DEPARTMENT OF THE ARMY
UNITED STATES ARMY INTELLIGENCE CENTER AND FORT HUACHUCA
1903 HATFIELD STREET
FORT HUACHUCA ARIZONA 85613-7000

REPLY TO
ATTENTION OF

ATZS-CG 29 April 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: POLICY 137 – Repossession of Property Pursuant to Contract on Fort Huachuca

1. REFERENCES.

a. 18 U.S.C. §13, Assimilative Crimes Act.

b. 50 U.S.C. APP. §521 et al, The Soldiers and Sailors Civil Relief Act.

c. Arizona Revised Statutes § 47-9609, Secured party's right to take possession after default.

d. Arizona Revised Statues § 47-2A525, Lessor's right to possession of goods.

e. AR 27-40, Litigation, 19 Sep 94.

2. Many installment sales contracts or retail lease agreements contain provisions which allow creditors or lessors to repossess the property secured by the contract if the debtor does not pay their installments or otherwise does not perform their contractual requirements. The creditor/lessor is the sole determiner of whether the debtor has breached the contract. As such, these types of repossession are not official court processes. They are often called 'Self-Help' repossessions and are legal under Arizona law. These actions are legal only if the creditor/lessor or his agent effects the repossession without a breach of the peace. The act of repossession pursuant to contract is often done without the knowledge or consent of the debtor.

3. POLICY. It is my policy to provide a safe, orderly environment for all who live and work on the installation. Due to the possibility that repossession pursuant to contract may violate the protections of the Soldiers and Sailors Civil Relief Act, and given the heightened state of security, it is my policy to limit creditors' and lessors' right to repossession pursuant to contract on the installation. On Fort Huachuca, an area of exclusive Federal jurisdiction, creditors and lessors or their agents will only be allowed to repossess property pursuant to contract with the consent of the debtor. Any repossession pursuant to contract affected without the consent of the debtor will be considered a breach of the peace, and may result in the creditor or lessor being barred from conducting business on Fort Huachuca.

4. PROCEDURES. All creditors and lessors wishing to repossess property on Fort Huachuca must present the contractual documentation to the Office of the Staff Judge Advocate (OSJA). It

is my intent that repossessions pursuant to contract follow the same or similar rules as those wishing to serve process on Fort Huachuca under my Policy 114, State and Federal Court Service of Legal Process. The Staff Judge Advocate and the Provost Marshal shall promulgate specific procedures to implement this policy.

5. Commanders and staff who are contacted by any person for the purpose of effecting repossession pursuant to contract should refer the caller to OSJA. Ordinarily, to ensure the orderly administration of the installation, requests to effect repossession pursuant to contract will not be reviewed or accepted nor will the repossession be allowed outside of normal duty hours.

6. PROPONENT. Office of the Staff Judge Advocate. For further information, call the Military Justice Division at the OSJA at 533-0569.

BARBARA G. FAST
Major General, USA
Commanding

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