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Law Enforcement

**YOKOTA CONDUCT ADJUDICATION
PROGRAM (YCAP)**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFPD 31-2, *Law Enforcement*. It establishes the Yokota Conduct Adjudication Program (YCAP) to provide multi-disciplinary services and assistance to individuals and families experiencing problems in their personal, family, or community lives, particularly as it relates to civilian and family member misconduct. The Air Force must provide safe and secure living and working conditions for its members and their families. The YCAP is intended to provide standardized services and procedures for dealing with civilian misconduct on Yokota Air Base (AB). This instruction applies to all military dependents and civilians subject to the Status of Forces Agreement (SOFA), regardless of service affiliation, who are stationed at, reside on, or work at Yokota AB, to include Tama Recreation Facility. Department of Defense (DoD) civilian employees may be subject to disciplinary or adverse actions under appropriate guidance.

SUMMARY OF REVISIONS

This document is substantially revised and must be completely reviewed. It supersedes 374 AWI 51-901, *Yokota Youth Development Program (YYDP)*, and establishes the YCAP. The program is expanded to include both adult and minor dependent misconduct, misconduct committed by contractor employees who are provided logistic support privileges, and off-duty misconduct committed by civilian employees. In addition, the program increases the importance of creating a partnership with the sponsor and command in determining the appropriate response to misconduct. New or revised material is indicated by a (|).

1. General.

1.1. The SOFA governs jurisdiction of all criminal offenses committed in Japan by family members of armed forces personnel, DoD employees, and contractors provided logistic support privileges. Additionally, acts of misconduct by family members and DoD civilians are subject to administrative sanctions under the provisions of this instruction, and applicable disciplinary or adverse action guide-

lines, regardless of any action taken by Japanese authorities. Failure of Japanese authorities to pursue jurisdiction against dependents of service members, DoD civilian employees, and contractors provided logistic support privileges does not preclude action under this instruction. Those individuals working on base but not receiving logistic support privileges may have their base pass privileges restricted and/or revoked or be recommended for barment when the misconduct is substantiated by the preponderance of evidence.

1.2. The YCAP is the direct responsibility of the 374th Support Group Commander (374 SPTG/CC), who delegates management and oversight of the program to the 374 SPTG Deputy Commander (374 SPTG/CD). The YCAP objectives are to:

1.2.1. Maintain good order and discipline in the Yokota AB community.

1.2.2. Participate with Yokota Cares and other community organizations to identify proactive means to reduce instances of civilian and family member misconduct that adversely impact the community.

1.2.3. Protect the well being of all personnel residing on Yokota AB.

1.2.4. Screen all acts of civilian misconduct.

1.2.5. Prevent further misconduct through aggressive preventive program action.

1.2.6. Whenever possible, effectively use base resources to provide individuals and families with the best possible referral and assistance services.

1.3. Misconduct refers to the following:

1.3.1. Conduct committed by dependents, off duty DoD employees, and contractors provided logistic support that violates United States or Japanese laws.

1.3.2. Violations of DoD, Air Force, Pacific Air Forces (PACAF), or Fifth Air Force (5 AF), or 374th Airlift Wing (374 AW) instructions and policies relating to dependent or civilian conduct.

1.3.3. Any conduct that negatively impacts good order and discipline in the Yokota AB community to include misconduct committed on or off base.

1.4. As a military community overseas, it is essential to maintain good order and discipline, and protect the welfare of the Yokota Community. By focusing on a strong partnership with the sponsor, chain of command, and base activities, the YCAP can best use the resources available to tailor administrative or rehabilitation actions to the individual, and provide the necessary counseling services to prevent future misconduct.

2. YCAP Management and Responsibilities.

2.1. 374 SPTG/CC. The 374 SPTG/CC directs activities of the YCAP to achieve the objectives stated above and serves as appeal authority on all actions taken under authority of the YCAP with the exception of barment action taken by the 374 AW Commander (374 AW/CC).

2.2. 374 SPTG/CD. The 374 SPTG/CD serves as the Civilian Misconduct Authority (CMA) and is responsible for the management and oversight of the program, to include making all findings of fact, directing all adverse administrative sanctions, and chairing formal reviews.

2.3. The YCAP Manager. The YCAP Manager, reporting to the 374 SPTG/CD, is responsible for the daily administration of the YCAP. The YCAP Manager serves as the primary advisor, point of contact, and administrative manager for the program.

2.4. Unit Commanders and First Sergeants. Ensure sponsors comply with the guidelines outlined in this instruction, partner with the YCAP and base service agencies to develop the appropriate response for the misconduct, and monitor completion of the required actions.

3. YCAP Procedures.

3.1. The YCAP Manager will screen all acts of dependent and civilian misconduct and obtain appropriate incident reports. After initial screening, the YCAP Manager will brief the 374 SPTG/CD and recommend an appropriate response to the misconduct issue.

3.1.1. The YCAP Manager will establish a case file on alleged offenders involved in misconduct.

3.1.2. The YCAP Manager will coordinate with the alleged offender and/or sponsor's unit of assignment (commander, first sergeant, and/or supervisor).

3.1.2.1. The YCAP Manager may coordinate with Department of Defense Dependents Schools (DoDDS) (when incident involves school-age dependent), 374th Medical Operations Squadron Behavioral Health (374 MDOS/SGOMH) and/or 374 MDOS Family Advocacy (374 MDOS/SGOMHF), 374th Mission Support Squadron Family Support Center (FSC) (374 MSS/DPF), 374 MSS Civilian Personnel Flight (374 MSS/DPC), 374 SPTG Services Division Human Resources Office (HRO) (374 SPTG/SVH), civilian supervisors, union representatives, contract officer's representatives, contracting officer's, and the 374 AW Staff Judge Advocate (374 AW/JA), as appropriate. The YCAP Manager may make inquiries regarding the alleged offender as deemed necessary to adjudicate the case and to provide the 374 SPTG/CD with sufficient information so that an informed decision regarding the misconduct issue can be made. The inquiry may include home visits (with unit representative), school visits, and coordination with other helping agencies on base. The YCAP Manager will inform the 374 SPTG/CD of the progress on each misconduct case initiated.

3.1.2.2. The YCAP Manager and/or 374 SPTG/CD will meet with the alleged offender, sponsor, and the sponsor's unit representative to discuss the alleged misconduct.

3.1.2.3. The alleged offender and/or the sponsor will be provided the opportunity of resolving the issue by submitting a plan outlining actions taken to correct the situation, identify community resources used, request enrollment of the alleged offender in the Community Supervision Program (CSP), and other actions taken to ensure no further acts of misconduct occur while the alleged offender remains at Yokota AB. This plan will be submitted through the alleged offender's and/or sponsor's chain of command for their endorsement. The alleged offender and/or the sponsor may also request a formal review with the 374 SPTG/CD.

3.1.2.4. The 374 SPTG/CD has the option of accepting, modifying, or rejecting the alleged offender's and/or sponsor's proposed plan. The 374 SPTG/CD may elect to resolve the misconduct issue via the formal review process.

3.1.2.5. The 374 SPTG/CD makes the final determination, in writing, on each misconduct case. Depending on the seriousness of the incident, the written decision may be presented to the offender and/or sponsor at a meeting with the 374 SPTG/CD, a meeting with the YCAP

Manager, or via e-mail.

3.2. Sanction options available to the YCAP include, but are not limited to, the following (with an objective to partner with the alleged offender and/or sponsor to determine the most effective program plan):

3.2.1. Minor Administrative Actions:

3.2.1.1. Counseling by the 374 SPTG/CD or YCAP Manager (this may not be necessary in cases where the actions already taken by the alleged offender and/or sponsor are deemed sufficient).

3.2.1.2. Remanding the alleged offender's logistic support privileges back to the sponsor to be used under the supervision of the sponsor in cases involving minors.

3.2.1.3. Letter of warning.

3.2.1.4. Enrollment in the CSP.

3.2.1.5. Curfew restriction (for minors).

3.2.1.6. Restriction to quarters unless under adult or sponsor supervision (for minors).

3.2.2. Adverse Administrative Sanctions:

3.2.2.1. Suspension of Army and Air Force Exchange Service (AAFES), commissary and/or Morale, Welfare, and Recreation (MWR) privileges (logistical support privileges), requiring the alleged offender to receive over stamped identification card.

3.2.2.2. Suspension of driving privileges.

3.2.2.3. Restriction to base.

3.2.2.4. Recommendation for barment.

3.2.3. Failure to make restitution for damages may be viewed as an aggravating factor by the 374 SPTG/CD when the misconduct case is adjudicated, and may be considered in administering more severe sanctions or recommendation for barment.

3.2.4. Other actions deemed appropriate by the 374 SPTG/CD.

3.3. CSP:

3.3.1. The YCAP Manager is responsible for designating appropriate CSP tasks and work sites. Unit commanders and first sergeants may suggest or request CSP tasks and work sites.

3.3.2. The YCAP Manager, through the first sergeant or unit representative, will monitor and ensure individual compliance with CSP enrollment, and will encourage sponsors of minor children to be present during the performance of CSP. The number of hours of community service is based on the seriousness of the misconduct and considerations of any previous pattern of misconduct (repeat offenders).

3.3.3. Parental supervision may be mandated by the 374 SPTG/CD as a condition for enrollment in the CSP for minors.

3.4. Access to Incident Reports.

3.4.1. The YCAP Manager and 374 SPTG/CD are not authorized to release police reports or reports of investigation to the alleged offender or the sponsor. Information may be summarized by the YCAP Manager or 374 SPTG/CD when meeting with the alleged offender and/or sponsor.

3.4.2. Individuals requesting copies of incident reports can obtain a redacted copy through the Freedom of Information Act (FOIA) process.

3.4.3. The YCAP Manager can provide the alleged offender and/or sponsor with a form letter to expedite obtaining a redacted copy of 374th Security Forces Squadron (374 SFS) Incident Report. For incidents involving investigative reports other than from 374 SFS, the YCAP Manager will direct the alleged offender or sponsor to the Freedom of Information Act Office (374th Communications Squadron Record Management [374 CS/SCSR]) for guidance on how to request a copy of the report.

4. YCAP Formal Reviews.

4.1. The YCAP formal reviews will be held as directed by the 374 SPTG/CD to determine the appropriate administrative action for cases of civilian and dependent misconduct. In general, a formal review is for more significant cases and/or where the facts regarding the misconduct allegation(s) are in question.

4.2. The 374 AW/JA will appoint a representative to serve as legal advisor to the YCAP. The YCAP legal advisor may be present during all formal reviews. The legal advisor will ensure that the YCAP receives appropriate legal advice and ensure that the rights of the individuals appearing before the formal review are protected.

4.3. Attendance at a YCAP formal review may consist of the following individuals:

4.3.1. Alleged offender.

4.3.2. Sponsor.

4.3.3. Commander, first sergeant, or designated unit representative or senior civilian representative, as appropriate.

4.3.4. Legal advisor.

4.3.5. The 374 SPTG/CD may have other individuals present to assist in determining the preponderance of evidence and/or in resolving the misconduct issue. This may include representatives from 374 SFS, FSC, 374 MDOS/SGOMH, and DoDDS. The 374 SPTG/CD may request additional information, documents, or witnesses, after the alleged offender's presentation.

4.4. The alleged offender and/or sponsor will have an opportunity to submit matters for the 374 SPTG/CD's consideration for the finding stage as well as the adjudication stage, if necessary. The 374 SPTG/CD will consider relevant matters into evidence. Relevant matters may include written documents as well as witnesses and oral statements. The alleged offender may request assistance from the YCAP Manager and 374 SPTG/CD to have witnesses available for the formal review.

4.5. The YCAP formal reviews will proceed as follows:

4.5.1. The YCAP Manager will present the allegation(s).

4.5.2. The alleged offender and/or sponsor will have an opportunity to make a presentation (to include written documents, witnesses, and oral statements).

4.5.3. The 374 SPTG/CD and his/her advisors may ask questions to help clarify information pertaining to the alleged misconduct.

4.5.4. The 374 SPTG/CD, with assistance from his or her advisors as required, will then determine if the preponderance of the evidence shows that the alleged offender committed the misconduct. A preponderance of evidence simply means the greater weight of credible evidence.

4.5.5. The 374 SPTG/CD will then make appropriate findings, which can include finding the alleged offender did not commit the alleged misconduct or finding that the alleged offender committed the alleged misconduct based on a preponderance of the evidence. If the 374 SPTG/CD finds that the alleged offender did not commit any misconduct, then the YCAP Manager will notify the alleged offender and/or sponsor of this finding, and no further action is necessary. If the 374 SPTG/CD finds the alleged offender committed any misconduct, then the 374 SPTG/CD will hear matters to determine the appropriate administrative or rehabilitative actions. Again, the alleged offender will be given the opportunity to introduce evidence for the 374 SPTG/CD's consideration.

4.5.6. The alleged offender and/or sponsor will be provided a preliminary program plan, setting out the appropriate administrative and/or rehabilitative actions, at the conclusion of the formal review to be followed up with a memorandum or e-mail message.

4.6. If the need for good order and discipline or the safety of the Yokota AB Community dictates that the 374 SPTG/CD take appropriate action immediately without having a formal review, the alleged offender will be given the opportunity to submit matters to the 374 SPTG/CD as soon as it is reasonably feasible thereafter.

5. YCAP Appeal Procedures.

5.1. The alleged offender and/or sponsor may appeal the findings of the 374 SPTG/CD. The appeal must be submitted in writing and must clearly state the reason for the appeal. The appeal must be endorsed by the alleged offender's and/or sponsor's chain of command and forwarded to the 374 SPTG/CD.

5.2. Appeals must be submitted in writing within 5 duty days of receipt of the disciplinary action memorandum, unless the 374 SPTG/CC approves a delay for good cause.

5.3. Requests for delay in submitting an appeal must also be in writing, endorsed by the alleged offender's and/or sponsor's chain of command, and must explain the reason(s) for delay in detail. Specifically, the alleged offender and/or sponsor must explain what factors beyond his or her control prevented him or her from appealing within the required time.

5.4. The 374 SPTG/CC will serve as appellate authority for all actions imposed by the YCAP Program except barment cases.

6. Barment Process.

6.1. The 374 AW/CC is the sole authority for barment from Yokota AB, Japan. Barment is considered when it is believed that the alleged offender's continued presence or access to Yokota AB would be detrimental to good order and discipline and/or create a significant negative impact on the welfare of the community. This could be the result of actions such as a pattern of misconduct without showing

signs of rehabilitation, or a single significant act of misconduct that indicates the safety or welfare of personnel are at risk.

6.2. The 374 SPTG/CD, in consultation with 374 AW/JA, will inform the alleged offender and/or sponsor in writing when barment is being considered. In certain cases, the sponsor may be afforded the opportunity to submit an early return of dependent(s) (ERD) application in lieu of barment consideration. If an ERD is approved and the alleged offender family member later returns to Yokota AB the case will automatically be reconsidered for barment.

6.3. Alleged offenders and/or sponsors will have 3 working days to submit their response to the proposed barment action. In the response, the alleged offender and/or sponsor may submit exculpatory or mitigating evidence. The alleged offender and/or sponsor may also submit alternatives to barment for consideration. The YCAP Manager is available to advise the alleged offender and/or sponsor on the type of information to be included in their response.

6.4. The 374 SPTG/CD will review the submitted material and determine whether or not to recommend barment to the 374 AW/CC or not. Alleged offenders and/or sponsors will be informed of the 374 SPTG/CD's recommendation before it is forwarded to the 374 AW/CC.

6.5. If the 374 SPTG/CD decides to recommend barment the YCAP Manager will prepare a recommendation for barment and forward that request to the 374 SPTG/CC for approval. This recommendation will summarize the misconduct issue(s) forming the basis of the barment recommendation and include the alleged offender's and/or sponsor's response, if any, to the barment recommendation.

6.6. After 374 SPTG/CC review, the recommendation will be forwarded to the 374 AW/JA for review. The 374 AW/JA will conduct a legal review to determine the appropriateness of the proposed barment action.

6.7. The 374 AW/JA will prepare AF Form 1768, **Staff Summary Sheet**, along with the proposed barment letter and forward them to the 374 AW/CC. The package will include the 374 SPTG/CD recommendation and the sponsor's response to the proposed barment.

6.7.1. If approved, the 374 AW/CC signs the barment notification and forwards the correspondence to the 374 SFS Reports and Analysis Section (374 SFS/SFAR), who in turn will serve the barment notification on the alleged offender and/or sponsor. The 374 SFS will provide the YCAP Manager with a copy of the barment notification.

6.7.2. If disapproved, the 374 AW/CC will provide the 374 SPTG/CD with the appropriate guidance.

6.8. The 374 AW/CC has sole authority to determine whether barment action is appropriate. Individuals do not have a right to a hearing before the 374 AW/CC in response to a notification of barment action. Because a barment indicates there is a significant risk to the Yokota Community, unless stated in the barment notification, there is no automatic appeal of a barment order, as the alleged offender's and/or sponsor's rebuttal to the barment recommendation is included in the package sent to the 374 AW/CC for decision.

7. Rights to Counsel.

7.1. The process of adjudicating civilian and dependent misconduct issues is an administrative process, not a legal proceeding. The YCAP Manager will explain the YCAP process to the alleged offender and/or sponsor and will assist them by providing guidance and suggestions.

7.2. Because the YCAP is an administrative process and not a legal proceeding, alleged offenders are not entitled to legal counsel. As such, the 374 AW/JA and the Area Defense Counsel are not authorized to represent the alleged offender. However, this does not limit an individual's authority to hire civilian counsel to assist in preparing for the review or for an appeal if they feel it is necessary.

7.3. While the 374 AW/JA can not represent an alleged offender, the legal advisor to the YCAP, as a neutral member, can answer legal questions the alleged offender has on a non-privileged basis, and may be available during all formal reviews. The legal advisor is tasked to ensure the rights of the alleged offender are not violated during the YCAP process.

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