



UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

JAN 16 2003


PERSONNEL AND
READINESS

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE

SUBJECT: Approval of Service Plans to Comply with the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict

The Senate gave its advice and consent to ratification of the Optional Protocol to the Convention on the Rights of the Child on Involvement of Children in Armed Conflict on June 18, 2002. The United States became a party to this protocol on December 23, 2002.

Attached are your respective plans to ensure compliance with the provisions of the protocol. They are hereby approved for implementation. Please take appropriate measures to ensure that your Military Department is in full compliance with the terms of the Optional Protocol to the Convention of the Rights of the Child on Involvement of Children in Armed Conflict no later than January 23, 2003.



David S. C. Chu

Attachments:

As stated

cc:

Chairman, Joint Chiefs of Staff



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DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

18 October 2002

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (FMP)

SUBJECT: Implementation of Service Procedures to Comply with
Child Soldier Treaty - Information Memorandum

In response to your memo of 21 Aug 02, the Department of the Navy has completed a review of both the Navy and Marine Corps implementation plans for this treaty. Both Services are in compliance with the requirements of the treaty and are able to sustain that compliance once the treaty becomes effective.

With regard to the additional guidelines in your memo to not unduly restrict areas and units to which 17 year-olds are assigned and to not put commanders in the field in the position of having to cull their troops of 17 year-olds, the Navy has modified its internal assignment policy to bolster the implementation plan previously promulgated in Feb 2001 (Attachment 1). This change in assignment policy prohibits assignment of individuals less than 18 years of age to ships and squadrons that are scheduled to deploy at a date earlier than the individual will reach 18 years of age. The Navy has sufficient non-near-term deploying units to preclude an adverse impact on readiness from this policy change.

The Marine Corps is in the process of establishing an implementation process that incorporates your guidelines while continuing to balance combat effectiveness and treaty compliance. The draft Marine Corps implementation plan is included at Attachment 2.

My staff point of contact for coordination is CDR Carl Murphy, 693-4489 or murphy.carl@hq.navy.mil.

William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Attachments:

- (1) Navy Implementation Plan (NAVADMIN 030/01 dtd 10 Feb 01)
- (2) (Draft) Marine Corps Implementation Plan



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
MANPOWER AND RESERVE AFFAIRS
111 ARMY PENTAGON
WASHINGTON, DC 20310-0111



REPLY TO
ATTENTION OF

September 30, 2002

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE
(FORCE MANAGEMENT POLICY)

SUBJECT: Implementation of Service Procedures to Comply with Child Soldier
Treaty—INFORMATION MEMORANDUM

Reference memorandum, ASD (FMP), August 21, 2002, subject as above.

The Army will implement the policy and procedures outlined at the enclosure. We believe the policy will ensure full compliance with Article I of the Convention on the Rights of the Child which requires "State Parties to take all feasible measures to ensure that members of their Armed Forces who have not attained the age of 18 years do not take a direct part in hostilities." Based on the small number of Army personnel affected (7 OCONUS permanent party soldiers were under age 18 as of July 31, 2002), coupled with the temporary ineligibility for assignment or deployment (less than six months), we foresee no appreciable readiness impact. Implementation of the Army policy should preclude our overseas commanders from having to continually screen their assigned personnel to determine who is under 18 years of age and then how to limit their duties during times of hostilities.

Dr. Naomi Verdugo is the point of contact. She can be reached at 703-695-4426 or by e-mail: Naomi.Verdugo@hqda.army.mil.

Reginald J. Brown
Assistant Secretary of the Army
(Manpower and Reserve Affairs)

Enclosure

CF:
DCSPER, G-1
Dir, ARNG
CAR

Navadmin 030-01 implement plan

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TO NAVADMIN

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UNCLAS //N03000//

NAVADMIN 030/01

MSGID/GENADMIN/N1//

SUBJ/IMPLEMENTATION PLANS FOR AGE 18 STANDARD FOR PARTICIPATION IN /COMBAT//

REF/A/DOC/CNO (N3N5L) MEMO NPM 266-00/01MAY2000//

AMPN/REF A IS CNO MEMO PROPOSING IMPLEMENTATION GUIDANCE FOR AGE 18 STANDARD FOR PARTICIPATION IN COMBAT//

RMKS/1. PROPOSED PROTOCOL TO U.N. CONVENTION ON THE RIGHTS OF THE CHILD PROVIDES THAT STATE PARTIES SHALL TAKE ALL FEASIBLE MEASURES TO ENSURE THAT MEMBERS OF THEIR ARMED FORCES WHO HAVE NOT ATTAINED THE AGE OF 18 YEARS DO NOT TAKE A DIRECT PART IN HOSTILITIES. FOR YOUR INFORMATION, THERE ARE ONLY 77 SAILORS ON ACTIVE DUTY UNDER THE AGE OF 18.

2. PER PROPOSED PROTOCOL, "ALL FEASIBLE MEASURES" ARE DEFINED AS "THOSE MEASURES WHICH ARE PRACTICABLE OR PRACTICALLY POSSIBLE TAKING

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INTO ACCOUNT ALL THE FACTS AND CIRCUMSTANCES KNOWN AND AVAILABLE TO THE AFFECTED COMMANDER OR OTHER OFFICIAL AT THE TIME, INCLUDING RELEVANT HUMANITARIAN AND MILITARY CONSIDERATIONS."

3. "DIRECT PART IN HOSTILITIES" IS DEFINED AS "IMMEDIATE AND ACTUAL PARTICIPATION IN COMBAT. THERE MUST BE A DIRECT CAUSAL CONNECTION BETWEEN THE ACTION OF THE SERVICEMEMBER AND THE HARM DONE TO THE ENEMY AT THAT PARTICULAR TIME AND PLACE."

4. SERVICEMEMBERS WHO HAVE NOT ATTAINED AGE 18 BY THE TIME THEY ARE ELIGIBLE FOR INITIAL ASSIGNMENT TO AN OPERATIONAL UNIT OF THE UNITED STATES NAVY MAY BE ASSIGNED TO SUCH UNITS PROVIDED THAT THE ASSIGNMENT WILL NOT RESULT IN THE SERVICEMEMBER BEING PLACED INTO IMMEDIATE AND ACTUAL PARTICIPATION IN COMBAT.

5. IF A SERVICEMEMBER WHO HAS NOT ATTAINED THE AGE OF 18 YEARS IS ASSIGNED TO AN OPERATIONAL UNIT OF THE UNITED STATES NAVY, THE SERVICEMEMBER MAY BE ASSIGNED DUTIES COMMENSURATE WITH HIS OR HER TRAINING AND ABILITY. IF THE OPERATIONAL UNIT IS DEPLOYED TO A POTENTIAL COMBAT SITUATION, THE COMMANDING OFFICER WILL ASSESS WHETHER THE SERVICEMEMBER'S DUTIES ARE SUCH THAT THE SERVICEMEMBER WILL BE DIRECTLY INVOLVED IN CAUSING HARM TO THE ENEMY, THAT IS, THE COMMANDING OFFICER DETERMINES THERE WILL BE A DIRECT CAUSAL

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CONNECTION BETWEEN THE ACTION OF THE SERVICEMEMBER AND THE HARM DONE

Navadmin 030-01 implement plan

TO THE ENEMY AT THAT PARTICULAR TIME AND PLACE.

6. BY WAY OF EXAMPLE, A SERVICEMEMBER WHO IS ASSIGNED GENERAL DUTIES WITHIN A WARSHIP DOES NOT, UNDER THE ABOVE STANDARD, HAVE A CAUSAL CONNECTION WITH THE HARM DONE TO THE ENEMY, WHEN THE WARSHIP INFLECTS HARM UPON THE ENEMY. SIMILARLY, A SERVICEMEMBER WHO IS UNDER INSTRUCTION LEARNING HOW TO HANDLE ORDNANCE, DOES NOT HAVE A CAUSAL CONNECTION WITH HARM DONE TO THE ENEMY WHEN THE SERVICEMEMBER ASSISTS IN LOADING ORDNANCE ON AN AIRCRAFT WHICH IS SUBSEQUENTLY USED TO INFLECT HARM UPON THE ENEMY. HOWEVER, A SERVICEMEMBER ISSUED A WEAPON AND ASSIGNED TO A LANDING FORCE DOES HAVE A CAUSAL CONNECTION TO HARM DONE TO THE ENEMY BY THAT LANDING FORCE.

7. IF THE COMMANDING OFFICER DETERMINES THE SERVICEMEMBER WILL TAKE A DIRECT PART IN HOSTILITIES, AS DEFINED ABOVE, THE COMMANDING OFFICER WILL, IF CIRCUMSTANCES PERMIT, EITHER ASSIGN THE SERVICEMEMBER DIFFERENT DUTIES OR TEMPORARILY TRANSFER THE SERVICEMEMBER FROM THE UNIT. IF CIRCUMSTANCES DO NOT PERMIT REASSIGNMENT OR TEMPORARY TRANSFER, THE COMMANDING OFFICER SHALL PROCEED WITH HIS OR HER MISSION AND FOLLOWING THE COMPLETION OF THE MISSION SHALL REPORT THE CIRCUMSTANCES SURROUNDING THE

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SERVICEMEMBER'S PARTICIPATION.

8. RELEASED BY VADM NORB RYAN, JR., N1.//

BT

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FR CMC WASHINGTON DC//MP//

TO MARADMIN

BT

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MARADMIN XXX/02

MSGID/GENADMIN//CMC (MPO-40)//

SUBJ/17 YEAR OLD MARINES IN COMBAT

REF/A/DOC/-/-//

REF/B/DOC/ODASD/21AUG2002//

NARR/REF A IS THE OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE CHILD ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICTS FROM THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, ENTERED INTO FORCE 12 FEB 02. REF B IS ODASD MEMO, IMPLEMENTATION OF SERVICE PROCEDURES TO COMPLY WITH THE CHILD SOLDIER TREATY.

POC/A.J. DYER/LTCOL/-/-/TEL:DSN 278-9386/TEL:COMM (703) 784-9386//

RMKS//1. PURPOSE. TO IMPLEMENT REQUIREMENTS OF REFS A AND B.

2. BACKGROUND. REFS A AND B STATE COMMANDERS SHALL TAKE ALL FEASIBLE MEASURES TO ENSURE THAT MARINES UNDER THE AGE OF 18 YEARS DO NOT TAKE A DIRECT PART IN HOSTILITIES.

3. "ALL FEASIBLE MEASURES" ARE DEFINED AS THOSE MEASURES WHICH ARE PRACTICABLE OR PRACTICALLY POSSIBLE, TAKING INTO ACCOUNT ALL THE FACTS AND CIRCUMSTANCES KNOWN AND AVAILABLE TO THE AFFECTED COMMANDER AT THE TIME, INCLUDING RELEVANT HUMANITARIAN AND MILITARY CONSIDERATIONS.

4. "DIRECT PART IN HOSTILITIES" IS DEFINED AS IMMEDIATE AND ACTUAL PARTICIPATION IN COMBAT ACTION. THERE MUST BE A DIRECT CAUSAL CONNECTION BETWEEN THE ACTION OF THE SERVICE MEMBER AND THE HARM DONE TO THE ENEMY. FOR EXAMPLE IT DOES NOT INCLUDE PARTICIPATION IN COMBAT SERVICE SUPPORT FUNCTIONS NOR COMBAT SERVICE SUPPORT UNITS. IT DOES INCLUDE ENGAGING AN ENEMY ON THE GROUND WITH INDIVIDUAL OR CREW SERVED WEAPONS, WHILE BEING EXPOSED TO HOSTILE FIRE.

5. THE FOLLOWING GUIDANCE IS PROVIDED TO ALL BATTALION/SQUADRON LEVEL COMMANDERS WHO HAVE 17 YEAR OLD MARINES IN THEIR COMMANDS:

A. BATTALION/SQUADRON OR EQUIVALENT LEVEL COMMANDERS ARE IN THE BEST POSITION TO MAINTAIN AWARENESS OF THE STATUS OF 17 YEAR OLDS IN THEIR UNITS AND THE MISSION AT HAND. THIS DOES NOT EXCUSE COMMANDERS AT OTHER LEVELS FROM MAINTAINING AWARENESS OF THEIR 17 YEAR OLD MARINES AND ASSISTING AND ADVISING BATTALION/SQUADRON LEVEL COMMANDERS IN COMPLYING WITH THE CONTENTS OF THIS MARADMIN.

B. BATTALION/SQUADRON LEVEL COMMANDERS SHOULD TAKE ALL FEASIBLE MEASURES TO ENSURE THAT 17 YEAR OLD MARINES DO NOT TAKE DIRECT PART IN HOSTILITIES. SAFEGUARDING AND PROTECTING 17 YEAR OLD MARINES, AS WITH ALL MARINES, IS OF THE UTMOST IMPORTANCE, BUT MUST NOT UNNECESSARILY INTERFERE WITH THE PRIMARY RESPONSIBILITY OF MISSION ACCOMPLISHMENT. MISSION ACCOMPLISHMENT AND WELFARE OF THE UNIT SHOULD BE FOREMOST IN THE MINDS OF THE COMMANDER.

C. THE COMMANDER SHOULD WEIGH THE MISSION REQUIREMENTS AGAINST THE

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PRACTICABILITY OF DIVERTING 17 YEAR OLD MARINES FROM COMBAT. FACTORS TO CONSIDER MAY INCLUDE, BUT ARE NOT LIMITED TO: THE TACTICAL SITUATION; THE MANPOWER NEEDS OF THE UNIT; THE DANGER TO THE SERVICEMEMBER; THE IMPACT ON UNIT COHESION IF THE SERVICEMEMBER WERE TO BE REMOVED FROM THE UNIT; THE REASONABLE ABILITY OF THE UNIT TO EXCLUDE THE 17 YEAR OLD MARINE FROM TAKING DIRECT PART IN HOSTILITIES; AND ANY OTHER RELEVANT CRITERION. THE COMMANDER ALONE IS RESPONSIBLE FOR DETERMINING THE CORRECT COURSE OF ACTION, IF ANY, BASED ON HIS ESTIMATE OF THE SITUATION AND HIS UNDERSTANDING OF THE PREVAILING CIRCUMSTANCES.

6. NOTHING IN THIS MARADMIN, OR REF A, SHALL BE CONSTRUED TO LIMIT A COMMANDER'S INHERENT AUTHORITY AND OBLIGATION TO USE ALL NECESSARY MEANS AVAILABLE, AND TO TAKE ALL APPROPRIATE ACTIONS IN SELF-DEFENSE OF THE COMMANDER'S UNIT AND OTHER US FORCES IN THE VICINITY, OR TO EXCLUDE 17 YEAR OLDS FROM ASSIGNMENT TO "V" UNITS.//

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DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

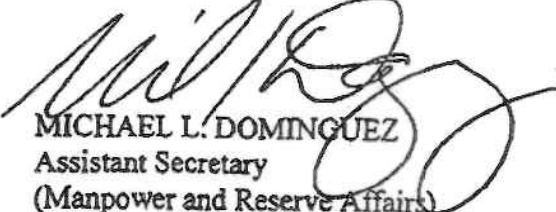
Office of the Assistant Secretary

26 SEP 2002

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE (FORCE
MANAGEMENT POLICY)

SUBJECT: Implementation of Service Procedures to Comply with Child Soldier Treaty
(Re: Yr 21 Aug 02 memo, Same Subject)

We reviewed our Child Soldier Treaty Implementation Plan in light of the additional guidelines suggested. We're satisfied the plan meets the spirit and intent of the treaty without the undue restrictions you noted. You will find the Air Force implementation plan at the attachment.



MICHAEL L. DOMINGUEZ
Assistant Secretary
(Manpower and Reserve Affairs)

Attachment:
Implementation Plan - Child Soldier Treaty

Air Force Implementation Plan - Child Soldier Treaty

Current AF policy designates minimum age for assignment to a Hostile Fire/Imminent Danger Area. AF Instruction 36-2110, paragraph 2.13 states, "AF members must be at least 18 years of age to be assigned (PCS or TDY) to a hostile fire/imminent danger area."

The AF is in the process of developing an Assignment Limitation Code and Deployment Availability Code for the military personnel data system that will be tied to an airman's date of birth when input at their accession point. These codes will prompt the assignment/deployment NCO to manually review the proposed assignment action and ensure an airman under the age of 18 is not being sent to a hostile fire/imminent danger area (as prescribed in DOD 7000.14-R, volume 7A.). Estimated completion date is 30 Jan 03. As an interim measure however, the assignment/deployment NCO will continue to "hand match" overseas assignments for all 17 year-old airmen until a system update can be programmed.



ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000



AUG 21 2002

FORCE MANAGEMENT
POLICY

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY FOR
MANPOWER AND RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE NAVY FOR
MANPOWER AND RESERVE AFFAIRS
ASSISTANT SECRETARY OF THE AIR FORCE FOR
MANPOWER AND RESERVE AFFAIRS

SUBJECT: Implementation of Service Procedures to Comply with Child Soldier Treaty

There has been considerable discussion concerning the Service plans to implement the provisions of the treaty. Much of the discussion has focused on two issues involving Service constraints on assigning 17-year-olds beyond what is really required by the treaty; and placing responsibility on commanders on the ground to make the decision on the duties of their 17-year-old service members during times of hostilities.

Before I approve your Service's implementation plans, I request you conduct a review of your plans in light of two additional guidelines:

- Do not unduly restrict areas and units to which 17-year olds are assigned beyond what is actually required by the terms of the treaty; and
- Do not put commanders in the field in the position of having to cull through their troops to determine who is under 18 and then how to limit their duties during times of hostilities.

I have also included the written statement from the Deputy Assistant Secretary of Defense for Negotiations Policy to the Senate Foreign Relations Committee for your information and use in your review.

Please submit the results of your review and a copy of your Service implementation plan no later than September 13, 2002.


Charles S. Abell

Attachments
As stated

