

**BY ORDER OF THE COMMANDER
OSAN AIR BASE**

OSAN AIR BASE INSTRUCTION 51-301



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Law**

**CIVILIAN AND FAMILY
MEMBER MISCONDUCT BOARD (PA)**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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(Lt Col, Patrick M. Schwomeyer)

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17 February 2010

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This instruction implements Air Force Policy Directive (AFPD) 51-3, *Civil Law, Acquisition Law and Litigation*, and AFPD 31-1, *Integrated Defense*, and is consistent with *United States Forces Korea Regulation (USFKR) 600-52, Civilian/Family Member Overseas Misconduct*. It establishes an administrative program to address cases of civilian misconduct at Osan Air Base (AB) and in the Korean community. This program and instruction is applicable to all DOD civilians, contractor personnel, family members and retirees who are in Korea and in the Osan AB area and affiliated with the U.S. Armed Forces. 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 Forms 847 from the field through the appropriate functional chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of IAW the Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS). The use of the name or mark of any specific manufacturer, commercial product, commodity, or service in this publication does not imply endorsement by the Air Force..

This instruction is affected by the Privacy Act of 1974. Records generated by this regulation are authorized by 10 U.S.C. §8012. No independent system of records will be maintained in the Family Member Misconduct Program. Authorities: Public Law 94-415, *Juvenile Justice and the Juvenile Justice and Delinquency Prevention Act of 1974 (18 U.S.C. §§5031-5042)*; USFKR 600-52; AFPD 51-3.

SUMMARY OF CHANGES

This document has been substantially revised and must be reviewed completely. Changes include administrative and related updates, removal of items better addressed in the implementing instructions, and rescinding AFPD 51-9, *Civil Law for Individuals*. It supersedes 51 FWI 51-901, 17 February 2010.

1. Policy. Acts of misconduct committed by DoD civilians, contractor personnel, retirees and family members assigned to Osan AB threaten the security and safety of property and persons on the base and in the local community. Civilians and family members who commit acts of misconduct or those who demonstrate a pattern of misconduct will be brought before the Civilian and Family Member Misconduct Board (CFMMB). Actions of the CFMMB are designed to ensure good order and discipline on and around Osan AB and to rehabilitate the offender(s).

2. Terms:

2.1. Civilians. Persons who are employed by the DoD or by a DoD contractor, retired U.S. military personnel and other non-military persons entitled access to Osan AB.

2.2. Family Member. A dependent of a civilian, contractor, retiree or military member who has access to U.S. military installations in Korea.

2.3. Misconduct. Any act which is criminal, destructive, abusive, disrupts the good order and discipline or breaches the peace of the installation and/or local Korean community.

2.4. CFMMB. A board established at Osan AB to evaluate cases of civilian and family member misconduct and to make appropriate recommendations to the 51 FW/CC or designee for disposition.

2.5. Respondent. A civilian or a family member asked to appear before a CFMMB hearing.

3. Responsibilities:

3.1. Military members, civilians, contractors, retirees and family members are responsible for their conduct and the conduct of those under their sponsorship. All individuals are expected to comply with acceptable standards of behavior. Failure to do so will result in adverse administrative action against the offender and/or the sponsor.

3.2. The 51 FW/CC, or designee, shall decide what actions or sanctions will be imposed against civilians or family member as recommended by the CFMMB. The 51 FW/CC, or designee, shall appoint the CFMMB Chairman.

3.3. The CFMMB Chairman shall convene the CFMMB and present recommendations as to the disposition of the cases heard by the CFMMB to the 51 FW/CC or designee.

3.4. The CFMMB shall hear cases involving acts of misconduct by civilians or family members that occur in or around Osan AB or in the local Korean community.

3.5. The 51 MSG/CCE shall act as the CFMMB Recorder and shall maintain meeting minutes, records and correspondence.

4. The CFMMB:

4.1. Composition. The board shall be composed of the following persons or designated representative:

4.1.1. Voting Members:

4.1.1.1. The CFMMB Chairman, as designated by 51 FW/CC or designee

4.1.1.2. The 51st Fighter Wing Staff Judge Advocate (SJA)

4.1.1.3. The 51st Security Forces Commander

- 4.1.1.4. The Office of Special Investigations Detachment Commander, as appropriate
- 4.1.1.5. The 51st Fighter Wing Command Chief Master Sergeant
- 4.1.1.6. A 51 MDG representative
- 4.1.1.7. The appropriate school Principal in cases involving juveniles
- 4.1.2. Nonvoting Members:
 - 4.1.2.1. The Sponsor's Squadron Commander or equivalent
 - 4.1.2.2. A Chaplain
 - 4.1.2.3. Additional representatives as appropriate and requested by the CFMMB Chairman
- 4.2. Purpose. To provide a method and framework for disposition of civilian and family member misconduct cases arising in the Republic of Korea and for the administrative punishment and/or rehabilitation of offenders. The Board will:
 - 4.2.1. Convene at the direction of the 51 FW/CC to review incidents or allegations of misconduct by civilians and family members that occur in or around Osan AB or in the local Korean community.
 - 4.2.2. Recommend corrective actions to the 51 FW/CC or designee.

5. Procedures:

- 5.1. All reports of investigation disclosing acts of misconduct or allegations thereof committed by civilians or family members in or around Osan AB or in the local Korean community shall be forwarded to the Office of the SJA. The SJA or his designee may make recommendations on the appropriateness of referring the case to the CFMMB.
- 5.2. The 51 FW/CC will decide which cases will be heard by the CFMMB and may unilaterally recommend corrective action without convening the CFMMB.
- 5.3. The 51 FW/CC's or designee's scope of authority is not limited by CFMMB's recommendations and may take any corrective action, including but not limited to those set forth in **paragraph 6** below.
- 5.4. A member (both voting and non-voting) of the CFMMB shall not sit in judgment on a case that may involve a conflict of interest such as Respondent being his/her dependent.
- 5.5. Written notification of the hearing shall be sent out by the CFMMB Recorder to the Respondent, sponsor and all CFMMB members.
- 5.6. Attendance at the CFMMB is mandatory for military sponsors. Respondents and their civilian sponsors are strongly encouraged to attend. The CFMMB can conduct in absentia hearings and is authorized to consider the willful refusal of any non-active duty member to appear as a matter in aggravation in deciding upon its recommendation. Failure of the military sponsor to attend may constitute a violation of the Uniform Code of Military Justice (UCMJ).

5.7. Requests for delays must be made in writing to the CFMMB Chairman 72 hours prior to the hearing date. Delays will only be granted in extraordinary cases, or where the military or civilian sponsor is TDY or is otherwise physically unavailable. The CFMMB Chairman is the decision authority on all delays.

5.8. The CFMMB hearing is informal and administrative in nature. Respondents are not entitled to legal counsel but may hire counsel at their own expense.

5.9. The CFMMB Chairman shall ensure a thorough development of the facts. Formal rules of evidence will not apply. The CFMMB shall review and consider all facts and evidence presented at the hearing.

5.10. The Board Chairman may permit Respondent to present witnesses or to submit written matters.

5.11. All CFMMB members shall provide input during deliberations. A majority of the CFMMB voting members must concur in the recommendation sent to the 51 FW/CC or designee.

5.12. The 51 FW/CC or designee may accept the recommendation, take any other appropriate action, or return the case to the CFMMB for further action. Dissenting recommendations are appropriate and may also be forwarded to the 51 FW/CC or designee.

5.13. CFMMB proceedings will be afforded the protections of the Privacy Act.

5.14. In cases involving civilian Department of Defense employees, the servicing Civilian Personnel Officer (CPO) will be consulted prior to convening any CFMMB. The 51 FW/CC's decision to convene a CFMMB and take action on the board's recommendation must be done in coordination with the CPO to ensure compliance with civil service laws, rules and regulations.

6. Corrective Action. Administrative sanctions should be evaluated in terms of the individual's prior record, the seriousness of the misconduct, the availability of community agencies to support any corrective actions, and the sanctions used in similar cases. Corrective action may include probation. The following list is not all-inclusive, and the CFMMB may recommend any one or more of the following corrective actions:

6.1. An oral or written warning or reprimand.

6.2. Referral of Respondent to base agencies such as Chaplain, Mental Health Services, Family Advocacy, etc.

6.3. Temporary or permanent revocation of specific privileges, such as the BX, Recreation Center, base theater, etc., or a restriction on entering certain areas of the base.

6.4. Imposition of curfew.

6.5. Restitution for damages or injury caused by Respondent, including physical labor to repair any damage.

6.6. Performance of community service.

6.7. Barment from the base for a specific period of time, except for limited access for purposes of attending medical/dental appointments, school, employment, and other reasonably justified exceptions.

6.8. Revocation of driving privileges for a specific period of time.

6.9. Early return of dependents.

7. Decision. The 51 FW/CC or designee will make a final decision after considering the recommendation of the CFMMB. The decision is considered final and not subject to appeal. Notice of the decision will be served on Respondent, who will acknowledge receipt.

8. Action. Copies of the action will be forwarded to agencies involved. In the event community service, restitution, or referral to other agencies is decided, Respondent will be asked to cooperate. If Respondent refuses to cooperate, the 51 FW/CC or designee may reconsider the matter, taking the refusal into account. Agencies to which Respondent is referred are responsible for reporting Respondent's progress to the CFMMB Chairman. The CFMMB Chairman may make a recommendation to the 51 FW/CC or designee for additional action without re-convening the CFMMB.

WILLIAM D. BETTS, Colonel, USAF
Commander

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

AFPD 31-1, *Integrated Defense*, 21 June 2018

AFPD 51-3, *Civil Law Acquisition Law and Litigation*, 28 November 2018

AFMAN 33-363, *Management of Records*, 1 March 2008

USFKR 600-52, *Civilian/Family Member Overseas Misconduct*, 17 February 2014

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Abbreviation and Acronyms

AB—Air Base

AFMAN—Air Force Manual

AFPD—Air Force Policy Directive

AFRIMS—Air Force Records Information Management System

CFMMB—Civilian and Family Member Misconduct Board

CPO—Civilian Personnel Officer

OPR—Office of Primary Responsibility

RDS—Records Disposition Schedule

SJA—Staff Judge Advocate

UCMJ—Uniform Code of Military Justice

USFKR—United States Forces Korea Regulation