

***Improper
Senior-Subordinate Relations
&
Fraternization
(ISSRFrat)***

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“Sex-Related Offenses Major Reason Behind Commander Dismissals” - 20 Jan 2013 (AP)

- “At least 30 percent of military commanders fired over the past eight years lost their jobs because of sexually related offenses, including harassment, adultery, **and improper relationships. . .**”
- Gen. Martin Dempsey . . . conclude[d] that while **training** is adequate, it may need to start earlier in service members' careers and be **reinforced more frequently**.

References

- *AR 600-20 (6 Nov 14)*
- *AFI 36-2909 (1 May 99, Inc. Supp. 17 Nov 11)*
- *OPNAVINST 5370.2C (26 Apr 07)*
- *MARCORMAN 1100.4 through 1100.6 (13 May 96)*

History of Current Policy

- Defense Secretary William S. Cohen appoints task force – June 1997.
- Task force examines each service's "Good Order and Discipline" offenses.
- Task force finds disparate treatment between services treatment of fraternization.

The DoD Guidance

“Service Secretaries will, by policy, prohibit personal relationships such as dating, sharing living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted regardless of their Service.”

Defense Secretary William S. Cohen, 29 Jul 98

The Current Army Policy Analysis

- **Part 1:** Is the relationship in a strictly prohibited category?
- **Part 2:** Are there adverse effects? (Actual, predictable, or perceived).
- **Part 3:** If NO to both part 1 and 2, relationship does *not* violate the policy.

The Current Army Policy Analysis

- Kept former “effects-based” analysis
- Added SECDEF status-based prohibitions
- Applies across service lines
- Gender-neutral
 - *Not just romantic associations*

Part I

STATUS BASED RULES

W-1	W-2	W-3	W-4	W-5
Warrant Officer (WO1)	Chief Warrant Officer (CW2)	Chief Warrant Officer (CW3)	Chief Warrant Officer (CW4)	Chief Warrant Officer (CWS)

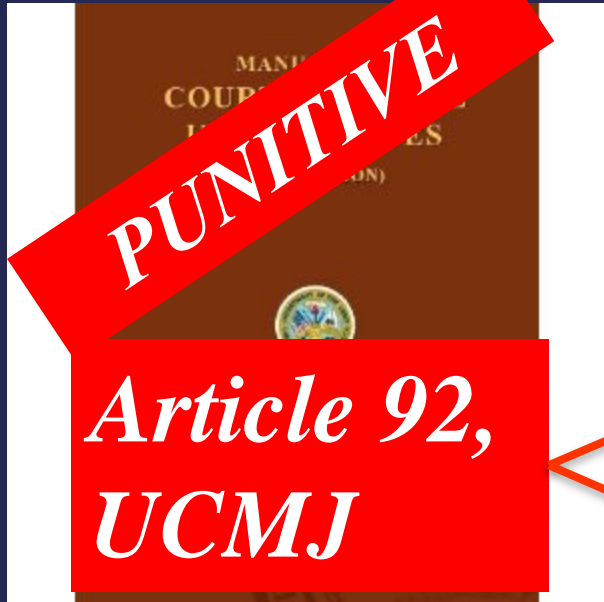
OFFICER										
0-1	0-2	0-3	0-4	0-5	0-6	0-7	0-8	0-9	0-10	SPECIAL
Second Lieutenant (2LT)	First Lieutenant (1LT)	Captain (CPT)	Major (MAJ)	Lieutenant Colonel (LTC)	Colonel (COL)	Brigadier General (BG)	Major General (MG)	Lieutenant General (LTG)	General (GEN)	General of the Army (GA)

ENLISTED												
E-1	E-2	E-3	E-4	E-5	E-6	E-7	E-8	E-9	Senior Enlisted Advisor			
Private E-1 (PV1)	Private E-2 (PV2)	Private First Class (PFC)	Corporal (CPL)	Specialist (SPC)	Sergeant (SGT)	Staff Sergeant (SSG)	Sergeant First Class (SFC)	Master Sergeant (MSG)	First Sergeant (1SG)	Sergeant Major (SGM)	Command Sergeant Major (CSM)	Sergeant Major of the Army (SMA)

Applicability

- “Officer” = Commissioned and Warrant
- “Noncommissioned officer” = corporal to CSM
- “Junior enlisted” = private to specialist

Rules' Applicability



PROHIBITED Officer/Enlisted Relationships



A New Distinction

4-14. Relationships between Soldiers of different grade

a. The term "officer" used in this paragraph includes both commissioned and WOs unless otherwise stated. The term "noncommissioned officer" refers to a Soldier in the grade of corporal to command sergeant major/sergeant major. The term "junior enlisted Soldier" refers to a Soldier in the grade of private to specialist. The provisions of this paragraph apply to both relationships between Soldiers in the Active and Reserve Components and between Soldiers and personnel of other military Services. This policy is effective immediately, except where noted below, and applies to opposite-gender relationships and same-gender relationships.

b. Soldiers of different grades must be cognizant that their interactions do not create an actual or clearly predictable perception of undue familiarity between an officer and an enlisted Soldier, or between an NCO and a junior-enlisted Soldier. Examples of familiarity between Soldiers that may become "undue" can include repeated visits to bars, nightclubs, eating establishments, or homes between an officer and an enlisted Soldier, or an NCO and a junior-enlisted Soldier, except for social gatherings, that involve an entire unit, office, or work section. All relationships between

c. Certain types of personal relationships between officers and enlisted Soldiers, or NCOs and junior enlisted Soldiers, are prohibited. Prohibited relationships include the following:

(a) When evidence of fraternization between an officer and enlisted member or an NCO and a junior enlisted Soldier prior to their marriage exists, their marriage does not preclude appropriate command action based on the prior fraternization. Commanders have a wide range of responses available including counseling, reprimand, order to cease, reassignment, administrative action, or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is appropriate. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied.

PROHIBITED

Junior Enlisted/NCO Relationships



Ongoing Business Relationships

- Broad: loaning/borrowing money, commercial solicitation, joint business venture.
- Exceptions:
 - Landlord/tenant relationships
 - One time transactions (ex. house or car sale)
 - For ARNG/USAR only, business relationships which exist due to their civilian occupation or employment

Gambling

- Gambling between officers/enlisted personnel and NCOs/junior enlisted is prohibited.
- What about team-building?



Personal Relationships

- Dating, **shared living accommodations**, and intimate or sexual relationships between officer & enlisted and junior enlisted & NCO

- Exceptions:

- Promotion of member
- Marriages



member (1 year)

- For ARNG/USAR only, relationships which exist due to their civilian occupation or employment

Other Prohibited Relationships

- Trainee (IET) / Permanent Party Soldier
 - *if not required by training mission, then relationship is prohibited*
- Recruit / Recruiter
 - *recruit = prospects, applicants, Delayed Entry/Training Programs.*
 - *if not required by recruiting mission, then relationship prohibited*

Part II

perception

equals

reality

5 ADVERSE EFFECTS

(Different Ranks)

- Compromise, or *appear* to compromise the integrity of supervisory authority;
- Cause actual/*perceived* partiality or unfairness;
- Involve/*appear* to involve improper use of rank;
- Are, or *perceived*, to be exploitative or coercive;
- Cause actual/*predictable* adverse impact on discipline, authority, morale, or mission accomplishment

Exceptions

- Policy is not intended to preclude normal team-building associations, such as:
 - community organizations
 - religious activities
 - unit social functions
 - athletic teams
 - family gatherings

PART III

Commander's Response

- Wide Range of Responses
 - *Counseling/training*
 - *administrative*
 - *non-judicial punishment*
 - *court-martial*
- Goal is to use level that is “warranted, appropriate, and fair” AR 600-20, 4-14(f)

Commanders Should:

- Consult with their legal advisor
- Use common sense
- Focus on parties' positions
 - Is there direct command or supervisory authority?
 - Can one party influence personnel/disciplinary actions of the other?
- Keep an open mind

Charging Options

- Fraternization (Art 134)
 - Dismissal, forfeitures, 2 years confinement
- Failure to obey general order or reg. (Art 92)
 - *AR 600-20 or local policies*
- Sexual Harassment (Art 93)
- Prohibited activities with military recruit or trainee by person in position of special trust (New Article 93a – NLT 1 January 2019)
- Conduct unbecoming an officer (Art 133)
- Adultery (Art 134)

Review

- First look to status:
 - OFF + ENL?
 - NCO + Junior ENL?
 - Recruit/Recruiter or Trainee/PP?
- Then look to effects (hurts mission/morale)
- USAR/NG have different considerations

Examples

- Army LT loans his PSG \$4 for lunch to cover him at McDonalds?
- Army MAJ, Navy E-6, dating?
- Army SPC and newly promoted CPL dating

Examples

LTC Thomas, a single male battalion commander, identified 2LT Adams, a single male on his staff, as an outstanding officer with much potential. He took pains to counsel him individually on his career progression, assigned him separate significant tasks, and advised his rater that he considered him particularly talented. At battalion social events, he always singled him out for discussions to the exclusion of other officers. He frequently invited him to attend staff meetings at brigade and division levels with him, although he did that for no other lieutenant. In general, junior officer morale was low because of the perceived unequal treatment.

Examples

1SG Hamilton and SPC Barbie are members of the same USAR unit. In their civilian employment they work for the same company and are good friends. Their company commander has received several complaints that 1SG Hamilton and SPC Barbie are always together and it is perceived by other members of the unit that 1SG Hamilton allows SPC Barbie to show up late and that there is preferential treatment.

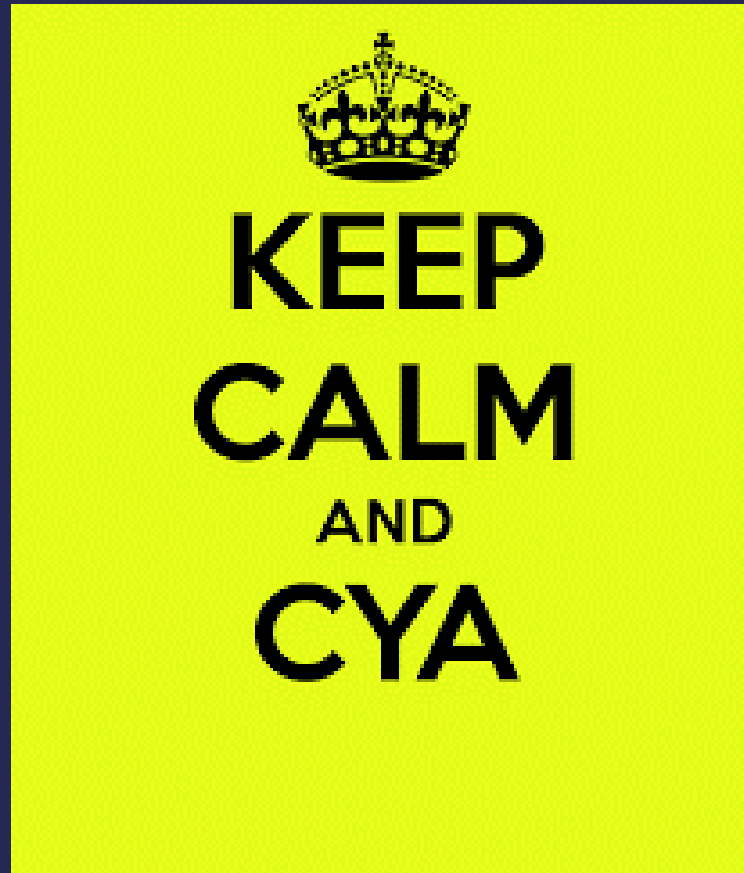
Examples

LTC Smith and CPT Goodman are in a relationship, but not in the same chain of command. When LTC Smith is assigned to 2-22 IN Battalion Command position at 10th Mountain, he requests that CPT Goodman be transferred to a company command position in 1-87 IN Battalion and works behind the scenes to make it happen. LTC Smith contends that CPT Goodman is qualified and ready for command.

“Professional and personal relationships”

- “Comradeship and brotherhood.”
- “Teacher and scholar.”
- “. . . responsibility on the part of officers . . .”
- “. . . a constant effort . . .”
- “Love of corps and country.”
- “Leadership.”

When in doubt...



(Call Your Attorney!)