUCT)**, in violation of (INSERT AUTHORITY; e.g. WEASEL NOTAM 35 FW-19-00, *Misawa Air Base Community Standards, paragraph 5.1*

a. Specifically, on (DATE), (ALLEGATIONS OF MISCONDUCT).

b. FOR OFFENSES BASED ON AGE, (OFFENDER NAME) was (AGE) years old and under the supervision of (NAME) when the alleged misconduct occurred.

2. The Civilian Misconduct Authority (CMA), (NAME), 35 MSG/DD, will review the facts of this case. He will then make a determination of whether or not your dependent engaged in the alleged misconduct. If the CMA determines that your dependent committed the alleged misconduct, he may institute corrective action IAW 35FWI 51-301, paragraph 4.1. Corrective action under the MCAP is not a judicial or law enforcement function; nor is it an adverse employment action.

3. Failure to comply with CMA-directed corrective action may result in a recommendation for barment from Misawa Air Base.

4. You may submit a written response to this notification. In your response, you may submit evidence, provide additional facts, describe mitigating circumstances, or present other written matters that you believe are relevant to the CMA's decision. You may also request a hearing in front of the CMA Authority, IAW 35FWI 51-301, paragraph 3.1.3.1; however, hearings are granted at the CMA's discretion.

**5. Responses must be submitted to the MCAP Manager at the Office of the Staff Judge Advocate (Torii Building, room 2135) within three (3) duty days of the date that this notification was served to you. Responses and requests for hearings should conform to official Air Force memorandum format.** Deciding not to submit a response will not bar this case from proceeding to the CMA for adjudication.

6. Should the CMA decide to hold a hearing on this matter, the MCAP Manager will issue you a separate Notice of Hearing, which will include the date, time, and location of hearing, as well as a listing of all parties requested to attend.

7. **Please sign, date, and return this notification to the MCAP Manager at the Office of the Staff Judge Advocate (Torii Building, Room 2135).** Refusal to accept service will be documented and will not bar this case from proceeding to the CMA for adjudication.

8. If you have any questions, please contact the undersigned at DSN 226-4022.

(NAME), (RANK), USAF  
MCAP Manager

Attachments:

- 1. Copy of 35FWI 51-301
- 2. Response Template

1st Ind, (NAME)

MEMORANDUM FOR MISAWA CONDUCT ADJUDICATION PROGRAM MANAGER

I received this memorandum on \_\_\_\_\_, 20\_\_\_\_. I understand that I have **(3) duty days** to submit a written response or a request for hearing to the MCAP Manager. I understand that should I choose not to submit a response, this case will proceed to the CMA for adjudication based on the information contained in paragraph 1 above.

\_\_\_\_\_  
Signature

## Attachment 5

## BARMENT RECOMMENDATION

Figure A5.1. Barment Recommendation.

MEMORANDUM FOR 35 FW/CC	(Date)
FROM: CIVILIAN MISCONDUCT AUTHORITY	
SUBJECT: <u>Barment</u> Recommendation – (Offender's Name)	
1. After reviewing the evidence presented as part of the Misawa Conduct Adjudication Program (MCAP), per 35 FWI 51-901, I recommend you bar (offender) from Misawa Air Base. (Offender) is sponsored by (sponsor's rank and name) of the (sponsor's unit).	
2. (Offender) engaged in serious misconduct, namely (describe misconduct). Lesser forms of corrective action will not appropriately resolve this situation. (Offender) poses a threat to the safety and <u>well being</u> of the Misawa Air Base community as well as the maintenance of good order and discipline on the installation.	
3. I recommend that you sign the attached <u>barment</u> letter.	

NAME, Rank, USAF  
Civilian Misconduct Authority

**Attachment 6**  
**BARMENT ORDER**

**Figure A6.1. Barment Order.**

MEMORANDUM FOR (NAME), SSN (LAST FOUR):	..... (Date)
<p>FROM: 35 FW/CC UNIT 5009 APO AP 96319-5009</p>	
<p>SUBJECT: Barment Notice for All U.S. Military Installations in Japan</p>	
<p>1. Reference: Memorandum of Agreement Among Commanders, United States Forces, Japan; United States Army, Japan; United States Naval Forces, Japan; United States Air Forces, Japan; and, United States Marine Forces, Japan, 22 February 2007.</p>	
<p>2. Pursuant to 35 FWI 51-301, <i>Misawa Conduct Adjudication Program</i>, the Civilian Misconduct Authority (CMA) reviews acts of alleged misconduct committed by persons with status under Articles I (b), and XIV of the SOFA, family members of all SOFA-status personnel, and other non-military persons who live with, or who are visiting, a member of the United States armed forces or civilian component. In accordance with 35 FWI 51-301, paragraph 3.3, the CMA determines, by a preponderance of the evidence, whether the alleged misconduct occurred.</p>	
<p>3. The CMA has determined that you (INSERT SPECIFICS OF MISCONDUCT HERE). Based on the seriousness of your misconduct, the CMA forwarded me a barment recommendation.</p>	
<p>4. Your actions demonstrate that you pose a threat to the safety and welfare of the community. Therefore, I am of the opinion that your continued presence on this installation is detrimental to the good order, discipline, and welfare of others.</p>	
<p>5. You are hereby notified that you are ordered not to enter onto or be found within the limits of any military installation, facility, or area under my control. This barment is (for a period of _____)(permanent) and is effective immediately. This restriction applies to Misawa AB, Japan, and associated facilities.</p>	
<p>6. In addition, in accordance with the reference above, this barment from entry order is valid at all United States military facilities and areas in Japan. This means you may not enter any such facility and area in Japan while the barment from entry order is in effect. If you wish to enter any facility and area in Japan, you must request permission from the commander of the facility and area you wish to enter. The commander of that facility and area will then consider your request using the appeals of barment from entry order procedures established for that facility and area.</p>	

7. If you require medical treatment at a medical facility location on a USFJ installation, you may contact the security element at the main entrance of the installation for access instructions to attend medical appointments. If you need emergency medical services, inform the security element at the point of entry of an installation with an emergency treatment facility.

8. You are advised that if you enter or are found on any US Forces Japan installation or property in violation of this order, without having received prior approval, will be subject to detention by military officials for prompt delivery to appropriate civilian authorities. Violation of this order may be punishable in accordance with US and Japanese Law:

a. US Law: Title 18 of the United States Code, Sections 1382 and 3571 provides, in pertinent part, as follows: "Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof - Shall be fined under this title or imprisoned not more than six months, or both."

b. Japanese Law: Article 2 of "Keiji Tokubetsu Ho" (Law of Special Measures), Law Number 138, 7 May 1952, as amended, and the Agreement Under Article VI of the Treaty of Mutual Cooperation (United States-Japan Status of Forces Agreement), regarding provides, in pertinent part, as follows: "Any person who, without due cause, enters any place, the entrance of which is prohibited or does not leave any place when requested, within facilities or areas in use by the United States Armed Forces shall be sentenced to penal servitude for not more than one year or a fine."

9. This order will remain in effect for the period prescribed above, unless otherwise modified or revoked in writing by me or a successor in command. If you desire reconsideration or modification of this order, you may appeal to me in writing, through the Commander, 35th Security Forces Squadron. The Commander, 35th Security Forces Squadron, will consult with the Staff Judge Advocate and I will decide your appeal. If you appeal, your appeal letter should discuss all the facts and reasons that support your belief that this order should be rescinded.

10. If you have any questions concerning this action, contact the 35th Security Forces Squadron at DSN 315-226-3397 or Commercial 011-81-3117-66-3397.

11. The acknowledgment below is to be signed, dated, and returned to 35th Security Forces Squadron, Reports and Analysis.

\_\_\_\_\_, Colonel, USAF  
Commander, 35th Fighter Wing

1st Ind to Barment Notice for All U.S. Military Installations in Japan, dated \_\_\_\_\_

TO: \_\_\_\_\_

MEMORANDUM FOR 35 FW/CC

This is to certify that I, the undersigned, have received the forgoing order in writing and have read and fully understand the same. I understand that a violation of this order may result in civilian prosecution. I fully understand that in the event of a conviction, the maximum penalty prescribed may be imposed.

Received and signed at \_\_\_\_\_ hours this \_\_\_\_\_ day of \_\_\_\_\_ (month) of \_\_\_\_\_ (year).

\_\_\_\_\_  
(NAME OF BARRED INDIVIDUAL)

## Attachment 7

## APPEAL MEMORANDUM

Figure A7.1. Appeal Memorandum.

MEMORANDUM FOR CIVILIAN MISCONDUCT AUTHORITY (Date)

FROM: SPONSOR/OFFENDER

SUBJECT: Appeal from Misawa Conduct Adjudication Program (MCAP) Determination

1. I respectfully appeal your decision in my MCAP case. I appeal for the following reasons:
2. I request that you:
3. I do/do not request a personal appearance.

NAME, Rank, USAF

Attachments:  
(list, if appropriate)

Attachment 8

APPEAL DECISION MEMORANDUM

Figure A8.1. Appeal Decision Memorandum.

MEMORANDUM FOR                      (OFFENDER'S SPONSOR) (Date)

FROM: CIVILIAN MISCONDUCT AUTHORITY

SUBJECT: Appeal from Misawa Conduct Adjudication Program (MCAP) Determination

I hereby grant in full/grant in part/deny your appeal. The corrective action imposed will remain in effect/will be modified as follows/is revoked.

NAME, Rank, USAF  
Civilian Misconduct Authority

1st Ind. 35 FW/CV

MEMORANDUM FOR (OFFENDER'S SPONSOR)

I hereby grant in full/grant in part/deny your appeal. The corrective action imposed will remain in effect/will be modified as follows/is revoked.

NAME, Rank, USAF  
Vice Commander, 35th Fighter Wing  
Misawa Air Base, Japan