

# Where There's a Will, There's a Way: Command Authority over Juvenile Misconduct on Areas of Exclusive Federal Jurisdiction, and the Utilization of Juvenile Review Boards

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*We have a powerful potential in our youth, and we must have the courage to change old ideas and practices so that we may direct their power toward good ends.*<sup>1</sup>

## I. Introduction

A thirteen year-old girl shoplifts a magazine and a pair of headphones from the Post Exchange (PX) at Fort Wahoo. The girl is a dependent who lives on-post with her mother and two younger siblings: her father is currently deployed. Fort Wahoo is an exclusive federal jurisdiction installation, and the local U.S. Attorney's Office does not support prosecuting juveniles in federal court because of federal law limitations on juvenile prosecutions and insufficient time and resources. The Fort Wahoo Garrison Commander is upset because this is the fourth juvenile shoplifting incident at the PX this month and he wants to take action to address on-post juvenile misconduct, but feels like his hands are tied. What would you advise the Garrison Commander to do?

In 2011, nearly 1.5 million juveniles<sup>2</sup> were arrested in the United States, with "about 1 in 13 arrests for murder and 1 in 5 arrests for robbery, burglary, and larceny-theft."<sup>3</sup> While statistical data shows a decline in juvenile arrests during the last decade,<sup>4</sup> the reality remains that juveniles engage in criminal misconduct across the United States, and military installations are no exception. Commanders are responsible for the maintenance of good order and discipline

on military installations,<sup>5</sup> including juvenile misconduct. However, commanders at installations with exclusive federal jurisdiction face unique challenges.

The Federal Juvenile Delinquency Act<sup>6</sup> severely limits the authority to bring juvenile offenses before federal courts, resulting in infrequent court adjudication of on-post juvenile offenses. In the absence of federal court adjudication, commanders at exclusive federal jurisdiction installations are limited in their ability to handle on-post juvenile misconduct. In response, commanders at such installations are resorting to administrative alternatives, including juvenile review boards, to address juvenile misconduct.

Juvenile review boards<sup>7</sup> (JRBs) are non-adversarial administrative boards established to adjudicate cases of juvenile misconduct occurring on military installations, and are an effective administrative alternative for commanders to maintain control over on-post misconduct. Juvenile review boards promote command involvement in community safety and rehabilitation of juveniles on military installations, and can be used in coordination with state juvenile authorities, thereby reinforcing command involvement and responses to juvenile misconduct.<sup>8</sup>

This article discusses the utility of JRBs as an administrative alternative to the challenges of exercising command authority over juveniles in areas of exclusive federal jurisdiction.<sup>9</sup> Part II will address the specific challenges of exercising command authority over juvenile misconduct on installations with exclusive federal jurisdiction. Part III will examine JRB procedures, and current challenges based on data from select Army

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<sup>1</sup> Mary McLeod Bethune, *My Last Will and Testament*, available at <http://www.marybethuneacademy.org/My%20Last%20Will%20and%20Testament.pdf>.

<sup>2</sup> A juvenile is a person under eighteen years of age, the age "at which one should be treated as an adult by the criminal justice system . . ." BLACK'S LAW DICTIONARY 945 (9th ed. 2009).

<sup>3</sup> U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, JUVENILE ARRESTS 2011 5 (2013), available at <http://www.ojjdp.gov/pubs/244476.pdf> (last visited May 6, 2015).

<sup>4</sup> *Id.* at 4.

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<sup>5</sup> U.S. DEP'T OF ARMY, REG. 600-20, ARMY COMMAND POLICY para. 2-5b (6 Nov. 2014).

<sup>6</sup> Federal Juvenile Delinquency Act, 18 U.S.C. § 5031-5042 (2012) (establishing procedures for the treatment and prosecution of juveniles under federal jurisdiction who violate federal law).

<sup>7</sup> While this article refers to installation juvenile review boards and procedures in general, the boards exist under various titles across U.S. Army installations: namely, Juvenile Review Boards, Juvenile Disciplinary Control Boards, Juvenile Delinquency Programs, or Youth Intervention Programs.

<sup>8</sup> See discussion *infra* Part IV.B.

<sup>9</sup> This article does not address juvenile misconduct in areas of concurrent, partial, or proprietary jurisdiction, or outside the continental United States.

installations across the continental United States.<sup>10</sup> Lastly, Part IV will provide recommendations for improvement of JRBs and other courses of action to address juvenile misconduct on installations with exclusive federal jurisdiction.

## II. The Challenges of Command Authority over Juveniles in Federal Jurisdiction

### A. Understanding Exclusive Federal Jurisdiction

Jurisdiction is “[a] government’s general power to exercise authority over all persons and things within its territory,”<sup>11</sup> and legislative jurisdiction refers to the authority to make, execute, and enforce the law over a particular area of land.<sup>12</sup> There are several types of legislative jurisdiction found on military installations, including exclusive federal jurisdiction,<sup>13</sup> which can include all land within an installation, often called a federal enclave,<sup>14</sup> or be limited to a specific area within a mixed jurisdiction installation.<sup>15</sup> Although this article focuses on addressing juvenile misconduct on installations with exclusive federal jurisdiction, it is important, as a threshold matter, for judge advocates to know and understand which type of legislative jurisdiction exists and, therefore, which body of law applies on an installation.<sup>16</sup>

Exclusive federal jurisdiction is founded in the U.S. Constitution and exists on many military installations. Specifically, the Constitution grants Congress the power

to exercise exclusive Legislation in all Cases whatsoever, . . . as may, by Cession of particular states, and the Acceptance of

<sup>10</sup> The author conducted a survey of U.S. Army installations across the continental United States to gather research data on current command practices in addressing juvenile misconduct. The survey questionnaire and consolidated research data from responsive installations are captured in Appendices A-C.

<sup>11</sup> BLACK’S LAW DICTIONARY, *supra* note 2, at 927.

<sup>12</sup> U.S. DEP’T OF ARMY, REG. 405-20, FEDERAL LEGISLATIVE JURISDICTION para. 3a (21 Feb. 1974) [hereinafter AR 405-20]. Legislative jurisdiction is separate from subject matter jurisdiction, “which is dependent, not on [land] area, but upon subject matter and purpose, and which must be predicated upon some specific grant in the Constitution.” *Id.*

<sup>13</sup> *Id.* at 1, para. 3 (defining and discussing the four types of legislative jurisdiction).

<sup>14</sup> BLACK’S LAW DICTIONARY, *supra* note 2, at 606.

<sup>15</sup> For example, Fort Hood, Texas, and Fort Stewart, Georgia, are military installations made up of exclusive federal jurisdiction, while Fort Bragg, North Carolina, and Joint Base Lewis-McChord, Washington, are mixed jurisdiction installations, made up of areas of exclusive federal jurisdiction and concurrent jurisdiction. See, e.g., *infra* Appendix B (capturing installation data and responses to the author’s survey in Appendix A).

<sup>16</sup> As a practical tip, judge advocates should review and maintain copies of all relevant documents concerning an installation’s jurisdiction, including any purchase, acquisition, or retrocession documents.

Congress, become the seat of Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of forts, Magazines, Arsenals, dock-yards, and other needful Buildings.<sup>17</sup>

Pursuant to its Constitutional authority, the federal government may exercise legislative jurisdiction on a military installation when it acquires such jurisdiction by state consent to federal purchase of land, or by state cession of land to the federal government.<sup>18</sup> The federal government may also reserve exclusive legislative jurisdiction upon admission of a state into the Union.<sup>19</sup> Because the federal government can acquire property by various methods, legal advisors must be aware of the type of legislative jurisdiction accompanying each specific tract of land on an installation.<sup>20</sup>

Regardless of how acquired, where there is exclusive federal jurisdiction, the federal government has exclusive authority to enact, execute, and enforce laws to the exclusion of the state.<sup>21</sup> Congress may permit a state to exercise limited authority in areas of exclusive federal jurisdiction by granting such authority in a federal statute;<sup>22</sup> otherwise, a state may not interfere with federal functions on military installations.<sup>23</sup>

In the context of juvenile misconduct, the federal government recognizes a general policy of abstention from the prosecution of juveniles in federal court.<sup>24</sup> Federal

<sup>17</sup> U.S. CONST. art. I, § 8, cl. 17 (emphasis added).

<sup>18</sup> See Major Stephen E. Castlen & Lieutenant Colonel Gregory O. Block, *Exclusive Federal Legislative Jurisdiction: Get Rid of It!*, 154 MIL. L. REV. 113, 117 (1997) (discussing the historical background and methods of acquiring federal legislative jurisdiction, and providing recommendations to address challenges with exclusive federal legislative jurisdiction on military installations).

<sup>19</sup> U.S. ATTORNEY GEN., REPORT OF THE INTERDEPARTMENTAL COMMITTEE FOR THE STUDY OF JURISDICTION OVER FEDERAL AREAS WITHIN THE STATES, pt. II, at 43 (U.S. Government Printing Office 1957), citing *Ft. Leavenworth R. Co. v. Lowe*, 114 U.S. 525 (1885).

<sup>20</sup> Castlen & Block, *supra* note 18, at 118.

<sup>21</sup> AR 405-20, *supra* note 12, at 1, para. 3b. The exception to the Federal government’s exclusive authority in exclusive federal jurisdiction is the State’s authority to serve civil or criminal process. *Id.*

<sup>22</sup> *Id.* at 1, para. 3a.

<sup>23</sup> U.S. CONST. art. IV, cl. 2; see also *Ft. Leavenworth R. Co. v. Lowe*, 114 U.S. 525, 539 (1885) (holding that forts or buildings erected for federal government use on land within the limits of a state “will be free from any such interference and jurisdiction of the State as would destroy or impair their effective use from the purposes designed”).

<sup>24</sup> “The continuing basic premise of federal juvenile law is that juvenile matters, even those arising under federal law, should be handled by state authorities whenever possible.” CHARLES DOYLE, CONG. RESEARCH SERV., RL30822, JUVENILE DELINQUENTS AND FEDERAL CRIMINAL LAW: THE FEDERAL JUVENILE DELINQUENCY ACT AND RELATED MATTERS 3

abstention permits a state to assume authority over juvenile offenses in exclusive federal jurisdiction, with limited exceptions.<sup>25</sup> However, state assumption of jurisdiction over juveniles is within the discretion of the state, and outside the command's control.<sup>26</sup> Absent state assumption, installations with exclusive federal jurisdiction must resort to administrative command options, or persuade the U.S. Attorney General to adjudicate juvenile misconduct in federal court under the Federal Juvenile Delinquency Act.

## B. The Federal Juvenile Delinquency Act

Congress passed the Federal Juvenile Delinquency Act "to remove juveniles from the ordinary criminal process in order to avoid the stigma of a prior criminal conviction and to encourage treatment and rehabilitation."<sup>27</sup> The Act provides a non-criminal procedure for the treatment of juveniles under federal jurisdiction who violate federal law,<sup>28</sup> and a criminal procedure for prosecuting juveniles as adults. Specifically, juveniles<sup>29</sup> cannot be adjudicated as delinquents or criminally prosecuted in federal court unless the Attorney General certifies to the appropriate U.S. District Court that:

(1) the juvenile court or other appropriate court of a State does not have jurisdiction or refuses to assume jurisdiction, over said juvenile with respect to such alleged act of

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(2004), citing 18 U.S.C. § 5031 (2012); *see also* United States v. Juvenile Male, 864 F. 2d 641, 644 (9th Cir. 1988) ("The intent of federal laws concerning juveniles are to help ensure that state and local authorities would deal with juvenile offenders whenever possible, keeping juveniles away from the less appropriate federal channels since Congress' desire to channel juveniles into state and local treatment programs is clearly intended in the legislative history of 18 U.S.C.A. § 5032.").

<sup>25</sup> *See* discussion *infra* Part II.B.

<sup>26</sup> *See generally*, Appendix A *infra* (the author's survey revealed one of the challenges with handling juvenile misconduct on installations with exclusive federal jurisdiction is state court reluctance to assume jurisdiction over juvenile offenses). *But see* Attorney General of Georgia, Unofficial Opinion 2012-2 (June 14, 2012), *available at* <http://law.ga.gov/opinion/2012-2-0> (last visited May 6, 2015) (concluding that the Federal Juvenile Delinquency Act provides authority for Columbia County, Georgia, to assume jurisdiction over matters of juvenile delinquency occurring on Fort Gordon military installation, an exclusive federal legislative jurisdiction, except where the federal government exercises jurisdiction under 18 U.S.C. § 5032).

<sup>27</sup> United States v. Male Juvenile E.L.C., 396 F.3d 458 (1st Cir. 2005) (quoting United States v. Female Juvenile A.F.S., 377 F.3d 27, 32 (1st Cir. 2004) (citations omitted)).

<sup>28</sup> Jean M. Radler, Annotation, *Treatment, under Federal Juvenile Delinquency Act (18 U.S.C. §§ 5031-5042), of Juvenile Alleged to Have Violated Law of United States*, 137 A.L.R. FED. 481 (1997).

<sup>29</sup> The Federal Juvenile Delinquency Act defines a juvenile as "a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter . . . for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday." 18 U.S.C. § 5031 (2012).

juvenile delinquency, (2) the State does not have available programs and services adequate for the needs of juveniles, or (3) the offense charged is a crime of violence that is a felony . . . [or enumerated drug offense], and that there is a substantial Federal interest in the case or the offense to warrant the exercise of Federal jurisdiction.<sup>30</sup>

Without proper certification to the appropriate District Court, the juvenile "shall be surrendered to the appropriate legal authorities of the state."<sup>31</sup>

On exclusive federal jurisdiction installations, state court refusal to assume jurisdiction satisfies the first prong as a basis for certification, but still requires appropriate coordination and authorization by the Attorney General or an authorized designee.<sup>32</sup> Installations with felony prosecution programs can utilize attorneys and judge advocates assigned as Special Assistant U.S. Attorneys (SAUSA) to request prosecution of juvenile offenses in U.S. District Court.<sup>33</sup> The SAUSA must coordinate through the supervising U.S. Attorney's Office, for authorization and certification in the proper U.S. District Court. However, supervising federal attorneys often disapprove SAUSA requests for prosecution of juvenile cases in U.S. District Court due to lack of sufficient interest and resources, and the insignificance of juvenile offenses in relation to other crimes.<sup>34</sup> Thus, in the absence of state assumption or federal exercise of jurisdiction over on-post juvenile offenses, commanders must rely on administrative options within their command authority to address juvenile misconduct.

## C. Limitations of Command Authority and Administrative Options

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<sup>30</sup> 18 U.S.C. § 5032 (2012) (emphasis added). Under the plain language of the statute, certification only needs to satisfy one of the three prongs. As a matter of practice, each category should be addressed in the request for certification.

<sup>31</sup> Major Richard L. Palmatier, Jr., *Criminal Offenses by Juveniles on the Federal Installation: A Primer on 18 U.S.C. § 5032*, ARMY LAW. Jan. 1994, at 3, citing 18 U.S.C. § 5032 (2012).

<sup>32</sup> The Attorney General delegated authority over juvenile criminal proceedings to the Deputy Assistant Attorney General and the Assistant Attorney General (Criminal Division), with further delegation permissible. *See* United States v. Dennison, 652 F. Supp. 211, 213 (D.N.M. 1986); *see also* 28 C.F.R. § 0.57 (1992).

<sup>33</sup> U.S. DEP'T OF ARMY, REG. 27-10, MILITARY JUSTICE para. 23-3 (3 Oct. 2011).

<sup>34</sup> *See generally, infra* Appendices A-B (revealing several of the exclusive federal installations reported little to no court adjudication over on-post juvenile offenses, citing the local Assistant U.S. Attorney's lack of interest and resources in prosecuting juveniles).

Commanders have inherent authority to promote health, safety, morale, and welfare, and to maintain good order and discipline on their installations.<sup>35</sup> Generally, commanders can exercise their inherent authority to pursue criminal and administrative actions against personnel who commit misconduct. However, commanders have limited authority to pursue court adjudication of juveniles in areas of exclusive federal jurisdiction.<sup>36</sup> Without state or federal court adjudication, commanders rely on administrative actions to address on-post juvenile misconduct, including suspension or revocation of installation privileges and exclusion from the installation.

Installation communities are made up of military and civilian personnel, including service members, Family members, retirees, and visitors. While many of these personnel are eligible for Commissary, PX, and Morale, Welfare, and Recreation (MWR) privileges, such privileges are not absolute. Commanders have the authority to suspend or revoke installation privileges for abuse or misconduct,<sup>37</sup> and may exercise such authority in response to juvenile misconduct. Suspension of installation privileges allows the command to directly respond to on-post misconduct,<sup>38</sup> but requires ongoing coordination and cooperation between multiple agencies for imposition and enforcement of the suspension.<sup>39</sup> A juvenile review board can serve as a command mechanism with an established battle drill to consistently coordinate efforts between appropriate agencies and resources when revocation of privileges has been recommended.

In addition to suspension or revocation of installation privileges, commanders have broad proprietary authority to

exclude individuals, including juveniles, from installations and areas within their command.<sup>40</sup> Commanders also have statutory authority to exclude and criminalize unlawful entry or trespassing on the installation,<sup>41</sup> and can exercise such authority to bar unruly juveniles from the installation. Although barring juveniles from the installation may be an effective response to on-post juvenile misconduct by non-family members,<sup>42</sup> it can be an extreme hardship for juvenile Family members where the parents or military sponsors work, reside, or rely on the installation for school, medical, religious, and other essential services.

Despite best efforts, installations with exclusive federal jurisdiction continue to encounter difficulties with state and federal court adjudication and prosecution, suspension of privileges, and bars from the installation. As an alternative, many installations with exclusive federal jurisdiction are utilizing JRBs to address on-post juvenile misconduct.<sup>43</sup>

### III. Juvenile Review Boards: An Effective Response to Juvenile Misconduct

Juvenile review boards are a viable and effective option for commanders to address on-post juvenile misconduct. Commanders<sup>44</sup> generally establish JRBs by local, written regulation, and develop the boards as a non-adversarial method to assess reports of on-post juvenile misconduct,<sup>45</sup> the impact of misconduct on installation and community safety, and the extent to which installation resources are capable of addressing and preventing further misconduct. They provide an opportunity for the juvenile and the juvenile's military sponsors to appear and respond to allegations of misconduct. Juvenile review boards also

<sup>35</sup> While there is no general statutory command authority, the inherent authority for commanders to regulate the morale, safety, health, and good order and discipline of their installations is derived from case law. *See Greer v. Spock*, 424 U.S. 828 (1976) (“There is nothing in the constitution that disables a military commander from acting to avert what he perceives to be a clear danger to the loyalty, discipline, or morale of troops on the base under his command.”).

<sup>36</sup> *See* discussion *supra* Part II.A-B.

<sup>37</sup> *See* U.S. DEP’T OF ARMY, REG. 215-8, ARMY AND AIR FORCE EXCHANGE SERVICE OPERATIONS para. 7-6b (5 Oct. 2012) (“Garrison/ installation commanders will take appropriate action to include revoking or suspending exchange privileges.”); *see also* U.S. DEP’T OF ARMY, REG. 215-1, MILITARY MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES para. 7-4b (24 Sept. 2010) (“Patronage privileges will be suspended, terminated, or denied if the garrison commander (or designee) determines it to be in the best interest of an MWR program, the garrison/installation, or the Army.”).

<sup>38</sup> The author’s survey revealed the most common on-post juvenile offenses are larceny (e.g., shoplifting), and assault and battery. *See* Appendix A.

<sup>39</sup> For example, if a juvenile shoplifts at a PX, enforcement of a suspension of the juvenile’s PX privileges will likely require coordination between the command, installation law enforcement, Army and Air Force Exchange Service (AAFES) and its security or loss prevention personnel, the juvenile, and the juvenile’s military sponsor(s).

<sup>40</sup> *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 893 (1961) (acknowledging the “historically unquestioned power of a commanding officer summarily to exclude civilians from the area of his command”).

<sup>41</sup> *See* 18 U.S.C. § 1382 (2012) (prohibiting entry onto a military installation “for any purpose prohibited by law or lawful regulation;” or entering a military installation “after having been removed therefrom or ordered not to reenter by any officer or person in command thereof”). *Id.*

<sup>42</sup> In cases of on-post juvenile misconduct by non-family members (non-dependents), a Garrison Commander can release the juvenile to the military sponsor with a letter barring the juvenile’s presence on the installation and notice that re-entry or trespass onto the installation is criminally punishable under 18 U.S.C. § 1382.

<sup>43</sup> The responses to the author’s survey revealed thirteen of the seventeen installations with areas of exclusive federal jurisdiction use a juvenile review board or similar procedure to address on-post juvenile misconduct. *See, e.g., infra* Appendix C.

<sup>44</sup> The authority to establish JRBs often rests with garrison commanders, who can detail representatives from various installation directorates and support offices to serve as board members or to provide support services.

<sup>45</sup> Local JRB regulations direct how to file a report of juvenile misconduct, and often allow anyone with credible information to file a report with a designated person or agency, like the Provost Marshal’s Office.

make recommendations as to disposition, but final disposition authority rests with the board president, often the garrison commander.<sup>46</sup> Through JRBs, local commands, juveniles, and military sponsors can work together to address on-post misconduct and “avoid the need to resort to the juvenile justice system.”<sup>47</sup>

#### A. Achieving Command Interests in Maintaining Good Order and Discipline

While juvenile review boards may vary in title, size, and composition,<sup>48</sup> they commonly operate under the responsibility of the garrison commander,<sup>49</sup> and act independently from state or federal juvenile courts and agencies. This independent administrative authority enables commanders to achieve disciplinary interests by actively engaging board members, juveniles, and military sponsors in the assessment and disposition of juvenile misconduct, rather than relying on state or federal authorities to make assessments and take action that may not consider the installation’s interests in good order and discipline.

Independent authority also allows commanders to decide membership of the JRB. In deciding whom to appoint to a JRB, commanders often appoint representatives from directorates with consistent involvement in responding to on-post juvenile misconduct: namely, the Directorate of Emergency Services (DES) and Office of the Staff Judge Advocate (OSJA). A DES representative can provide the board with reports of misconduct, evidence, and community safety assessments, while a judge advocate from the installation OSJA can advise and assist the board in ensuring compliance with board procedures and applicable laws and regulations.<sup>50</sup> Unlike state or federal courts, criminal rules

of evidence do not apply to juvenile review boards, allowing the boards to consider all available evidence when assessing each report of juvenile misconduct.<sup>51</sup>

Independent command authority allows for freedom and flexibility in handling juvenile misconduct through juvenile review boards. However, JRBs are not limited to achieving command interests in discipline and safety. Commanders can also utilize juvenile review boards to support the rehabilitative needs of the juveniles on the installation.

#### B. Promoting Public Interest in Rehabilitating Wayward Juveniles

Through effective utilization of JRBs, commanders can promote the public interest in rehabilitating wayward juveniles for the benefit of the juvenile, the command, and the installation community. “The public recognizes a collective responsibility to intervene in the lives of delinquent and at-risk youths . . . .”<sup>52</sup> While maintaining good order and discipline is of primary importance to commanders, supporting the rehabilitation of juveniles engaged in on-post misconduct is also of great significance.

From frequent relocations to overseas deployments, military communities face unique challenges that affect their youth physically, mentally, and emotionally.<sup>53</sup> For some juveniles, the complexities of a military lifestyle, coupled with “youthful exuberance and a penchant for experimentation,”<sup>54</sup> can spur acts of defiance disguised as misconduct. With the support of the installation community,<sup>55</sup> commanders can utilize JRBs to positively

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Portability and Accountability Act (HIPAA) Privacy Rule. *See generally*, Privacy Act of 1974, Pub. L. No. 93-579, § 552a, 88 Stat. 1896 (2015) (recognizing individual privacy as a fundamental right, and regulating the collection, maintenance, use, and dissemination of personal information by federal executive branch agencies); *see also* Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, § 264, 110 Stat. 1936 (2015) (protecting, as a matter of privacy, individually identifiable health information).

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<sup>46</sup> *See, e.g.*, III CORPS AND FORT HOOD, REG. 210-1 YOUTH INTERVENTION PROGRAM (YIP) AND YOUTH REVIEW BOARD (YRB) para. 2b (29 July 2008), available at <http://www.hood.army.mil/dhr/asd/publications3.htm> (identifying the Fort Hood Garrison Commander as the approval authority for all actions, recommendations, and decisions of the YRB); *see also* U.S. ARMY GARRISON, FORT STEWART, REG. 15-7 JUVENILE DISCIPLINARY CONTROL BOARD para. 4c (12 Apr. 2010) (identifying the Garrison Commander, Hunter Army Airfield, as President of the Juvenile Disciplinary Control Board for Fort Stewart and Hunter Army Airfield, Georgia).

<sup>47</sup> ABA COMM. ON YOUTH AT RISK, THE CHALLENGES TO YOUTH IN MILITARY FAMILIES 8 (2007).

<sup>48</sup> For example, the Garrison Commander at Fort Benning appoints a single Juvenile Misconduct Action Authority (JMAA) to hear cases of juvenile misconduct referred by an Installation Hearing Officer. *See* U.S. ARMY MANEUVER CENTER OF EXCELLENCE, REG. 210-5 GARRISON REGULATION para. 7-1 (22 Feb. 2012). In contrast, Fort Campbell has a nine member Juvenile review board to hear cases of juvenile misconduct referred by the Garrison Commander, Juvenile Probation Officer, or Provost Marshal. *See* U.S. ARMY FORT CAMPBELL INSTALLATION, REG. 190-3 JUVENILE OFFENDER PROGRAM para. 3, 4h (1 Oct. 2013).

<sup>49</sup> *See supra* text accompanying note 46.

<sup>50</sup> For example, judge advocates can help ensure JRBs protect private information in accordance with the Privacy Act and the Health Insurance

<sup>51</sup> Although juvenile review boards may consider all available evidence, care must be taken to ensure the privacy of each juvenile, along with any individuals involved in the process, is adequately protected and any associated documents and evidence are properly safeguarded.

<sup>52</sup> Melissa M. Moon, Francis T. Cullen, & John Paul Wright, *It Takes a Village: Public Willingness to Help Wayward Youths*, YOUTH VIOLENCE AND JUVENILE JUSTICE, Jan. 2003, at 32.

<sup>53</sup> *See* ABA COMM. ON YOUTH AT RISK, *supra* note 47, at 3 (summarizing the contents of roundtable discussions on youth in military families, and recognizing the unique challenges present in the military lifestyle).

<sup>54</sup> ABA Comm. on Youth at Risk, *The Challenges to Youth in Military Families*, at 3 (June 2007).

<sup>55</sup> Research confirms that communities are supportive of government programs that provide early intervention with juvenile delinquency and help treat troubled youth. *See* Alex R. Piquero, Francis T. Cullen, James D. Unnever, Nicole L. Piquero, & Jill A. Gordon, *Never Too Late: Public Optimism About Juvenile Rehabilitation*, PUNISHMENT & SOCIETY, Apr. 2010, at 187, 198; *see also* Melissa M. Moon, Jody L. Sundt, Francis T.

promote intervention and rehabilitation of wayward juveniles.

Juvenile review boards can assist juveniles and their military sponsors in understanding how misconduct affects community health, safety, morale, and welfare on an installation. As juveniles appear before JRBs, board members can engage in open discussion about the juvenile's misconduct, and specifically address how the misconduct impacted any victims, the command, and the installation. Juvenile review boards can also help educate juveniles and the community on preventing juvenile misconduct by imposing community-focused outcomes tailored to the underlying juvenile misconduct.<sup>56</sup>

Research suggests that child abuse, maltreatment, and other family-related factors negatively affect child development and increase the risk of juvenile misconduct.<sup>57</sup> Garrison commanders can utilize JRBs to synchronize and direct the efforts of installation agencies and programs focused on child and family development, including Army Community Service,<sup>58</sup> Child, Youth, and School Services,<sup>59</sup> Family Advocacy,<sup>60</sup> and Morale, Welfare, and Recreation.<sup>61</sup>

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Cullen, & John Paul Wright, *Is Child Saving Dead? Public Support for Juvenile Rehabilitation*, CRIME & DELINQUENCY, Jan. 2000, at 38 (studying Tennessee residents to confirm public support for rehabilitation of juvenile offenders, but also recognizing public sentiment for punishment of juvenile offenders).

<sup>56</sup> For example, the JRB can require a juvenile who places graffiti on government property to repaint the property, thus tailoring the outcome to the misconduct while still focusing on the community.

<sup>57</sup> Alida V. Merlo & Peter J. Benekos, *Defining Juvenile Justice in the 21st Century*, YOUTH VIOLENCE AND JUVENILE JUSTICE, July 2003, at 276, 282, citing Richard Wiebush, Raelene Freitag, & Christopher Baird, *Preventing Delinquency Through Improved Child Protective Services*, U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, July 2001, available at [https://www.ncjrs.gov/html/ojjdp/jjbul2001\\_7\\_1/contents.html](https://www.ncjrs.gov/html/ojjdp/jjbul2001_7_1/contents.html) (last visited May 6, 2015).

<sup>58</sup> See U.S. DEP'T OF ARMY, REG. 608-1, ARMY COMMUNITY SERVICE para. 1-6 (13 Mar. 2013) (highlighting the Army Community Service mission is to “[f]acilitate the commander’s ability to provide comprehensive, standardized, coordinated, and responsive services that support Soldiers, Department of the Army civilians, and Families regardless of geographical location”).

<sup>59</sup> See U.S. DEP'T OF ARMY, REG. 215-1, MILITARY MORALE, WELFARE, AND RECREATION PROGRAMS AND NONAPPROPRIATED FUND INSTRUMENTALITIES para. 8-15 (24 Sept. 2010) [hereinafter AR 215-1] (discussing Child, Youth, and School Services, including Youth Services which “offer a range of positive activities for middle school youth and teens that promote healthy development and ease transition to adulthood”).

<sup>60</sup> See U.S. DEP'T OF ARMY, REG. 608-18, THE ARMY FAMILY ADVOCACY PROGRAM para. 1-6 (30 Oct. 2007) (RAR 13 Sept. 2011) (recognizing Family Advocacy Program objectives are “to prevent spouse and child abuse, . . . and to treat all family members affected by or involved in abuse”).

<sup>61</sup> See AR 215-1, *supra* note 59, at 2, para. 1-10 (noting the Morale, Welfare, and Recreation Program “[f]osters community pride, Soldier morale, and Family wellness” and “[e]ases the impact of unique aspects of military life, such as frequent relocations and deployment”).

In addition to installation programs, JRBs can also collaborate with available off-post resources, such as counseling services, mentorship programs, and youth camps,<sup>62</sup> to assess the needs of juveniles and to develop diverse and appropriate options for commanders to address juvenile misconduct. By integrating a variety of resources dedicated to youth and family support, JRBs can help identify contributing factors to juvenile misconduct, and recommend disposition options tailored to the misconduct and the rehabilitative needs of juveniles.

### C. Current Challenges Across the Field

Although many installations with juvenile review boards support the use of JRBs to address on-post juvenile misconduct,<sup>63</sup> several exclusive federal jurisdiction installations are experiencing challenges with the use of JRBs. These challenges include a lack of guidance or understanding of board procedures, poor participation and cooperation by a juvenile's parents or military sponsors in the juvenile review board process, and delays in convening juvenile review boards.<sup>64</sup> In the absence of corrective measures, these issues will likely continue to impact the use and effectiveness of JRBs in achieving command interests of good order and discipline and rehabilitation of juveniles on military installations.

In the establishment and execution of JRBs, commanders remain responsible for providing clear intent and purpose. However, a lack of clear guidance and understanding of the JRB process is one of the issues facing installations with exclusive federal jurisdiction.<sup>65</sup> Commanders and JRB members at some installations perceive JRBs as the only option to handle juvenile misconduct, and as having little to no enforcement authority for uncooperative juveniles.<sup>66</sup> Additionally, juveniles and their military sponsors are often uncertain of the non-punitive nature of JRBs, and unaware of commanders' authority to administratively handle misconduct on installations, including the authority to bar individuals from

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<sup>62</sup> Many national and local support groups offer counseling, mentorship, and services for military youth and families. See, e.g., MILITARY ONESOURCE, <https://www.militaryonesource.mil> (last visited May 7, 2015) (offering information and counseling services to military families on various topics); see also *Military Mentoring*, BIG BROTHERS BIG SISTERS OF AMERICA, <http://www.bbbs.org> (follow “Our Programs”; then follow “Whom We Serve”; then follow “Mentoring Military Children”) (last visited May 7, 2015).

<sup>63</sup> The author's survey revealed thirteen of the thirteen installations with exclusive federal jurisdiction and a current JRB recommend use of a JRB or similar procedure to address on-post juvenile misconduct. See, e.g., *infra* Appendix C.

<sup>64</sup> See, e.g., Appendix C *infra*.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

post.<sup>67</sup> Without a clear and concise purpose and commander's intent, members of the JRB and installation community are less likely to understand the board's utility, capability, and significance in addressing juvenile misconduct.

Families are a critical component to understanding and addressing juvenile misconduct,<sup>68</sup> and essential to the effectiveness of JRBs. The juvenile's family or community are often most aware of the specific issues affecting the juvenile, and can positively influence their behavior, intervention, and rehabilitation.<sup>69</sup> Yet, several installations encounter challenges with active sponsor involvement in JRBs, including failure to appear before the board, and lack of cooperation in determining and completing an appropriate disposition.<sup>70</sup>

Another challenge facing juvenile review boards is the delay between the date of the misconduct and the date of adjudication.<sup>71</sup> At several installations, JRBs meet infrequently, resulting in substantial delays in adjudication. In some cases, the delay from the date of the offense and the board meetings are so extensive that the juvenile and Family are no longer at the installation, resulting in no command action for the misconduct.<sup>72</sup>

In spite of current challenges, JRBs remain an effective course of action for commanders to address on-post juvenile misconduct on areas of exclusive federal jurisdiction. There is room for improvement, and judge advocates can help commanders, like the Fort Wahoo Garrison Commander, improve command responses to juvenile misconduct by drafting local JRB regulations with clear and concise guidance, and unambiguous provisions for mandatory parent or sponsor involvement and timely adjudication of JRBs.

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<sup>67</sup> In response to the author's survey, several installations noted that some parents and military sponsors are unaware of the administrative nature of JRBs and elect not to participate in board proceedings due to misperceptions of JRBs as a punitive process with potential long-term effects for juveniles. *Id.*

<sup>68</sup> Antoinette Davis, Angela Irvine, & Jason Ziedenberg, *Engaging Juvenile Justice System-Involved Families*, NATIONAL COUNCIL ON CRIME & DELINQUENCY, July 2003, at 2, available at [http://nccdglobal.org/sites/default/files/publication\\_pdf/engaging-justice-involved-families.pdf](http://nccdglobal.org/sites/default/files/publication_pdf/engaging-justice-involved-families.pdf). (encouraging the engagement of families in the treatment and rehabilitation of youthful offenders).

<sup>69</sup> *Id.* at 3.

<sup>70</sup> Several installations reported that parent or sponsor participation in juvenile review boards is not mandatory under the local policy or regulation, while others reported that enforcement of mandatory sponsor participation is challenging due to the harsh nature of enforcement mechanisms (e.g., barring the juvenile from post) and the parent or sponsor's unfamiliarity with the juvenile review board as an administrative, rather than punitive, process. *See, e.g.*, Appendix C *infra*.

<sup>71</sup> *Id.*

<sup>72</sup> This is as noted in installation responses to question 9b of the author's survey at Appendix A.

## IV. Where There's a Will, There's a Way

Although many installations with exclusive federal jurisdiction use JRBs to address on-post juvenile misconduct, several installations report either not having a JRB, or experiencing challenges with JRB procedures that interfere with command interests in good order and discipline and the public interest in rehabilitating juveniles.<sup>73</sup> Judge advocates can assist commanders in achieving those interests by drafting local JRB regulations that implement measures to improve JRB procedures. In addition to drafting clear regulations, judge advocates can further support command interests by advising commanders on state court assumption of jurisdiction over juvenile matters on the installation, or, where appropriate, retrocession of unnecessary exclusive federal jurisdiction to the states.

### A. Recommendations for Improvement of Juvenile Review Boards

#### 1. Draft Local Regulations with Clear Intent and Procedural Guidance

First, local regulations concerning JRBs should be in writing, easily accessible,<sup>74</sup> and include a commander's intent that is "easy to remember and clearly understood . . .".<sup>75</sup> The commander's intent should plainly state the JRB's purpose: a non-criminal, administrative procedure to address on-post juvenile misconduct without referring juveniles to juvenile or criminal court. It should also directly address the commander's desired end state: maintaining good order and discipline and community safety, while promoting the positive rehabilitation of juveniles engaging in misconduct on the installation.

Juvenile review board regulations should also contain clear procedural guidance, including which level of command will convene boards,<sup>76</sup> board membership,<sup>77</sup> how

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<sup>73</sup> *See, e.g.*, Appendix C *infra*.

<sup>74</sup> Local JRB regulations should be readily available to the installation community, and included among internet resources for installation publications. *See, e.g.*, III CORPS AND FORT HOOD, REG. 210-1 YOUTH INTERVENTION PROGRAM (YIP) AND YOUTH REVIEW BOARD (YRB) para. 2b (29 July 2008), available at <http://www.hood.army.mil/dhr/asd/publications3.htm> (publishing the local JRB regulation on the Fort Hood publications website).

<sup>75</sup> U.S. DEP'T OF ARMY, DOCTRINE REFERENCE PUB. 5-0, THE OPERATIONS PROCESS para. 1-19 (May 2012).

<sup>76</sup> *See supra* text accompanying note 46.

<sup>77</sup> *See infra* text accompanying note 80.

often boards will convene,<sup>78</sup> how juvenile misconduct is reported to the board, how notification is made to juveniles and military sponsors, how misconduct will be assessed, how disposition recommendations will be made, who the final disposition authority is, and what appeals process consists of.<sup>79</sup> Specifically, JRB procedures should direct which installation resources will provide representatives as members of the juvenile review board, and whether the board will convene regularly or as needed.<sup>80</sup> If not already part of the process, JRB procedures should require written notification to juveniles and their military sponsors of a report of misconduct, and direct appearance before the board.<sup>81</sup> The local JRB regulation should direct the board to consider all available evidence concerning the misconduct, including matters presented by the juvenile and sponsor, and to assess the seriousness of the misconduct, the impact of the misconduct on the installation, and the juvenile's rehabilitative potential. Upon completion of the assessment, the board should provide disposition recommendations to the garrison commander for final disposition as the board president, with a higher level commander as the appellate authority.<sup>82</sup>

Additionally, local JRB regulations should provide guidance concerning disposition recommendations to ensure they are tailored to the underlying misconduct and the juvenile's developmental needs, but also diverse and beneficial to the juvenile and the installation community. Options for disposition can include community service, letters of apology, victim restitution, curfew, restriction from a specific area on post, supervision, mentorship,<sup>83</sup> counseling for the juvenile and the juvenile's sponsor, suspension or revocation of installation privileges, and other administrative actions as appropriate.<sup>84</sup>

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<sup>78</sup> See discussion *infra* Part IV.A.3.

<sup>79</sup> See generally Major Dan Estaville & Major Brett Lamborn, *Handling Juvenile Misconduct on Post*, U.S. ARMY JAG CORPS (Feb. 24, 2014), <https://jagu.army.mil> (last visited May 6, 2015) (follow "JAGU Resources Streaming Media"; then follow "Admin & Civil Law"; then follow "Advanced Topics in Ad Law") (providing an overview of juvenile review boards and recommendations for procedures).

<sup>80</sup> See *id.* (discussing which installation agencies can offer helpful expertise to juvenile review boards, such as the Department of Emergency Services and Social Services, and whether to appoint agency representatives as standing or ad hoc board members).

<sup>81</sup> The notification should succinctly state the purpose of the juvenile review board in promoting good order and discipline and rehabilitating juveniles on the installation, and provide a date, time, and location for the board hearing, with acknowledgment signed by the juvenile and the sponsor, and returned within a specific timeframe. *Id.*; see also *infra* Part IV.A.2.

<sup>82</sup> See Estaville & Lamborn, *supra* note 79 (highlighting that the garrison commander often serves as the JRB president, and the commanding general or higher level commander serves as the JRB appellate authority).

<sup>83</sup> Installation programs like Better Opportunities for Single Soldiers (BOSS) promote mentorship of troubled youth, and can serve as positive resources for juveniles. AR 215-1, *supra* note 59, at 47, para. 8-1 d(3)(a).

With a clear, concise commander's intent and procedural guidance, juvenile review board members, juveniles, and military sponsors can better understand and appreciate the significance of juvenile review boards and more effectively adjudicate on-post misconduct.

## 2. Mandate Military Sponsor Involvement

"[F]amilies are vital to understanding and interrupting patterns of delinquent and criminal behavior,"<sup>85</sup> and should be involved in juvenile review boards to assist commanders in addressing juvenile misconduct. Commanders can improve family involvement in juvenile review boards by requiring juvenile and military sponsor appearance before the board. A juvenile's appearance before the JRB allows the board to determine whether the juvenile understands and accepts responsibility for misconduct, and the extent to which disposition options may further the command's interests in good order and discipline and rehabilitation.

In the written notification to the juvenile and sponsor, the commander should mandate appearance before the board, and clearly state that failure of the juvenile and his or her military sponsor to appear and cooperate in JRB proceedings may result in command action to bar the juvenile from the installation.<sup>86</sup> The notification should also emphasize the importance of the installation community working together with the Family to address the juvenile's misconduct and development, the opportunity for the juvenile to proceed with the juvenile review board in lieu of court adjudication, and the contact information to the supporting legal assistance office for independent legal advice if eligible.<sup>87</sup> This information can not only help juveniles and their sponsors understand the purpose of JRBs, but can also reaffirm the command's support of the military community and its juveniles.

## 3. Convene Boards in a Timely and Efficient Manner

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<sup>84</sup> Some juvenile review boards require juveniles to visit a local juvenile detention facility as part of a "scared straight" effort to encourage corrective behavior. See, e.g., U.S. ARMY GARRISON, FORT STEWART, REG. 15-7 JUVENILE DISCIPLINARY CONTROL BOARD Appendix D, para. n (12 Apr. 2010).

<sup>85</sup> Joseph P. Ryan & Huilan Yong, *Family Contact and Recidivism: A Longitudinal Study of Adjudicated Delinquents in Residential Care*, SOCIAL WORK RESEARCH, Mar. 2005, at 31, 38.

<sup>86</sup> The notification should also state that unlawful re-entry onto the installation after bar or removal may result in criminal prosecution under 18 U.S.C. § 1382.

<sup>87</sup> Judge advocates serving as JRB advisors should request support from supervising attorneys to provide legal assistance to eligible clients appearing before JRBs. See U.S. DEP'T OF ARMY, REG. 27-3, THE ARMY LEGAL ASSISTANCE PROGRAM para. 3-6g(1) (21 Feb. 1996) (RAR 13 Sept. 2011) (discussing legal assistance services for eligible clients on military administrative matters).



“In a setting in which any erosion of time available for rehabilitation may be viewed as a limitation of rehabilitative potential, the expansion of case processing time becomes a cause of concern.”<sup>88</sup> To address concerns with untimely juvenile review boards, judge advocates can help commanders develop ways to reduce total processing times, including convening JRBs on a regular basis and removing any quorum requirements.

While installations with little to no juvenile misconduct can convene juvenile review boards on an ad hoc basis, installations with frequent incidents of juvenile misconduct should convene JRBs at least once every two months, if not more often, to avoid creating a backlog of cases and efficiently move cases along for disposition and rehabilitation. Frequent JRB meetings can also help improve board efficiency by increasing board member interaction and providing more opportunities for members to understand the process and develop an internal battle rhythm in assessing juvenile misconduct and providing disposition recommendations.

While the specific facts and circumstances of each incident of misconduct are important in assessing misconduct and providing recommendations, commanders should direct JRBs to proceed efficiently and not delay boards on the basis of open or pending investigations where the pending matters are immaterial to the board’s purpose.<sup>89</sup> Commanders should direct a board member to conduct an initial review of evidence to ensure sufficient facts are available to proceed, rather than delay board proceedings until investigations are formally closed.<sup>90</sup> Additionally, commanders should examine the number of board members necessary for a quorum,<sup>91</sup> if any, since quorum requirements can further delay boards from proceeding in a timely manner.<sup>92</sup>

Judge advocates can help commanders tackle current challenges and improve the effectiveness of juvenile review boards by drafting regulations with clear intent and

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<sup>88</sup> Anne Rankin Mahoney, *Time and Process in Juvenile Court*, JUST. SYS. J. 39 (1985).

<sup>89</sup> For example, JRBs should proceed in the absence of a closed investigation if the investigation is merely pending a final clerical or administrative review, or correction of minor typographical errors.

<sup>90</sup> A DES representative may be the best person to make an initial assessment of evidence based on access to information on criminal investigations. If the misconduct is based on information from an administrative investigation, an OSJA representative may be the best person to make the initial assessment.

<sup>91</sup> A quorum is the minimum number of board members who must be present for a juvenile review board to convene. See BLACK’S LAW DICTIONARY, *supra* note 2, at 1370 (defining quorum in general).

<sup>92</sup> See Estaville & Lamborn, *supra* note 79 (recommending removal of quorum requirements to allow juvenile review boards to make forward progress).

procedural guidance, mandatory parent and sponsor participation in JRB proceedings, and timely processing. Still, commanders may be in search of procedures to complement JRBs, and judge advocates should be prepared to provide advice on supplemental efforts to address on-post juvenile misconduct.

## B. Additional Efforts: State Court Assumption and Federal Retrocession of Jurisdiction

In addition to utilizing juvenile review boards to address juvenile misconduct on areas of exclusive federal jurisdiction, commanders can request state court assumption of jurisdiction, or, where appropriate, pursue federal retrocession of exclusive federal legislative jurisdiction over juveniles.<sup>93</sup> In furtherance of federal policy towards juveniles,<sup>94</sup> installations with exclusive federal jurisdiction can request state assumption of jurisdiction to provide assistance with on-post juvenile offenses. Under this approach, state assumption and assistance complement a commander’s authority over juvenile misconduct by allowing commanders to handle on-post misconduct through JRBs, with the option of referral to state authorities for adjudication.<sup>95</sup> Juvenile review boards can still serve as the primary mechanism for the command to adjudicate juvenile misconduct, and if a juvenile and military sponsor refuse or fail to comply with the board, or if the board determines the nature of the misconduct warrants state adjudication or prosecution, the board can refer the juvenile to the state authorities. This joint approach serves the command interest in maintaining good order and discipline, promotes rehabilitation of juveniles, and acts as an enforcement mechanism for juvenile review boards, while working together with state and local resources.

Commanders at installations with limited personnel, training, and resources to address juvenile misconduct can also pursue retrocession of unnecessary exclusive federal legislative jurisdiction over juveniles to the state.<sup>96</sup> Under this approach, the installation commander initiates and submits a request for retrocession of exclusive federal

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<sup>93</sup> Army policy is to “retrocede unnecessary Federal legislative jurisdiction to the State concerned.” AR 405-20, *supra* note 12, at 2, para. 5.

<sup>94</sup> See *supra* text accompanying note 24.

<sup>95</sup> Attorney General of Georgia, *supra* note 26 (Fort Gordon, Georgia, entered into a Memorandum of Agreement with the Columbia County Juvenile Court for assumption of jurisdiction over matters of juvenile delinquency, which the Attorney General for the State of Georgia found permissible under the Federal Juvenile Delinquency Act.

<sup>96</sup> See 10 U.S.C. § 2683 (2012) (authorizing the “Secretary concerned” to relinquish “to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under his control in that State, Commonwealth, territory, or possession.”); see also Castlen & Block, *supra* note 18, at 127 (recommending retrocession to address challenges with juvenile prosecutions, among other issues, at installations with exclusive federal legislative jurisdictions).

jurisdiction, through the Corps of Engineers, to the Secretary of the Army for approval.<sup>97</sup> If retrocession is approved, the state assumes concurrent or a lesser degree of jurisdiction over the retroceded land.<sup>98</sup> While rarely pursued,<sup>99</sup> several installations have effectively retroceded jurisdiction over juvenile offenses to the state, thereby allowing the state to exercise concurrent jurisdiction over on-post juvenile misconduct.<sup>100</sup>

## V. Conclusion

Despite the challenges of handling juvenile misconduct on areas of exclusive federal jurisdiction, the Fort Wahoo Garrison Commander's hands are not tied. As the legal advisor, you should advise the Garrison Commander on the administrative options available to exercise command authority over on-post juvenile misconduct, especially the utilization of juvenile review boards. A juvenile review board allows the Garrison Commander to exercise his command authority independently from state or federal courts and agencies, and directly engage with juveniles and their military sponsors to maintain good order and discipline in the Fort Wahoo community. A juvenile review board also enables the command to work together with youth and family resources to promote public interests in rehabilitating wayward juveniles.

You can help the Fort Wahoo Garrison Commander execute an effective juvenile review board by drafting a local JRB regulation with clear intent and procedural guidance, mandatory parent and military sponsor participation, and timely and efficient processing. Additionally, you should advise the Garrison Commander to consider requesting state court assumption of jurisdiction over on-post juvenile offenses, or retrocession of unnecessary exclusive federal legislative jurisdiction to the states, if necessary, to address on-post juvenile misconduct. Whether operating wholly under command authority or together with state authorities, commanders at installations with exclusive federal jurisdiction like Fort Wahoo should implement and continue to make improvements to juvenile review boards.

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<sup>97</sup> AR 405-20, *supra* note 12, at 3, para. 8; *see also* Castlen & Block, *supra* note 18, at 135 (providing guidance on retrocession procedures).

<sup>98</sup> *See* Castlen & Block, *supra* note 18, at 138.

<sup>99</sup> *See id.* at 139 (recognizing “affirmative efforts to retrocede jurisdiction are slow to develop”).

<sup>100</sup> *See, e.g.*, Letter from the Honorable Gary Locke, Governor, State of Washington, to the Deputy Assistant Secretary (Installation and Housing), Department of the Army (6 Sept. 2000) (on file with the Office of the Staff Judge Advocate, Joint Base Lewis-McChord, Washington) (accepting the retrocession of exclusive federal legislative jurisdiction and establishment of concurrent juvenile legislative jurisdiction over Fort Lewis Military Reservation, Washington).