

# THE TENDENCY OF COMPLAINTS BY MALAYSIAN ARMY PERSONNEL TO THE LOCAL AUTHORITIES

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The Malaysian Army one of third service in the Malaysian Armed Forces that defends the land in the country. It's already 90<sup>th</sup> since 1933, the Malaysian Army is a modern and well-equipped force that is capable of conducting a range of operations, including conventional warfare, counter-insurgency operations, disaster relief, and humanitarian assistance.

The Malaysian Army also has an enforcement and investigation body that are responsible for ensuring discipline, law and order, and accountability within the military. This responsibility has been entrusted to the Royal Military Police Corps (RMPC) to enforce the laws, directives, regulations, and discipline of its members. The RMPC is a corps within the Army organization that has an exclusive and different role from other corps. It is based on police duties to enforce regulations in the Army and as a Combat Support element that plays a role in supporting military operations to achieve mission continuity.

The existence of an investigative organization in the service it is important to determine what aspects of the investigation can effectively implemented. This is relevant to current situation to prevent crime related to criminal acts with social problems that negatively affect military personnel. This responsibility has been entrusted to 48 Criminal Investigation Branch (48 CIB). 48 CIB is one of organization in RMPC with under command by Army Headquarters. 48 CIB is a unit that is responsible for providing investigative expertise on criminal cases that occur in peacetime and war. The branch's duties include aspects of detecting, preventing, and investigating as well as updating the Army's criminal records. Instead of 48 CIB, the Provost Marshal Branch, Malaysia Armed Forces (CPM ATM) also plays a similar role to the 48 CIB, but it focuses on offenses committed by personnel serving under the Malaysian Armed Forces HQ. Based on PMAT 5/06, 48 CIB is responsible for investigating criminal cases involving Army personnel. It plays a role in fulfilling the capabilities and needs of investigative tasks within the Army. The main objective is to investigate criminal offenses or offenses under the Armed Forces Act 1972 (Act AT 72) committed by any member who is subject to service law. It is also responsible for carrying

out tasks to combat crime, analyse crime data and provide advisory services to local authorities on crime trends and modus operandi in the area of responsibility.

Even though Malaysian Army has its own investigation body, there are still some personnel who tend to report to local authorities such Royal Malaysia Police (RMP), Malaysian Anti-Corruption Commission (MACC) and Islamic Religious Affairs rather than reported to unit commander, 48 CIB or CPM ATM. Statistic below shows cases investigated by local authorities involves by Army personnel. The data it's not conclusive because of it need more research. Table 1 below show data the possible cases can be investigate by our investigation body but investigate by local authorities.

Table 1 Statement of Cases Investigated by the Royal Malaysia Police (PDRM)

Ser	Year	Cases Involved Murder, Death, Rape	Offense Involved Civilian	Can be Investigate by 48 CIB/ CPM ATM but investigate by local authorities
(a)	(b)	(c)	(d)	(e)
1.	2018	17	28	22
2.	2019	12	27	13
3.	2020	7	51	12
4.	2021	9	40	18
5.	2022	11	32	5
Total		56	178	70

Source: Extract from Quarter Report from 2018 until 2022 by Provost Marshall Branch,  
Malaysian Armed Forces

According to Act AT 77 and PMAT 5-2006, there are cases need to investigate by local authorities which are; The offense involves a civilian who is not subject to the military law, Investigation of cases of treason, murder, manslaughter, or rape is conducted unless the offense is committed by an active-duty member serving outside the federation and it is advised by the Legal Office of the Malaysian Armed Forces or the respective service legal office after obtaining the approval of the Chief of Defence Force or the respective service chief. Even though the cases need to be investigate by local authorities, it also must be reported through existing chain of command.

For that situation, there are some questions that play in our minds, are our subordinate unaware of military legislation that can take action against offenders who do so?. In this essay I would discuss about the military legislation, factors why our subordinate willing to do and how to overcome this issue happened.

**Military legislation.** There are current instructions, rules, and guidelines about the procedure for reporting offenses committed by military personnel against victims who must also be as military personnel. Section 170 and Section 171 in Act AT 72 mentions, for officers and Other Ranks who are abused by their Superior Officers, it is permissible to make a complaint to the superior authority to investigate their allegations to seek any remedy against the complaint submitted to them. For example is if a person of private rank is abused by a Corporal in a barrack, the victim can report the action to a superior officer and he will investigate the charge and corrective action can be taken immediately.

**Order of the Armed Forces Council (PMAT) 5/2006- Investigation Procedures in the Malaysian Armed Forces.** It is the responsibility of the Commanders of the units to inform any offense according to the army personnel to the Provost Marshal's Branch, Malaysian Armed Forces or the 48 CIB. The Commander of units can request for investigative assistance if necessary. The Commanding Officer (CO) also can investigate the cases by itself by establishing a Board of Inquiry (BOI) to obtain the results of the investigation. Similarly, the 48 CIB conducts investigations in more detail if the case involves 5 categories of crime listed in PMAT 1/2022, such as against person, property, religious, governance and other crimes.

**Dissatisfied Complaints Through Chain of Command.** This directive was issued on 2 June 2000 by the Army Headquarters which outlined the prohibition of all Army personnel to make complaints directly to their superiors without following the chain of command. However, Army Personnel are allowed to make complaints directly to the 48 CIB for investigation assistance regarding all thing about crime or offence that Army Personnel are not satisfied with. This means that victims can make complaints without going through a superior officer if they feel that their complaints will not be entertained or there is a local interest in the case they are facing.

**Reporting of Criminal Cases and Disciplinary Violations through Chain of Command.** The directive was issued on 1 August 2019 by the Army Headquarters which emphasizes on the rules and procedures for reporting or complaining of criminal cases as well as prohibiting the act of complaining directly either through letters, social media or the Local Authority without first going through the prescribed complaint/ chain of Command. Is an act that violates the rules and regulations of the Armed Forces.

The Army has issued instructions to all Commanders to implement this from happening. Reporting to local authorities can tarnish the image of the Army and give a negative perception to the Army institution where the Army is a complete fist, and it will also show the weakness of the Army from controlling this to happen. There are a number of other factors that may contribute to the tendency of Malaysian Army personnel to complain to the local authorities. These factors include **Neutral Agency - Easy, Friendly and Quick to Get Attention**. Army personnel are more comfortable and easier to make a police report as compared to making a report to the units need to thru chain of command which will take time for action to be taken. Moreover, Army personnel will feel safer because they think the action would be taken for those who made a report. The police are also an impartial body that is believed to provide justice to the members involved. The perception that the local authorities are more likely to be sympathetic to the concerns of Army personnel than his superior.

**Unfairly Treated.** One reason is that they feel that they are not being treated fairly. There is a case where the personnel reported to his superior, but the punishment given not equal with the offense that has been committed. They also feel that they are not being given the opportunity to voice their concerns. They may feel that their superiors are not listening to them, or that they are not being given a fair hearing.

**The Power of Viral.** We cannot deny the strong influence of social media in this Generation - Z. There have also been cases that have gone viral on social media, leading the police to investigate based on reports received from the public. For example, there was a viral case at the Army Basic Training Center (PUSASDA) where the police investigated an alleged assault on a trainee at the training center. This case gained widespread attention on Facebook.

**Influenced by Friends and Family.** There were also cases where Army personnel lodged police reports because of the influence and insistence from friends and family without first referring to the units Commanders. Friends and family are more confident in the police investigation than the units Commanders to investigation. There was a case where the brother of a victim had to file a police report because his younger sibling was being physically assaulted and threatened every day by senior members at the camp. In addition to that, there have also been cases involving military personnel and civilians, such as a rape case where the victim (a civilian) reported military personnel who raped her based on the advice of her family rather than reported to 48 CIB or the unit.

**There Don't Know How and Where to Lodge the Report.** Most military personnel do not read the instructions issued by the Army HQ on how to report disciplinary offenses. When an incident occurs, members tend to confide in their families rather than reporting it to their superiors. Family members also do not know how to report such offenses to the military because they do not understand the chain of command system. They are also unaware of the existence of the 48 CIB or CPM ATM. There are also cases involving civilians, such as rape cases where the victims are civilians. Civilians are only aware that all criminal cases should be reported to the police. They are unaware that such cases can also be reported to the 48 CIB or CPM ATM.

**Weaknesses in the Implementation of the Regimental Command System at the units Level.** Regimental Command System such as work entry parade, duty leave parade, sports parade, prayer parade at the unit level provide space for subordinate to communicate and inform the problems faced by them. This activity will strengthen values such as cooperation, sense of belonging and team spirit. Weaknesses in the implementation of the Regimental Command System are not able to shape those values.

The tendency of Malaysian Army personnel to complain to the local authorities can have a number of negative consequences. It can damage the morale of the troops, it can undermine the authority of the chain of command, and it can make it difficult for the Army to function effectively. In some cases, the complaints can even lead to violence. As a Units Commanders, it is a big challenge to influence they subordinate to report any case to the units or investigation branch instead of making a police report. Therefore, every leader at all levels

must play a role so that subordinates are confident and able to report any criminal behaviour that causes them to be physically, mentally, and emotionally threatened. There are a number of things that can be done to address the tendency of Malaysian Army personnel to complain to the local authorities.

**Standard Operating Procedure (SOP) of Units Regarding the Rules of Reporting Offenses.** SOP are created and must be implemented by all members within the force. SOPs are established to provide guidance and instructions to the members. The spirit of the SOP is to make sure the Army personnel using they chain of command. This is to ensure that the Commanders of the unit obtains early information and doing early investigation about the cases. If the cases have a sign of criminal, the Commanders should report to 48 SIB so that the cases can be investigate in a proper way. It also allows the units to keep evidence or witnesses to assist in the investigation that will be carried out. The units can report incidents/cases to superiors. Compared to now the units obtains information late and sometimes through social media. Disciplinary action can be taken if the subordinate unable to comply the SOP.

**Strengthens the Integrity of the organization by implementing and rejuvenating the Regimental Command System.** The spirit of Esprit De Corps which is the value of cooperation, belonging and team spirit needs to be strengthened by all levels of Commanders in the units. Our Subordinate need to be approached and known to reduce communication gaps. As a commander's building trust and confidence among the members towards their leaders is essential. We are well aware that trust and confidence can motivate them to perform their duties with utmost sincerity. Subordinate welfare issues such as residence, family, career, salary, leave, personal equipment and conducive work environment should be given priority in line with the Regimental Command System. The units also needs to take action transparently and promptly on all reports made by their subordinate. This move will give confidence to the members that they are valued and of course they have confidence in the units Commanders to protect their right to justice. This confidence is certain that our subordinate will report any incident/case to the Units Commanders in advance to obtain advice before reporting to the police.

**Educate Army personnel about their rights and responsibilities.** Efforts need to be intensified to educate all subordinate of the units especially other rank to make sure that they are aware of the basic rights and responsibilities that are outlined in the Federal Constitution and in the Malaysian Armed Forces Act. This lack of understanding and distrust of the Army personnel towards the military justice system caused them to choose the easy way by choosing to make a police report instead of making a report through chain of command. Indeed, the existing military justice system is to protect the rights of justice to all Army personnel of the military if fully implemented by the commander of the units. There are many different ways to educate Army personnel about their rights and responsibilities. It can be applied through the courses at the Army Training Center such as Other Rank Army College which are attended by all personnel from various corps. It also can be added to any Senior Rank course conduct in Corps Training Center. It is time all of us especially other rank need to know their rights in the service and not just rely on Officers on the units. Instead of learning, we need to make sure that Army personnel know that they can ask questions about their rights and responsibilities. This can be done by providing them with a contact number or email address for a legal advisor. Create an environment in which Army personnel feel comfortable speaking up about their concerns. This can be done by establishing a clear grievance procedure and by ensuring that the chain of command is responsive to the concerns of the troops. By taking these steps, the Malaysian Army can help to ensure that its personnel are aware of their rights and responsibilities. This can help to prevent misunderstandings and to ensure that complaints are made in a constructive manner.

**Open and Transparent Environment.** One of the best ways to create a more open and transparent environment in which Army personnel feel that they can voice their concerns without fear of reprisal is to establish a clear grievance procedure. A grievance procedure is a formal process that allows Army personnel to raise concerns about their treatment or working conditions. The grievance procedure should be easy to understand and should be accessible to all Army personnel. In addition to establishing a clear grievance procedure, it is also important to ensure that the chain of command is responsive to the concerns of the troops. This means that when an Army personnel raises a concern, their superiors should listen to them and take their concerns seriously. It also means that the superiors should take steps to address the concerns, even if they cannot agree with the Army personnel. This will give confidence to all members to report incidents or cases to their superior. There is no

favouritism or public interest in the case being trial by them. It is also important to create a culture of trust and respect in the Army. This means that Army personnel should feel comfortable speaking up about their concerns, even if they are critical of the Army or its leadership. It also means that the Army should be willing to listen to the concerns of its personnel and to take steps to address them.

To understand the real factors, a scientific study needs to be conducted to identify the factors of the tendency of Army personnel to report to police and propose a solution. In a nutshell, tendency of complaints by Malaysian Army Personnel to the local authorities are even worse using other channels such as politicians and civil servants in certain ministries. It is even more disappointing when certain parties believe that military personnel themselves do not have faith in the military system and are not sensitive to the existing administrative and legal systems. Army Officers and subordinate need to be educated and exposed to the existing rules in relation to complaints. Misconduct and abuse by anyone against any member of the Army must be reported to superiors for the common good. However, such complaints must be in accordance with existing laws and military regulations. The Superior Commanders of the Army takes this problem seriously; all Commander Units need to declare the existing instructions in the standing orders of the units. Therefore, with this declaration, Army personnel who fail to report in accordance with the procedures set by the service can be charged under Section 51 in Malaysian Armed Forces Law 1972, which is the offense of non-compliance with standing orders.

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