

## ANALYSIS OF TRIAL COURT STRUCTURES

### MILITARY

1. NON-JUDICIAL PUNISHMENT: Punishment under Article 15 of the Uniform Code of Military Justice. Imposed by commanding officer for minor offenses. Punishment may include forfeitures of not to exceed a total of one month's pay, reduction in rank, restriction but not confinement. Not a permanent conviction of record. Accused has option to refuse this punishment, but refusal may result in commanding officer's preferring court-martial charges.
2. SUMMARY COURT-MARTIAL: Trial by one commissioned officer who need not be a lawyer. If the accused is convicted it will be a conviction of record. Punishment may not exceed 30 days confinement, and may include reduction and forfeitures of not to exceed 2/3's of one month's pay. No counsel is furnished for prosecution or defense, but the summary court officer is charged with protecting the accused's rights. Accused has the option to refuse trial by summary court-martial, but refusal may result in the charges being referred to a higher level court-martial.
3. SPECIAL COURT-MARTIAL: This court may consist of a military judge and three or more members (jurors) or three or more members without a military judge. If a military judge presides, the accused may request trial by the judge alone. Except in very

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1. No exact parallel in civil jurisdiction, but somewhat similar to imposition of discipline by schools, labor unions, employers, clubs, and fraternal organizations, and by parents. Also resembles "forfeiture of collateral" for minor offenses.
2. Similar to waiver of jury trial and trial by justice of the peace or Federal magistrate, except that the punishment that can be imposed by these courts usually includes a fine and confinement for six months to a year. Generally, no prosecution or defense lawyers appear, and defense lawyer usually will not be provided for indigent accused.
3. Similar Federal court would be the Magistrate's court. Many states have courts limited to the trial of misdemeanors--normally offenses

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rare instances, the accused is provided with a free lawyer to defend him if he so requests. Punishment may not exceed six months confinement, reduction in rank, and forfeiture of 2/3 pay for a like period. A bad conduct discharge may be adjudged if the accused was furnished a free lawyer, the court was presided over by a military judge, and a verbatim transcript was made to assure adequate review.

4. GENERAL COURT-MARTIAL: Depending on the offense, punishment may include the death penalty, life imprisonment, a dishonorable discharge or dismissal, forfeitures and reduction. Except for the offenses of spying, premeditated murder, and murder in the course of a felony there are no mandatory sentences, and the court may adjudge what it thinks appropriate within the maximum. Lawyers must be furnished to all defendants. These lawyers must be admitted to practice before the highest court of a state or a federal court and certified as competent to serve as counsel at courts-martial by The Judge Advocate General. Military Judge presides over all trials. Military Judge must be member of independent field judiciary and not subject to control or influence of local commander. Court-martial must consist of at least five members (jurors). Accused may request trial by military judge alone (waive jury) except in a capital case. If the accused is an enlisted man, here and in the special court-martial, he may request that at least one-third of the members be enlisted personnel. Verbatim transcript is prepared and copy furnished to accused free of charge.

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punishable by one year or less confinement. Trial by jury usually available but sometimes jury consists of only six jurors. Counsel generally not appointed for indigents unless punishment may exceed six months confinement.

4. Federal District Court or state court of general jurisdiction. Trial by jury may generally be waived; some states provide that certain crimes, such as first degree murder, must be tried by a jury. Counsel provided for indigents if possible punishment exceeds six months. Generally takes a paupers oath to obtain a verbatim record for appellate purposes.