



DEPARTMENTS OF THE ARMY AND THE AIR FORCE

JOINT FORCES HEADQUARTERS – ALASKA
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NGAK-TAG

3 January 2017

MEMORANDUM FOR Component Commanders, Alaska National Guard, P.O. Box 5800, Camp Denali, Joint Base Elmendorf-Richardson, AK 99505-0800

SUBJECT: Nonjudicial Punishment Regulation Implementation and Withholding of Jurisdiction for Certain Cases

1. I have adopted and the Governor has approved the nonjudicial punishment (NJP) regulations (Enclosure 1) for the Alaska organized militia. The regulations are in full effect and commanders and other leaders are authorized to enforce them consistent with the provisions of the regulations. We have come a long way over a relatively short period of time in establishing an Alaska Code of Military Justice (ACMJ) and regulations to enforce the ACMJ. Still, more needs to be done to include establishing Rules for Courts-Martial (RCM) so that should the need for a court-martial arise, we will be prepared. I anticipate that the RCM will be published in the early part of this year.

2. It is vitally important for all leaders to understand the regulations and the left and right limits of those regulations. As leaders, we must ensure that NJP is administered fairly, accurately and in accordance with law and military practice. Therefore, when commanders and leaders believe NJP is the appropriate means to address a lack of discipline within their ranks, they will seek counsel from their servicing Judge Advocate and Paralegals. Our Judge Advocates and Paralegals from all components of the organized militia have been an integral part in the development of both the ACMJ and NJP regulations and are well equipped to assist.

3. Subordinate commanders are ordered to publish the regulations to ensure the widest distribution of the regulations to their members. At a minimum, the regulations must be published on the Alaska National Guard's internal internet portal and on our external web page. All units must also publish the regulations independently through a newsletter, unit bulletin board, or unit web page. Additionally, any service member who has received notice that NJP is contemplated against them must be made aware of the regulations by either being directed to the regulations or being provided with a hard copy. The Trial Defense Services (Army) or Area Defense Counsel (Air) and any other component with a defense counsel capability must have access to the regulations. It is incumbent on commanders, at all levels, to ensure that all service members understand the NJP is in effect.

4. For tracking purposes, I am directing that subordinate units forward monthly statistical information through their higher commands to the component commanders (Enclosure 2). The statistical information is required regardless of whether the member was found guilty or not guilty of the charged offense. At a minimum, the statistical information must include the rank of the accused, the dates of the first and second readings, the alleged offense, the offense the member was found guilty of committing if any, and the punishment imposed if any. This information shall not be used by higher commands to direct subordinate commanders to dispose of a case in a particular manner.

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5. Military courts have often emphasized that unlawful command influence (UCI) is the mortal enemy of military justice. Commanders must temporarily shift their mind-set when it comes to military justice, to include NJP. In regard to military justice, commanders play a quasi-judicial role within the military justice system that precludes commanders from directing subordinate commanders in the way that they might otherwise do in routine operations. Commanders at all levels should read the general principles contained in the *The Military Commander and the Law*, 12th Edition, 2014 (Air, starting at page 17,) and the 2015 Commander's Legal Handbook (Army, starting on page 17). These publications can be found on the internet or from your servicing Judge Advocate.
6. By way of this memorandum, I am withholding jurisdiction on the imposition of NJP upon officers in the grade of O-6 and above. Subordinate commands may also withhold jurisdiction as they feel necessary as long as the withholding does not conflict with a higher command. Again, I recommend that you consult with your servicing Judge Advocate on this issue.
7. If you have any further questions regarding the NJP regulations or the ACMJ, please contact your servicing Judge Advocate.
8. The point of contact for this memorandum is LTC Chris Weaver, State Judge Advocate, at 907-428-6989 or christopher.j.weaver12.mil@mail.mil.

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1. Alaska Non-Judicial Punishment Regulation, dtd 01 December 2016
2. Template for tracking NJP statistics


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