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*This regulation supersedes AR 22-8, 14 October 1964; AR 22-12, 24 April 1958; AR 22-30, 10 December 1951; AR 22-160, 3 December 1964; AR 27-11, 5 March 1965; AR 27-12, 17 January 1968; AR 27-15, 12 April 1965, including all changes; AR 27-16, 24 November 1967; and Section V and pages 354 through 357, AR 310-10, 20 May 1964.

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CHAPTER 1

GENERAL

1-1. Purpose. This regulation prescribes or implements the policy and procedures pertaining to the administration of military justice. It implements many of the procedures prescribed by the *Manual for Courts-Martial, United States, 1969*, which require implementation by regulations of the Secretary of the Army, and also serves as a central research source for the administration of military justice.

1-2. Scope. Chapters 3, 4, 5, 6, 7, 9, 10, 11, and 12, which were formerly published as separate regulations have been incorporated, with appropriate changes, into this publication. Chapter 2 implements certain paragraphs of the

Manual for Courts-Martial, United States, 1969, which require implementation by the Secretary of the Army. Chapter 8, relating to court membership, is a convenient central reference which contains the various restrictions for service of personnel on courts-martial. Chapter 8 is informational only and is not regulatory. Appendix A cross-references numerous manual citations with their corresponding reference in various regulations, appendix B cross-references the Uniform Code of Military Justice with applicable Army regulations, and appendix C lists most of the Army regulations dealing with military justice.

CHAPTER 2

IMPLEMENTATION OF THE MANUAL FOR COURTS-MARTIAL,
UNITED STATES, 1969

2-1. General. This chapter implements certain paragraphs of the *Manual for Courts-Martial, United States, 1969*, which require implementation by the Secretary of the Army.

2-2. Preparation of charge sheet. *a.* Paragraph 29d, MCM, 1969, states: "*d. Preparation of charge sheet.* Charges will be prepared as prescribed by regulations of the Secretary of a Department."

b. See Chapter VI and Appendix 6a, MCM, 1969, and DD Form 458 for instructions as to the preparation of charges and specifications. Available data as to service, witnesses, social security account number, and similar items required to complete the first page of the charge sheet will be included. An original and four copies of the charge sheet will be forwarded and all copies will be signed. If several accused are charged on one charge sheet with the commission of a joint offense (para 26d and app 6a(8), MCM 1969), the complete personal data as to each accused will be set forth on the first page of the charge sheet or upon an attached copy of that page. One additional signed copy of the charge sheet will be prepared for each accused in excess of one.

2-3. Forwarding of charges. *a.* Paragraph 33i, MCM, 1969, states in part: "*i. Forwarding of charges.* When trial by a special or general court-martial is deemed appropriate and he is not empowered to convene such a court for the trial of the case (5a, b), he will forward the charges and necessary allied papers, in accordance with regulations of the Secretary concerned, to an officer exercising the appropriate kind of court-martial jurisdiction. * * *"

b. When trial by a special or general court-

martial is deemed appropriate, and the officer exercising summary court-martial jurisdiction is not empowered to convene such a court for the trial of the case (para 5a and b, MCM, 1969), he will forward the charges and necessary allied papers (ordinarily through the chain of command) to the officer exercising the appropriate kind of court-martial jurisdiction. The charges will be forwarded by indorsement or letter of transmittal, signed by the forwarding officer, and contain his recommendation as to their disposition. If the charges are forwarded with a recommendation for trial by general court-martial, the forwarding officer will observe the three rules set out in paragraph 33i, MCM, 1969.

2-4. Function of summary courts-martial. *a.* Paragraph 79a, MCM, 1969, states in part: "*a. Function.* * * * Unless otherwise stated herein or in regulations of the Secretary of a Department, the procedure prescribed for a general court-martial will, when applicable, serve as a guide for a summary court-martial. See appendix 8a in this connection. See also 137."

b. The procedure set out in DA Pam 27-7 will serve as a guide for a summary court-martial.

2-5. Responsibility for preparation of records of general courts-martial. *a.* Paragraph 82a, MCM, 1969, states in part: "*a. Responsibility for preparation.* Each general court-martial shall keep a separate record of the proceedings of the trial for each case brought before it. * * *"

If practicable, the trial counsel will retain or cause to be retained any stenographic or other notes or any mechanical or electronic recordings from which the record of trial was pre-

pared for such a period as may be prescribed in appropriate regulations."

b. The trial counsel will retain or cause to be retained any notes (stenographic or otherwise) or any mechanical or voice recording devices from which the record of a general court-martial was prepared for 60 days after the authenticated record of trial is forwarded to the convening authority.

2-6. Special court-martial records not involving bad conduct discharges. a. Paragraph 83b, MCM, 1969, states in part: "*b. Special court-martial records not involving bad conduct discharges.* When a bad conduct discharge is not adjudged, a record of trial by special court-martial need contain only a summarized report of the testimony, objections, and other proceedings. * * * The form of the summarized record of trial and instructions as to its preparation, authentication, and disposition will be as prescribed by the Secretary of a Department."

b. When a bad conduct discharge is not adjudged, a record of trial by special court-martial need contain only a summarized report of the testimony, objections, and other proceedings as indicated in appendix 10 of MCM, 1969. DD Form 491 (Summarized Record of Trial) will be used to prepare the summarized report. If a reporter, however, was appointed and actually served in that capacity throughout the trial, the convening or higher authority may direct that the proceedings be reported verbatim as prescribed by paragraph 83a, MCM, 1969. Reporters shall not be appointed for summary courts-martial or for special courts-martial unless the convening authority shall have received special authorization in each instance from the Secretary of the Army (see chap. 5 of this regulation). The notes or devices by means of which the original proceedings were recorded need not be retained after the record of trial has been authenticated. It is immaterial to the sufficiency of a record whether it was kept or written by the trial counsel or by one of his assistants, a clerk, or a reporter acting under his direction. Unless otherwise directed by the convening authority, the trial counsel will prepare or cause to be pre-

pared an original of each record and of all documentary exhibits received in evidence and copies of each record and all documentary exhibits equal to the number of accused tried.

c. The record of trial in each case tried by special court-martial shall be authenticated by the signature of the president and the trial counsel present at the conclusion of the proceedings. If, after trial, either of the persons who served in those capacities is unable to authenticate because of death, disability, or absence, the record will be signed by another member (who was present at the conclusion of the proceedings) in lieu of the president, and by assistant trial counsel (who was present at the conclusion of the proceedings) in lieu of the trial counsel. If, because of death, disability, or absence, no member of the prosecution is able to authenticate the record, it shall be authenticated for the trial counsel by a member of the court who was present at the conclusion of the proceedings. When someone other than the president or the senior trial counsel authenticates, the reason will be stated. See appendix 9b(2), MCM, 1969, for forms of authentication.

d. The provisions of paragraph 82g, MCM, 1969, for the disposition of records of trial by general courts-martial are applicable also to records of trial by special courts-martial.

2-7. Disposition of review. a. Paragraph 85d, MCM, 1969, states: "*d. Disposition of review.* The original of the review of the staff judge advocate or legal officer will be attached to the original record of trial, and other copies of such review will be prepared in such number and distributed as prescribed in regulations of the Secretary of a Department."

b. Two signed copies of the review of the staff judge advocate or legal officer will be attached to the original record of trial if the record is forwarded to The Judge Advocate General.

2-8. Records of trial by summary courts-martial. a. Paragraph 91c, MCM, 1969, states in part: "*c. Summary court-martial.* Unless otherwise prescribed by regulations of the Secre-

tary of a Department, a record of trial by summary court-martial will be disposed of as indicated herein (91c). * * * *

b. In addition to the disposition of records of trial by summary court-martial required by paragraph 91c, MCM, 1969, each person who has been tried and convicted or acquitted will be furnished a copy of the charge sheet completed, in the case of conviction, to and including the action of the convening authority or in the case of acquittal, to and including the signature of the summary court officer. This copy will be furnished to the accused as soon as possible after the convening authority receives the record from the summary court officer, and, in the case of conviction, has taken his action in the case (see para 5-3b, this regulation).

2-9. Filing of records. a. Paragraph 94b, MCM, 1969, states in part: "*b. Filing of records.* After review as prescribed by 94a(2), records of trial by summary court-martial and records of trial by special court-martial which do not involve approved sentences to bad conduct dis-

charge shall be transmitted and disposed of as the Secretary concerned may prescribe by regulation. * * * *

b. After review as prescribed by 94a(2), MCM, 1969, records of trial by summary court-martial and records of trial by special court-martial which do not involve approved sentences to bad conduct discharge shall be disposed of in accordance with the procedures outlined in AR 345-210 at file numbers 401-36 and 401-37. In this regard see also paragraph 5-5 of this regulation.

2-10. Warrant of attachment. a. Paragraph 115d(3), MCM, 1969, states in part: "(3) *Warrant of attachment.* * * * * When it becomes necessary to issue a warrant of attachment, the trial counsel will prepare it and, when practicable, effect execution through a civil officer of the United States."

b. The trial counsel will prepare the warrant of attachment by using DD Form 454 (Warrant of Attachment).

CHAPTER 3

NONJUDICIAL PUNISHMENT

Section I. GENERAL

3-1. Purpose and scope. This chapter implements and amplifies Article 15 of the Uniform Code of Military Justice and chapter XXVI, *Manual for Courts-Martial, United States, 1969*. It includes Secretarial regulations specifically authorized by Article 15, and chapter XXVI, MCM, 1969, and prescribes certain requirements, policies, limitations, and procedures for commanding officers imposing nonjudicial punishment, for persons upon whom this punishment may be imposed, and for other

persons who may take some action with respect to the proceedings. To facilitate the use of this chapter, the sections follow the same sequence and have the same designations as the numbered paragraphs of chapter XXVI, MCM, 1969. Accordingly, no action should be taken under the authority of Article 15 without a careful reference to the appropriate provisions of chapter XXVI and thereafter referring to the corresponding provisions of this chapter.

Section II. AUTHORITY (para 128, MCM, 1969)

3-2. Who may impose nonjudicial punishment.
a. Commanding officers. Unless otherwise specified in this regulation or unless his authority to impose nonjudicial punishment has been limited or withheld by a superior commanding officer (*c* below), any commanding officer is authorized to exercise the disciplinary powers conferred upon him by Article 15.

(1) The term "commanding officer," as used in this chapter refers to a commissioned or warrant officer who by virtue of his rank and assignment exercises primary command authority over a military organization or prescribed territorial area which under pertinent official directives is recognized as a "command."

(2) "Commands" include companies and batteries, numbered units and detachments, missions, Army elements of unified commands and joint task forces, service schools, area commands, and, in general, any other organization of the kind mentioned in (1) above, the commander of which is the one looked to by superior authority as the individual chiefly responsible for maintaining discipline in that or-

ganization. Thus, an infantry company, whether or not separate or detached (see para 5b (3), MCM, 1969), is considered to be a "command" within the above definition, but an infantry platoon which is part of a company and is not separate or detached is not considered to be a "command" in this sense. Although a commissioned or warrant officer exercising command is usually designated as the "commanding officer," this position may be denominated by various other titles having the same official connotation, such as Commandant, Chief of Mission, or Superintendent.

b. Delegation. The authority given to a commanding officer under Article 15 is an attribute of command and, except as provided in this paragraph, may not be delegated. Pursuant to the authority vested in the Secretary of the Army under the provisions of Article 15(a), the following rules with respect to delegation of powers under Article 15 are announced:

(1) Any commanding officer authorized to exercise general court-martial jurisdiction and any general officer in command may delegate

his powers under Article 15 to a commissioned officer actually exercising the function of deputy or assistant commander. A nominal designation as Deputy or Assistant Commander of an officer who is not, in fact, exercising such function does not provide the predicate for such a delegation to him of a commander's powers under Article 15.

(2) Authority delegated under *b* above may be exercised only when the officer to whom such authority has been delegated is—

(a) When imposing punishment, senior in rank to the person being punished, and

(b) When acting on an appeal or taking other action with respect to a punishment imposed under Article 15, senior in rank both to the person punished and the officer who imposed the punishment.

(3) Delegations of authority to exercise Article 15 powers will be announced in orders which designate the officer upon whom the powers are conferred by name and position. Unless limited by the terms of such delegation or by (2) above, an officer to whom this authority is granted may exercise any power which is possessed by the officer who delegated the authority. Officers exercising delegated authority will specify the source of their authority so to act. Unless otherwise specified in the announcing orders, a delegation of Article 15 authority shall remain effective until the occurrence of one of the following events:

(a) The general court-martial convening authority or general officer in command who has delegated his powers ceases to occupy that position, other than because of temporary absence.

(b) The officer to whom these powers have been delegated ceases to occupy the position of deputy or assistant commander.

(c) Announcement of termination of the delegation is published in orders.

A delegation of Article 15 powers does not divest the commanding officer making the delegation of the right to exercise his Article 15 powers personally in any case in which he desires to act (but see para 3-3e). Although an appeal from punishment imposed under a delegation of Article 15 powers will be acted upon

by the authority next superior to the delegating commanding officer (para 3-22), the delegating commanding officer may take the action described in paragraph 3-24. See also paragraph 135, MCM, 1969, and paragraph 3-23, this chapter.

c. Limitation of exercise of disciplinary authority by subordinates. Any commanding officer having disciplinary authority under Article 15 may limit or withhold the exercise by his subordinate commanders of the disciplinary authority they possess under Article 15 and not otherwise withheld under the provisions of this chapter. For example, limitations on the powers of subordinate commanders to exercise Article 15 authority over certain categories of military personnel, such as commissioned and warrant officers or noncommissioned officers and specialists of designated grades, may be established when a superior commander desires to reserve to himself or his delegate the right to exercise authority in cases involving these categories of personnel. The power to limit or withhold the exercise by a subordinate of Article 15 authority includes the power to limit or withhold any power to limit or withhold which that subordinate might otherwise have under this paragraph.

3-3. Persons upon whom nonjudicial punishment may be imposed. *a. Military personnel of his command.* Punishment may be imposed under Article 15 by a commanding officer upon commissioned and warrant officers and other military personnel of his command, except that punishment may not be imposed under Article 15 upon cadets of the United States Military Academy. For the purpose of Article 15, military personnel are considered to be "of the command" of a commanding officer if they are assigned to an organization commanded by him or if they are in any other manner affiliated therewith—by attachment, detail, or otherwise—under circumstances indicating either expressly or by implication that he, as well as the commander of the unit to which they are assigned, is to exercise administrative or disciplinary authority over them. Also, under similar circumstances, a commanding officer may be assigned territorial command responsibility

so that all, or certain, military personnel in the area in question will be considered to be of his command for the purpose of Article 15. In determining whether an individual is "of the command" of a particular commanding officer, reference should first be made to those written or oral orders or directives, if any, which may affect the status of the individual. If these orders or directives do not expressly confer authority to administer nonjudicial punishment on the commander of the unit with which the service member is affiliated or present, as when, for example, they contain no provision attaching the member "for disciplinary purposes," consideration must be given to all the attendant circumstances, including the phraseology used in the orders and such factors as where the member slept, ate, was paid, and performed duty, the duration of the status, and similar matters. If the language used in the orders or directives includes such terms as "attached for rations, quarters, and administration," or "attached for administration of military justice," or simply "attached for administration," the individual so attached will be considered to be of the command of the commander of the unit of attachment for the purpose of Article 15.

b. Termination of status. Nonjudicial punishment may not be imposed upon an individual by a commanding officer after the individual ceases to be of his command by reason of transfer or otherwise. This is so even if Article 15 proceedings have been instituted, so long as the proceedings have not resulted in the imposition of punishment prior to the time of the change in status. In this connection, see para-

graph 3-10. The commander who has instituted the proceedings may, in the case of such a change in status, forward the record of proceedings to the gaining commander for appropriate disposition.

c. Personnel of other armed forces. As a matter of policy, nonjudicial punishment should not be imposed by an Army officer upon a member of another armed force.

d. Minor offenses. See paragraph 128b, MCM, 1969. Although the term "minor" ordinarily does not include misconduct of a type which, if tried by a general court-martial, could be punished by dishonorable discharge or confinement for more than 1 year, this is not a hard and fast rule, and due regard to all the circumstances of the offense might indicate that action under Article 15 would be appropriate even in a case falling within this category. Violations of or failures to obey general orders or regulations may properly be considered as constituting minor offenses when the prohibited conduct is itself of a minor nature when considered apart from the fact that it is prohibited by a general order or regulation.

e. Double punishment prohibited. See paragraph 128d, MCM, 1969. Several minor offenses arising out of substantially the same transaction will not be made the basis of separate actions under Article 15.

f. Restriction on punishment after exercise of jurisdiction by civil authorities. See chapter 6 for limitations on nonjudicial punishment after exercise of jurisdiction by civil authorities.

Section III. POLICIES APPLICABLE (para 129, MCM, 1969)

3-4. Purposes of nonjudicial punishment; personal exercise of discretion in imposing nonjudicial punishment. *a. Purposes.* A commanding officer is expected to use nonpunitive measures to the maximum extent possible in furthering the efficiency of his command without resorting to the imposition of nonjudicial punishment (see para 128c, MCM, 1969). Resort to nonjudicial punishment is proper in all cases of minor offenses in which administrative mea-

asures are considered in adequate or inappropriate unless it is clear that nonjudicial punishment is not sufficient to meet the ends of justice and that more stringent measures must be taken. Nonjudicial punishment may be imposed in appropriate cases to—

(1) Correct, educate, and reform offenders who have shown that they cannot benefit by less stringent measures;

(2) Preserve, in appropriate cases, an of-

fender's record of service from unnecessary stigmatization by record of court-martial conviction; and

(3) Further military efficiency by disposing of minor offenses in a manner requiring less time and personnel than trial by court-martial.

b. Personal exercise of discretion. An officer who is considering a case for possible disposition by him under Article 15 will exercise his own discretion in evaluating the case, both as to whether punishment should be imposed under that Article at all and as to the amount and nature of the punishment if it is to be imposed. Also, see paragraph 3-15d concerning the determination to be made by the officer who imposes punishment as to whether the record of punishment will be filed and administered in a manner that will preclude its consideration by persons considering the person punished for promotion or other favorable personnel actions. No superior may direct or recommend that an inferior authority impose punishment under Article 15 in a particular case, nor may a superior issue regulations, orders, or so-called "guides" which either directly or indirectly suggest to inferior authorities that certain categories of minor offenses should be disposed of by punishment under Article 15, as distinguished from nonpunitive measures, or that predetermined kinds or amounts of punishments should be imposed for certain classifications of offenses that are considered by the inferior as proper for disposition under Article 15. A superior commanding officer may, however, reserve to himself or his delegate the right to exercise Article 15 authority over a particular case or over certain categories of offenses or offenders (para 3-2c).

3-5. Relationship of nonjudicial punishment to nonpunitive measures. *a. Reduction in grade.* Certain commanding officers may impose reductions administratively upon enlisted personnel of their commands for inefficiency and other reasons. This authority exists apart from any authority they may have to impose a *punitive reduction for misconduct* under Article 15. These two separate and distinct kinds of authority must not be confused. See AR 600-200.

b. Reprimands and admonitions. An "admonition" is a warning, reminder, or reproof given to deter repetition by the offender of the type of misconduct which resulted in the admonition and to advise him of the consequences that may flow from a recurrence of that misconduct. A "reprimand" is an act of formal censure which reproves or rebukes the offender for his misconduct. An admonition may be included in a reprimand. Commanding officers have authority to give admonitions or reprimands either as an administrative, nonpunitive measure or as nonjudicial punishment. If imposed as a punitive measure under Article 15, the procedure set forth in paragraph 133, MCM, 1969, and in section VI of this chapter must be followed. A written administrative admonition or reprimand should contain a statement indicating that it has been imposed merely as an administrative measure and *not* as punishment under Article 15. On the other hand, admonitions and reprimands imposed as punishment under Article 15, whether administered orally or in writing (see para 131c(1), MCM, 1969), should be clearly stated to have been imposed as punishment under that article.

c. Restraint or restriction. Commanding officers have authority to impose restraints or restrictions upon a member for administrative purposes, for example, to insure the member's presence within the command (see para 20b, MCM, 1969). This authority exists apart from the authority to impose restriction as nonjudicial punishment.

3-6. Reference to superior. Nonjudicial punishment should be administered at the lowest level of command commensurate with the needs of discipline. However, after thoroughly considering the nature and circumstances of the offense and the age, previous record, maturity, and experience of the offender, if a commander determines that his authority under Article 15 is insufficient to impose an appropriate punishment, he may refer the case to an appropriate superior with a recommendation that the superior exercise his authority under Article 15. Also, if the authority of a commanding officer to exercise Article 15 powers

has been withheld or limited (see para 128a, MCM, 1969), thus precluding him from imposing any punishment or an appropriate punishment, the case may be referred to an appropriate superior. In transmitting a case for ac-

tion by a superior, no recommendation as to the nature or extent of the punishment to be imposed will be made. Transmittal will be accomplished by written correspondence substantially as shown in figure 3-1.

Section IV. PUNISHMENTS (para 131, MCM, 1969)

3-7. Limitations on authorized punishments. Pursuant to the authority of the Secretary to place limitations on the kinds and amounts of punishments authorized under Article 15, the following limitations are prescribed:

a. Correctional custody. Correctional custody may be imposed only by an officer exercising general court-martial jurisdiction, a general officer in command, or by a subordinate commander who has been granted this authority by an officer exercising general court-martial jurisdiction or a general officer in command. Personnel serving in pay grade E-4 or above and female enlisted personnel may not be placed in correctional custody.

b. Confinement on bread and water or diminished rations. Personnel serving in pay grade E-4 or above and female enlisted personnel may not be placed in confinement on bread and water or diminished rations.

c. Combination and apportionment. The punishments authorized under Article 15(b) may be combined with the following exceptions:

(1) *Deprivation of liberty.* No two or more punishments involving deprivation of liberty may be combined to run either consecutively or concurrently except that restriction and extra duties may be combined in any manner to run for a period not in excess of the maximum duration for extra duties.

(2) *Deprivation of pay.* Forfeiture of pay may not be combined with detention of pay, either concurrently or consecutively.

3-8. Rules relating to authorized punishments.

a. Restriction. The commanding officer who imposed the punishment, his successor in command, and superior authority may change the specified limits of restriction (for example, in the case of transfer from one location to an-

other) after imposition and before the term of restriction is completed, provided that the limits of restriction, as changed, are generally not more restrictive of movement than the limits initially imposed.

b. Arrest in quarters. A commissioned or warrant officer undergoing this punishment may be required to perform any military duty not involving the exercise of command. If a commissioned or warrant officer in arrest in quarters is placed on duty involving the exercise of command by an authority having knowledge of the status of arrest in quarters, that status is thereby terminated.

c. Correctional custody.

(1) *General.* Although correctional custody may not be imposed on enlisted persons in the fourth enlisted grade or above, if reduction, unsuspended, to an enlisted grade below the grade of E-4 is imposed under Article 15, correctional custody may also be imposed (except in the case of female enlisted personnel). Thus, if an enlisted man in pay grade E-4 is reduced one or more grades under Article 15, he may also be placed in correctional custody under the authority of that article. Time spent in correctional custody does not constitute time lost (10 U.S.C. § 972). When a person undergoing the punishment of correctional custody is placed in a correctional custody facility, the authority competent to order the release of the person from that facility is the commanding officer of the facility or authority superior to him.

(2) *Administration.* The administration of the nonjudicial punishment of correctional custody is a function and responsibility of command. Correctional custody shall be administered in accordance with the following policies:

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(a) Commanders of those commands directly under Headquarters, Department of the Army, are responsible for the general supervision of the administration of correctional custody within their respective commands and areas of responsibility.

(b) Correctional custody shall be carried out at the place directed by the commander imposing the punishment or superior authority. When practicable and if adequate facilities exist, persons undergoing correctional custody may be required to undergo that punishment at battalion, separate company, or comparable level. However, correctional custody imposed for periods in excess of 7 days should be carried out at battalion or higher level under supervision of a staff officer designated by the responsible commander.

(c) Correctional custody is not confinement and will not be carried out in a place utilized for confinement of military prisoners.

(d) Facilities utilized for the housing of persons undergoing correctional custody shall be austere and conducive to the rigorous and purposeful correction of these persons.

(e) Correctional custody facilities of any type shall be provided within resources currently available. When practicable, existing facilities should be modified for this purpose, rather than constructing new facilities.

(f) Persons undergoing correctional custody shall, when conditions reasonably permit, work and train with their units.

(g) When persons undergoing correctional custody are not working or training with their units, they may be required to perform extra duties, including fatigue duties and hard labor.

(h) Personnel assigned or detailed to administer correctional custody shall be carefully selected in order that the corrective purpose of this form of punishment may be accomplished. The purpose of correctional custody is to exercise close supervision over an individual to the end that the cause of his behavior that resulted in the commission of an offense may be corrected, without stigmatizing him with a sentence to confinement.

(i) Commanders shall continuously re-

view the progress of members undergoing correctional custody, making full use of mental health facilities, medical officers, judge advocates, chaplains, and provost marshals in the professional evaluation and corrective treatment of personnel. Clemency action, in the form of mitigation, remission, or suspension, is appropriate when it appears that correction has been effected.

d. Extra duties.

(1) Extra duties may be required to be performed at any time and, within the duration of the punishment, for any length of time. Extra duties may include the performance of fatigue duty or of any other military duty, such as a practice march with full field equipment, but no duty may be imposed as extra duty which—

(a) Would constitute cruel or unusual punishment or a punishment not sanctioned by the customs of the service, such as carrying a loaded knapsack;

(b) Is a duty normally intended as an honor such as assignment to a guard of honor;

(c) Is required to be performed in a ridiculous or unnecessarily degrading manner; for example, an order to clean a barracks floor with a toothbrush; or,

(d) Is a punishment involving the use of the offender as a personal servant. See also paragraph 3-10.

(2) An enlisted person serving in pay grade E-4 or above may not be assigned extra duties as punishment under Article 15 which would demean his position as a noncommissioned officer or specialist. The performance of extra duties involving labor or duties not customarily performed by personnel in these grades is an example of extra duties of a demeaning nature. The supervision of details being accomplished after normal duty hours is an example of an extra duty which would not be demeaning. See section IV, AR 600-20.

e. Reduction in grade.

(1) *Promotion authority.* The grade from which demoted must be within the promotion authority of the commanding officer who im-

poses the punishment or of any officer subordinate to the one who imposes the reduction. For the purposes of this regulation, a commanding officer has "promotion authority," within the meaning of Article 15(b), if he has the general authority to appoint to the grade from which reduced or any higher grade. Regulations governing the authority to appoint to the various enlisted grades are contained in AR 600-200.

(2) *Lateral appointment or reduction of noncommissioned officer to specialist and specialist to noncommissioned officer.* A noncommissioned officer may not be laterally appointed to a specialist in the same pay grade under Article 15, but may be reduced to a specialist or NCO of a lower pay grade provided the latter grade is authorized in the primary MOS of the person's qualifications. A specialist may not be laterally appointed to a noncommissioned officer in the same pay grade but may be reduced to a specialist or NCO of a lower pay grade provided the latter grade is authorized in the primary MOS of the person's qualifications. For example, a sergeant, E-5, may not be appointed to a specialist five, E-5, but may be reduced to specialist four, E-4, or a corporal, E-4. A specialist five, E-5, may not be appointed to a sergeant, E-5, but may be reduced to specialist four, E-4, or a corporal, E-4. If a reduction is included in the punishment, the commander imposing the punishment must determine whether the lower pay grade status of either specialist or noncommissioned officer is authorized in the primary MOS of the person's qualification and then specifically indicate upon announcement of the reduction which status within the pay grade is intended, for example, "to be reduced from sergeant E-5 to specialist four, E-4".

(3) *Announcement.* An unsuspended reduction under Article 15, including a reduction resulting from a vacation of a suspension of a reduction, will be reflected in appropriate orders. The order will show "misconduct" as the reason for the reduction, will cite "UCMJ, Article 15, and AR 27-10" as the authority, and will indicate the title (for example, "Commanding Officer, _____ Bn, _____ Arty") of the person who imposed the punishment or vacated the suspension. Likewise, any action

taken under Article 15 resulting in a restoration to a pay grade from which the individual was reduced under that article or placing him in any pay grade higher than the grade to which reduced will be reflected in appropriate orders. The order will cite "UCMJ Article 15, and AR 27-10" as the authority and will indicate the title (see example above) of the person who took the action. For distribution of these orders, see *g* below.

(4) *Effective date.* A reduction under Article 15, if unsuspended, becomes effective on the date the commanding officer imposes the punishment (para 3-10).

(5) *Date of rank.* When a person is reduced in pay grade as a result of an unsuspended reduction under Article 15, his date of rank in the grade to which reduced is the date the punishment of reduction was imposed. If the reduction is suspended either at or after the time the punishment under Article 15 was imposed or is set aside or mitigated to forfeiture or detention of pay, the date of rank in the grade held before the imposition of the punishment remains unchanged. If a suspension of the reduction is vacated, the date of rank in the grade to which reduced as a result of the vacation is the date the punishment was imposed, whether the reduction was suspended at that time or later. *reinstated*

(6) *Entitlement to pay.* The date of rank in a particular pay grade does not control the period of entitlement to pay in that grade. When a member is restored to a higher pay grade as a result of a suspension, or mitigation to forfeiture or detention, of a previously imposed reduction, the restoration to the higher grade with respect to entitlement to pay takes place as of the date of the suspension or mitigation, even though an earlier date of rank is assigned under (5) above. If, however, a reduction is set aside and all rights, privileges, and property affected thereby are restored, the member concerned will be entitled to pay as though the reduction had never been imposed.

(7) *Void reduction.* A reduction imposed as nonjudicial punishment by an officer not having authority to do so, or any portion of a reduction which exceeds the commanding

officer's authority to reduce, is void and must be set aside. All rights, privileges, and property, including pay and allowances, of which a member was deprived by a reduction which has been set aside must be restored.

f. Forfeiture and detention of pay.

(1) Any monthly contribution from his pay that an enlisted person with dependents is required by law to make to entitle him to a basic allowance for quarters must be deducted before the net amount of pay subject to forfeiture or detention is computed. Although under present law an enlisted person with dependents who is in the fourth pay grade (with over 4 years of service) or in a higher pay grade is not required by law to make such a contribution and accordingly no deduction on this account is made, the effect that a forfeiture or detention of pay may have on his ability to discharge his responsibility for the care of his dependents will be considered in determining whether or not punishment of this kind will be imposed and, if so, the amount thereof. Also, when an enlisted person with dependents is reduced under Article 15 to pay grade E-4 (with 4 years' or less service) or to a pay grade lower than E-4 (regardless of length of service) and a forfeiture or detention of pay is also imposed, the forfeiture or detention must be adjusted in accordance with any monthly contribution made by that person from his pay which is required by law to be made to entitle him to a basic allowance for quarters, if the forfeiture or detention is excessive in view of that contribution.

(2) Consistent with the provisions of paragraphs 131c(8) and (9), MCM, 1969, forfeitures and detentions of pay may be announced in accordance with the following examples:

When the forfeiture or detention is to be applied for not more than 1 month:

- (1) "Forfeiture of \$.....;
- (2) "Detention of \$..... until
..... (Date)"

When the forfeiture or detention is to be applied for more than 1 month:

- (1) "Forfeiture of \$..... per month for 2 months."
- (2) "Detention of \$..... per month for (2) (3) months until (Date)"

(3) See tables 3-1 and 3-2, this regulation, for forfeitures and detentions of pay authorized to be imposed under Article 15 upon commissioned and warrant officers and enlisted persons. If a forfeiture or detention of pay has been imposed in addition to a suspended reduction in grade, the forfeiture or detention will be limited to an amount not greater than that authorized to be imposed for the suspended reduced grade. The maximum forfeiture or detention of pay to which a person is subject at any time as a result of one or more actions under Article 15 is one-half of his pay per month. Also, Article 15 forfeitures or detentions shall not operate in conjunction with partial forfeitures adjudged by courts-martial to deprive a person of more than two-thirds of his pay per month. See paragraph 127b, MCM, 1969, and paragraph 70603 of DODPM.

(4) An unsuspended forfeiture or detention of pay under Article 15, including a forfeiture or detention resulting from a vacation of a suspension of forfeiture or detention of pay, or a mitigation action (para 3-18) will be reflected in appropriate orders. The order will show "misconduct" as the reason for the forfeiture or detention of pay, will cite "UCMJ, Article 15, and AR 27-10" as the authority, and will indicate the title (for example, "Commanding officer Bn Arty") of the person who imposed the punishment, vacated the suspension, or took the mitigating action. Likewise, any action taken under Article 15 resulting in a restoration of any pay forfeited or detained under that article will be reflected in appropriate orders. The order will cite "UCMJ, Article 15, and AR 27-10" as the authority and will indicate the title (see example above) of the person who took the action. For distribution of these orders, see *g* below.

g. Distribution of orders announcing certain actions under Article 15. Orders announcing reductions in grade or restoration to a pay grade from which a person was reduced (*e*(3) above) and orders announcing forfeitures and detentions of pay or restoration of pay forfeited or detained (*f*(4) above) will be distributed as follows:

- (1) Person punished, one copy.

(2) Immediate commanding officer of person punished and to each intermediate commander, one copy.

(3) Unit of assignment of person punished for file above the Field Personnel File Divider in the individual's Military Personnel Records Jacket, U.S. Army (DA Form 201), one copy.

(4) Custodian of the Military Personnel Financial Data Records, U.S. Army (DA Form 2143), of the member for filing in the folder, and for use as a substantiating document as required by paragraph 4-33i(2), AR 37-104-2, two copies.

(5) In cases involving commissioned or warrant officers, including Reserve commissioned or warrant officers on active duty in an enlisted status, to The Adjutant General, ATTN: AGPO-SEF, Department of the Army, Washington, D.C. 20315, two copies.

(6) In cases involving enlisted personnel other than those included in (5) above, to the U.S. Army Personnel Services Support Center, ATTN: AGPE, Fort Benjamin Harrison, Ind. 46249, one copy.

3-9. Effect on appointable status. See AR 600-200 and AR 600-31.

3-10. Effective date and execution of punishments. The punishments of reduction, forfeiture of pay, and detention of pay, if unsuspended,

take effect on the date they are imposed. The date of imposition of nonjudicial punishment, if the proceedings are conducted in writing, is the date Section III of DA Form 2627-1 (Record of Proceedings Under Article 15, UCMJ) is signed by the officer who imposed the punishment, and, if oral proceedings are held, the date of imposition of punishment as recorded in the Summarized Record of Proceedings under Article 15, UCMJ (DA Form 2627). Other punishments, if unsuspended, will take effect and be carried into execution on the date they are imposed unless otherwise prescribed by the officer imposing the punishment or by superior authority. If the member to be punished is then undergoing any of the punishments involving deprivation of liberty and the commanding officer wishes to impose that kind of punishment, he may prescribe that the punishment which he imposes will begin to run on a date subsequent to the termination of the first punishment. The punishment of reduction, unsuspended, becomes executed at the time it is imposed. Subject to paragraph 3-8d and any limitations imposed by superior authority, when an unsuspended punishment of extra duties has been imposed under Article 15 by appropriate authority, any commanding officer of the person to be punished may order the punishment to be executed in such manner and under such supervision as he may direct. The particular extra duties to be performed may be varied from time to time within the duration of the punishment.

Section V. RIGHT TO DEMAND TRIAL (para 132, MCM, 1969)

3-11. General. Army personnel attached to or embarked in a vessel may not demand trial by court-martial in lieu of nonjudicial punishment. All other members of the Army may demand trial by court-martial in lieu of punishment under Article 15.

3-12. Procedures. a. The officer who intends to impose the punishment will notify the member concerned of that intent (para 3-14a) and, if the right to demand trial by court-martial exists, will afford the member a reasonable period in which to decide whether or not he will

demand trial and direct him to state either that he does, or does not, demand trial within that period.

(1) This period should be established after due consideration of such factors as the gravity of the offense, the grade of the member, and the time involved in physically transmitting the communication.

(2) Under ordinary circumstances, 48 hours may be considered to be a reasonable time in cases in which notification is given in writing, and 24 hours when the notice is oral.

b. In deciding whether he wishes to elect trial by court-martial, the member is not entitled to be informed as to the type or amount of punishment he will be given if he does not demand trial. However, upon his request, he will be informed of the maximum punishment which may be imposed under Article 15 by the officer who is to impose the punishment and of the maximum punishment that can be adjudged by court-martial upon conviction of the offense or offenses involved.

c. If the member demands trial by court-martial as to any offense involved, further ac-

tion will not be taken to impose nonjudicial punishment as to that offense. Whether, in this event, charges will be preferred against the member with a view to trial by court-martial, and the type of court-martial to which the case will be referred or recommended for referral, is a matter within the discretion of the appropriate commanding officer.

d. If a demand is not made prior to expiration of the specified interval, including any extension of time that may have been granted, the officer who is to impose punishment may proceed to do so.

Section VI. PROCEDURE; RECORDS OF PUNISHMENT (para 133, MCM, 1969)

3-13. **General.** The power to impose nonjudicial punishment charges a commanding officer or an officer to whom that power has been delegated (para 3-2b) with the grave responsibility of exercising his authority in a completely judicious manner. Authority under Article 15 must be administered with absolute fairness in a formal and dignified manner at every stage of the proceedings. Whenever practicable the commanding officer should impose the punishment in the presence of the member. The commander may then explain to the member such matters as the factors which he considered in determining the punishment and the appellate rights and procedures which are available to the member, as applicable.

3-14. **Procedural rules.** a. *Notification.* The notification to the member required in paragraph 133a, MCM, 1969, must be given by the officer who is to impose the punishment. See also paragraph 3-12.

b. *Action upon receipt of notification.* See paragraph 133a, MCM, 1969, and paragraph 3-12 this regulation. If written communications are being utilized, the member may, if he desires, request permission to appear before the officer conducting the proceedings, and in any case the member may request that officer to interview certain witnesses, either in or out of his presence, or to obtain statements from certain witnesses. If any such request is made,

it will be given due consideration and, if practicable, it should be granted.

c. *Action terminating proceedings.* If, after evaluation of all pertinent matters, the officer conducting the proceedings determines that nonjudicial punishment is not warranted, he should notify the member that he has terminated the proceedings.

3-15. **Records of punishment.** When punishment is imposed under Article 15, all action taken, including notification, acknowledgments, imposition, appeal, action on appeal, or any other action, will be recorded as follows:

a. *Form of record.* DA Forms 2627, 2627-1, and 2627-2, whichever may be appropriate, will be used to record all action taken under Article 15. DA Form 2627-1 (Record of Proceedings Under Article 15, UCMJ) will be completed in all cases involving commissioned and warrant officers. This form will also be completed in cases involving enlisted persons in which punishment other than oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof is imposed. In all other cases involving enlisted personnel either DA Form 2627-1 or DA Form 2627 (Summarized Record of Proceedings Under Article 15, UCMJ) may be utilized. When an appeal is made or supplementary action is taken after the imposition of punishment, DA Form 2627-2 (Record of Ap-

pellate or Other Supplementary Actions Under Article 15, UCMJ) will be used to record all actions taken regardless of the form used initially. Examples of DA Forms 2627, 2627-1, and 2627-2, which have been completed using hypothetical cases, may be found in figures 3-2, 3-3, and 3-4.

b. Distribution. DA Forms 2627, 2627-1, and 2627-2 will be prepared in an original and two copies. Any written statement or other documentary evidence pertaining to the case which has been considered by the officer authorized to impose the nonjudicial punishment will be attached to the original file. An additional copy will be prepared in all cases involving commissioned or warrant officers, including Reserve commissioned or warrant officers on active duty in an enlisted status. Standard distribution for the forms will be as follows:

(1) *In cases involving commissioned or warrant officers, including Reserve commissioned or warrant officers on active duty in an enlisted status.*

(a) *Original and first copy.* The Adjutant General, ATTN: AGPO-SEF, Department of the Army, Washington, D.C. 20315, for filing in the Official Military Personnel File (OMPF) (d(2) below), together with final DA Form 268 (Report for Suspension of Favorable Personnel Actions) submitted in accordance with AR 600-31.

(b) *Second copy.* Unit of assignment for file above the Field Personnel File Divider in the individual's Military Personnel Records Jacket, U.S. Army.

(c) *Third copy.* The individual concerned, for personal retention.

(2) *In cases involving enlisted personnel other than those included in (1) above.*

(a) *Original.* The U.S. Army Personnel Services Support Center, ATTN: AGPE, Ft. Benjamin Harrison, Ind. 46249, for filing as a permanent document in the Official Military Personnel File (OMPF).

(b) *First copy.* Unit of assignment, for file above the Field Personnel File Divider in the individual's Military Personnel Records Jacket U.S. Army (see d below).

(c) *Second copy.* The individual concerned, for personal retention.

(3) *Additional copies.* Additional copies may be required by local commanders if there is a valid need therefor, but additional copies should be kept to a minimum.

c. Time for distribution. Distribution of DA Form 2627 and DA Form 2627-1 will be made upon receipt of the forms after completion of sections III, or IV, respectively, by the offender if he does not appeal. If the offender does appeal from the punishment, these forms will be forwarded for action on the appeal, and they, together with DA Form 2627-2, will be distributed upon receipt of the forms after completion of section IV of DA Form 2627-2 by the offender, in which he acknowledges notification of the action on his appeal. If, after distribution of the forms, the punishment is suspended, mitigated, remitted, or set aside, or a suspension is vacated, the appropriate section of DA Form 2627-2 will be completed with the same number of copies as are required initially, and will be distributed as above.

d. Retention and disposition of DA Forms 2627, 2627-1, and 2627-2.

(1) *Military Personnel Records Jacket, U.S. Army (DA Form 201).* To be withdrawn and destroyed upon transfer of the individual from the organization, upon the complete setting aside of all punishments imposed, or upon the expiration of 2 years from imposition of the punishment, whichever shall first occur, provided that at the time of transfer, a period of 1 year has elapsed since imposition of the punishment and that all punishment imposed has been executed (with forfeitures collected and any period of detention of pay expired) and action has been completed on any appeal from such punishment. If these conditions do not exist at time of transfer, the copy of the record of proceedings will be retained in the individual's personnel records which accompany him to his new assignment and retained therein until the foregoing conditions no longer exist. In the case of enlisted persons, the officer may direct that the record of punishment be filed and administered in a manner that will preclude its availability to persons

considering the individual for promotion. A statement reflecting any such direction will be made in Section III of DA Form 2627 or Section V of DA Form 2627-1, as appropriate. A superior authority when acting on an appeal or taking a supplementary action other than on appeal may also make this direction. A statement reflecting any such direction by a superior authority will be made in that section of DA Form 2627-2 in which the action on appeal or supplementary action other than on appeal is recorded. Records of punishment not precluded from consideration in connection with promotions should be considered only for a 1-year period from date punishment is imposed.

(2) *Official Military Personnel File (OMPF)*. In cases involving commissioned and warrant officers, including Reserve commissioned or warrant officers on active duty in an enlisted status, the officer imposing punishment will make one of the following entries in Section V of DA Form 2627-1: "File in the efficiency portion of the Official Military Personnel File" or "File in the personnel section of the Official Military Personnel File." If filed in the efficiency portion of the OMPF, the record of punishment will be retained there for a period

of 1 year from the date the punishment is imposed and will be made available during that year for review by any board which considers the individual for a favorable personnel action. At the end of the 1-year period, the record of punishment will be transferred from the efficiency portion to the personnel section of the OMPF where it will be retained permanently. If initially or later filed in the personnel section of the OMPF, the record of punishment will not be referred to a board which considers the individual for promotion or for selection to attend senior service schools or colleges. A direction that the record of punishment be filed in the efficiency portion of the OMPF may be changed by a superior authority as part of an action on appeal or as part of a supplementary action other than on appeal (para 3-23), in which case the following entry will be included in that section of DA Form 2627-2 in which the action on appeal or supplementary action other than on appeal is recorded: "The record of punishment in this case will not be filed in the efficiency portion of the Official Military Personnel File as previously directed in Section V of DA Form 2627-1, but will be filed in the personnel section of that file."

Section VII. SUSPENSION, MITIGATION, REMISSION, AND SETTING ASIDE (para 134, MCM, 1969)

3-16. **Meaning of "successor in command"; recording of action.** *a. Meaning of successor in command.* As used in paragraph 134, MCM, 1969, a "successor in command" is the commanding officer who has succeeded to the command of the officer who imposed the punishment, or under whose delegated power the punishment was imposed, if the person punished is still of that command. If the person punished ceases to be of that command, the "successor in command" is that present commanding officer of the offender who can impose the same kind and amount of punishment as that imposed in the case or that resulting from any modification by other competent authority. When there has been a succession in command with respect to the person punished, only the successor in command, or an officer to whom the successor

has delegated Article 15 powers (para 3-2b), and appropriate superior authority (para 3-22 and para 3-28) may take action with respect to suspension, mitigation, remission, or setting aside.

b. Recording of action. Any action with respect to suspension, mitigation, remission, or setting aside taken by an authority *other than* an authority acting on an appeal (para 3-25) will be recorded in Section I, Part II, DA Form 2627-2.

3-17. **Suspension.** Ordinarily, the purpose of suspending punishment will be to grant to a deserving member a probational period during which he may show that he is deserving of remission of the suspended portion of his nonjudicial punishment. If, because of further mis-

conduct by the member within this period, it is determined that remission of the suspended punishment is not warranted, the suspension may be vacated and the suspended portion of the punishment executed. Action vacating a suspension will be entered in Section II, Part II, DA Form 2627-2. Unless the suspension is vacated prior to the expiration of the stated period of suspension, the suspended punishment is automatically remitted without further action. In addition, the death of the individual punished or the expiration of his current enlistment or term of service prior to the expiration or the stated period of suspension will automatically effect remission of the suspended punishment.

3-18. Mitigation. *a. Definition.* Mitigation means a reduction in either the quantity or the quality of a punishment, its general nature remaining the same. For example, if a punishment of correctional custody for 20 days is reduced to correctional custody for 10 days or to restriction for 20 days, each action would constitute mitigation; the first lessening the quantity and the second lessening the quality, with both mitigated punishments remaining of the same general nature as correctional custody, that is, a deprivation of liberty. Likewise, a forfeiture of pay may be mitigated to a lesser forfeiture or to a detention of the same or a lesser amount of pay and, under Article 15(d), a reduction in pay grade may be mitigated to forfeiture or detention of pay. When mitigating reduction in grade to forfeiture or detention of pay, the amount of the forfeiture or detention imposed in mitigation together with any forfeiture or detention imposed initially as part of the punishment may not be greater than the amount that could have been imposed initially under Article 15, based on the restored grade, by the officer who imposed the punishment mitigated. A detention of pay may be mitigated by reducing it to a lesser period, amount, or both.

b. General. Mitigation is appropriate when it is determined that the offender has, by his subsequent good conduct, merited a reduction in the severity of his punishment or when it is de-

termined that the punishment imposed was disproportionate to the offense or the offender.

c. Limitation on mitigation. With a single exception, the power to mitigate exists only with respect to a punishment or portion thereof which is *unexecuted*. The single exception to this rule is that a reduction in grade may be mitigated to forfeiture or detention of pay even though it has been executed. When mitigating correctional custody or other punishments in the nature of deprivation of liberty to lesser punishments of this kind, the lesser punishment may not run for a period greater than the remainder of the period for which the punishment mitigated was imposed. Thus, if a person upon whom a punishment of 15 days of correctional custody has been imposed has undergone 5 days of that punishment at the time it is decided to mitigate the correctional custody to extra duties or restriction, or both, the mitigated punishment may not run for a period in excess of 10 days. Although a suspended punishment may be mitigated to a punishment of a lesser quantity or quality which also is suspended for a period not greater than the remainder of the period for which the punishment mitigated was suspended, it may not, unless the suspension is vacated (para 3-17), be mitigated to an unsuspended punishment.

3-19. Remission. This is an action whereby any portion of the *unexecuted* punishment is canceled. Remission is appropriate under the same circumstances as mitigation. Discharge or other separation from the service remits any unexecuted punishment imposed under Article 15. In this regard, a person punished under Article 15 will not be held beyond his ETS to complete any unexecuted punishment imposed.

3-20. Setting aside and restoration. This is an action whereby the punishment or any part or amount thereof, whether executed or unexecuted, is set aside and any property, privileges, or rights affected by the portion of the punishment set aside are restored. The basis for this action is ordinarily a determination that, under all the circumstances of the case, the punishment has resulted in a clear injustice.

3-21. Limitations with respect to reduction in grade. An unsuspended reduction in grade, imposed as nonjudicial punishment, becomes fully executed at the time it is imposed (para 3-10). Accordingly, there can be no *remission* of an unsuspended reduction. Also for the same reason, an unsuspended reduction of more than one grade (such as from E-4 to E-2) may not be *mitigated* to a reduction of an intermediate grade (such as E-3 in the example). However,

an unsuspended reduction of more than one grade may be ameliorated in several ways. It could be mitigated to forfeiture or detention of pay, or suspended, in whole or in part (such as suspension of so much of the punishment as exceeds reduction to the grade of E-3 in the example). Also, if the circumstances warrant (para 3-20), the reduction may be set aside in whole or in part. The same possibilities exist with respect to a reduction of only one grade.

Section VIII. APPEALS (para 135, MCM, 1969)

3-22. Who may act on an appeal. An appeal under Article 15 will be acted upon by the authority next superior to the officer who imposed the punishment if the person punished is still of the command of that officer at the time he appeals, but if the punishment has been imposed under a delegation of the superior's power to impose nonjudicial punishment (see para 128, MCM, 1969) the appeal will be acted upon by the authority next superior to him. If, however, at the time he appeals from the punishment, the person punished is no longer of the command of the officer who imposed the punishment, the appeal shall be acted upon by the authority next superior to that present commanding officer of the offender who can impose the same kind and amount of punishment as that imposed in the case or that resulting from any modification by other competent authority. The authority "next superior" to a particular commanding officer is the authority normally next superior in the chain of command or such other authority as may be designated as being next superior for the purposes of Article 15 by higher authority. A superior authority who is a commanding officer exercising general court-martial jurisdiction or is a general officer in command may delegate those powers he has as a superior authority under Article 15(e) to a commissioned officer of his command exercising the function of deputy or assistant commander (see para 3-2b).

3-23. Procedure for submitting an appeal. All appeals from nonjudicial punishment will be made on Section IV of DA Form 2627-1 or, if the proceedings were oral, on Section II of DA

Form 2627. If an appeal is made, these forms will be forwarded through the officer who imposed the punishment, and any commanding officer of the offender who is subordinate to the officer who imposed the punishment, to the superior authority who is to act on the appeal. Although a person punished is not required to state reasons for his appeal, he may do so if he desires. For example, he may state in his appeal that he regards the punishment imposed as excessive. He may also request that a certain kind of action be taken on the appeal, for example, that a reduction be mitigated or suspended. The appellant may attach to the record of proceedings (DA Form 2627 or DA Form 2627-1) any documents he desires to be considered by the authority acting on the appeal.

3-24. Action by the officer who imposed the punishment or his successor in command. The officer who imposed the punishment or his successor in command may take any action with respect to the punishment that the authority who may act on the appeal could take (see para 134, MCM, 1969, and sec VII, above). If he suspends, mitigates, remits, or sets aside any part of the punishment, he will record his action in Section I, Part II, DA Form 2627-2, advise the appellant thereof, and request him to state whether, in view of this action, the appellant wishes to withdraw his appeal. Unless the appeal is voluntarily withdrawn as a result of action taken by the officer who imposed the punishment or his successor in command, the appeal will be forwarded to the appropriate superior authority. The officer forwarding the appeal may attach thereto any matter in rebut-

tal of assertions made by the appellant. When the member desires to appeal, the officer who imposed the punishment or his successor in command will make available to the member any necessary assistance in preparing the appeal and will insure that the appeal is promptly forwarded to the appropriate superior authority.

3-25. Action by superior authority. Action by superior authority on appeals from nonjudicial punishment will be entered in Section III, Part I, DA Form 2627-2. So that there will be a minimum of delay in closing the case, the superior authority will act on the appeal with all possible dispatch. Although he need not conduct an independent inquiry into the case, he may do so if he deems that action desirable in the interest of justice. The superior authority must refer an appeal from certain punishments (see para 135, MCM, 1969) to a judge advocate for consideration and advice before taking action, and he may so refer an appeal in any case. In acting on an appeal, the superior authority may exercise the same powers with respect to the punishment imposed as may be exercised by the officer who imposed the punishment or his successor in command under Article 15(d), paragraph 134, MCM, 1969, and section VII of this chapter.

3-26. Action by judge advocate. When an appeal is referred to a judge advocate, he will consider the case and advise the authority who is to act on the appeal, either orally or in writing. This advice will include the opinion of the judge advocate as to the appropriateness of the punishment as well as his findings as to whether the proceedings were in accordance with law and regulations. The judge advocate

may submit any additional advice he deems appropriate.

3-27. Time within which an appeal may be made. An appeal not made within a reasonable time may be rejected by the superior authority to whom it is made. Although no definite rules can be established as to what will constitute a reasonable time in every situation, an appeal made more than 15 days after the punishment was imposed may, in the absence of extraordinary circumstances, be considered as not having been made within a reasonable time.

3-28. Action by superior authority regardless of appeal. Under Article 15(e), any superior authority may exercise the same powers as may be exercised by the officer who imposes the punishment or his successor in command under Article 15(d), paragraph 134, MCM, 1969, and section VII of this chapter, whether or not an appeal has been made from the punishment (para 135, MCM, 1969). The term "any superior authority" has the same meaning as that given to the term "next superior authority" in paragraph 3-22, except that it also includes any authority superior to that authority.

3-29. Appeal from suspended punishment. Action will be taken on an appeal from suspended Article 15 punishment in the same manner and under the same conditions as an appeal from unsuspended punishment of the same kind and amount. See also paragraph 3-18c.

3-30. Statute of limitations. See Article 43(c) of the Uniform Code of Military Justice and paragraph 68c, MCM, 1969, as to the statute of limitations applicable to the imposition of punishment under Article 15.

(Under Designation)

THRU: _____
(Date)

THRU: _____

TO: Commanding _____
(Officer) (General)

1. (It has been reported) (The inclosed file indicates) that on or about

_____ at _____
(Date) (Place)

(here insert the name and organization of the individual concerned and the nature of the alleged misconduct in the form of a clear and concise statement of an offense in violation of the Uniform Code of Military Justice)

which constitutes conduct punishable under the Uniform Code of Military Justice.

2. I recommend that you exercise your authority under the provisions of Article 15, UCMJ, in the disposition of this case.

_____ Incl [s] _____
[t] Signature block

Figure 3-1. Format for transmitting case for action by a superior.

SUMMARIZED RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ		
For use of this form, see AR 27-10; the proponent agency is Office of The Judge Advocate General.		
This form will be used ONLY in cases involving enlisted personnel and then ONLY when no punishment OTHER THAN oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof has been imposed.		
NAME REMINGTON, Winchester Q.	SERVICE NUMBER/SOCIAL SECURITY ACCOUNT NUMBER 199-24-4880, RA 00 000 000	GRADE PFC (E-3)
ORGANIZATION Co A, 9th Bn, 20th Inf	DATE OF BIRTH 1 April 1941	BASIC PAY PER MONTH \$124.00
SECTION I - IMPOSITION OF PUNISHMENT		
UNIT DESIGNATION AND STATION Company A, 9th Bn, 20th Inf, Fort Blank, Missouri		
<p>1. On <u>4 February</u>, 19<u>63</u>, the above described individual, then appearing before me, was informed that a report had been made that (he) was did on or about <u>0900 hrs, 2 Feb</u>, 19<u>63</u>, at <u>Co A, 9th Bn, 20th Inf, Fort Blank, Missouri</u>, <u>wrongfully appear at company inspection with an unclean rifle and uniform.</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p style="text-align: right;">2</p> <p>After having been advised of (his) was rights under the provisions of Article 31, UCMJ, and being informed of my intention to impose nonjudicial punishment upon (him) was as to such offense(s) under the provisions of Article 15 unless (he) was expressly demanded trial by court-martial,³ (he) was was further informed that if (he) was did not demand trial by court-martial,³ (he) was should submit any matters in extenuation, mitigation, or defense, that is any excuses, explanations, or reasons for (his) was actions which (he) was desired me to consider.</p> <p>2. No demand for trial by court-martial for the offense(s) described above was made.³ Matters in extenuation, mitigation, or defense were <u>not submitted</u> _____, 4, 5 (not submitted) (submitted and considered)</p> <p>3. On <u>4 February</u>, 19<u>63</u>, the punishment(s) specified below was (were) imposed:</p> <p><u>Oral reprimand</u> _____ (Oral (admonition) (reprimand))</p> <p>Restriction to <u>Co A area</u> _____ for <u>10</u> days, (suspended until _____)</p> <p>Extra duties for _____ days, (suspended until _____)</p> <p>Restriction to _____ for _____ days and extra duties for _____ days to run concurrently (suspended until _____).</p> <p>4. <u>PFC Remington</u> was advised of (his) was right to appeal in accordance with para 135, MCM, and, and informed if (he) was desired to appeal, (his) was appeal should be directed to _____</p> <p><u>Commanding Officer, 9th Bn, 20th Inf</u> _____ <u>Fort Blank, Missouri</u> _____ 6</p> <p><u>Weston I. Smith, CPT, Inf</u> (Typed or printed name, grade and branch of officer imposing punishment)</p> <p><u>Commanding Officer, Co A, 9th Bn, 20th Inf</u> _____ <u>Weston I. Smith</u> (Title) _____</p>		

DA FORM 2627

1 MAR 68

REPLACES EDITION OF 1 FEB 63, WHICH WILL BE USED.

1

Figure 3-2.

26 November 1968

SECTION II - ACKNOWLEDGEMENT OF IMPOSITION OF PUNISHMENT	
THRU: _____	7 6 February 1963 (Date)
TO: CO Co A, 9th Bn, 20th Inf _____	
I have examined the foregoing record of proceedings which resulted in the imposition of punishment under the provisions Article 15 UCMJ.	
I <u>do not</u> ⁴ appeal from this punishment. (do) (do not) _____	
Incl _____	RA 00 000 000 199-24-4880
Winchester Q. Remington, PFC (E-3) 1 s/ <i>Winchester Q. Remington</i>	
(Typed or printed name, grade and service no./SSAN)	
SECTION III	
THIS SPACE MAY BE USED FOR ADDITIONAL REMARKS AND CONTINUATION OF SECTIONS. THE CORRESPONDING SECTION BEING CONTINUED SHOULD BE INDICATED. IF ADDITIONAL SPACE IS REQUIRED, ATTACH ADDITIONAL SHEETS, NUMBERING EACH SHEET CONSECUTIVELY STARTING WITH PAGE 8.	
USE THE FOLLOWING INSTRUCTIONS WHERE THE CORRESPONDING NUMBER APPEARS ON THE FORM	
<p>1/ Strike out inapplicable word or letter.</p> <p>2/ Insert language describing the nature of the alleged misconduct in the form of a concise statement of the offense charged in such terms that a specific violation or violations of the UCMJ is clearly stated. If additional space is required, use Section III.</p> <p>3/ If the alleged offender is attached to or embarked in a vessel, he is not permitted to demand trial by court-martial in lieu of nonjudicial punishment. In such cases, all reference to a demand for trial by court-martial shall be lined out and an appropriate remark will be made in Section III indicating the official name of the vessel and that the alleged offender was attached to or embarked in such vessel at the time non-judicial punishment was imposed.</p> <p>4/ Insert applicable word(s).</p>	<p>5/ Written material which is submitted for consideration should be attached to this form.</p> <p>6/ Designate by title the next superior authority to whom the appeal should be directed (see para 135, MCM) 1964 and 1972-16</p> <p>7/ In the event the person punished exercised his right to appeal, this form should be transmitted to the next superior authority specified in para 4, Section I. The superior authority acting on the appeal shall utilize DA Form 2627-2, which when completed will be attached to this form.</p> <p>8/ Here, if desired, state the reasons for the appeal. If additional space is required, use Section III. Attach any documents desired to be considered to this form and list the number of inclosures. If none, leave blank</p>

2

Figure 3-2—Continued.

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ			
For use of this form, see AR 27-10; the proponent agency is Office of The Judge Advocate General.			
This form will be used in ALL cases involving officers and warrant officers, and in those cases involving enlisted personnel when punishment OTHER THAN oral admonition or reprimand, restriction for 14 days or less, extra duties for 14 days or less, or a combination thereof is considered appropriate punishment.			
NAME GARRAND, Browning S.	SERVICE NUMBER/SSAN RA 00 000 000 199-24-4880	BASIC PAY PER MONTH \$251.10	SEA OR FOREIGN DUTY PAY N/A
ORGANIZATION 9th Bn (105,T), 99th Arty	DATE OF BIRTH 4 Sep 35	GRADE SGT (E-5)	TOTAL PAY \$251.10
CONTRIBUTION TO QUARTERS ALLOWANCE (Class Q) (Para 131c (8) and (9) MCM, 1963) N/A			
SECTION I - NOTIFICATION			
ORGANIZATION AND STATION OF NOTIFYING OFFICIAL Headquarters, 9th Bn (105,T), 99th Arty, Fort Blank, Missouri			
THRU: 4 January 1965			
THRU: CO, Btry A, 9th Bn (105,T), 99th Arty 1 (Date)			
TO: SGT Browning S. Garrand, 199-24-4880, RA 00 000 000			
(Grade, first name, middle initial, last name, Service No./SSAN)			
Btry A, 9th Bn (105,T), 99th Arty			
(Organization)			
1. It has been reported that, on or about 2300 hrs, 2 January 1965 , at Sundown, Missouri , you were drunk and disorderly in a public place known as "Ernie's Bar and Grill." It has also been reported that on or about 2315 hrs , on the same date, you resisted lawful apprehension by the military police.			
2. It is <u>the</u> ³ intention <u>of the</u> ³ Commanding Officer <u>of this organization</u> ³ to impose nonjudicial punishment upon you as to each offense(s) ⁴ under the provisions of Article 15, UCMJ unless you expressly demand trial by court-martial. ⁵			
(my) (the) (as) (of) (a principal assistant to whom the) (the) (has delegated his Article 15 authority)			
3. You are directed to acknowledge receipt of this communication in Section II of this form within 48 hours after your receipt thereof. ⁶ You may submit any matter in mitigation, extenuation, or defense. That is to say you may present any excuses, explanations, or reasons for your actions whatever.			
(hours) (days)			
4. You are hereby informed that under the provisions of Article 31, UCMJ, you are not required to make any statement regarding the offense(s) ⁴ described above, and that any statement you may desire to make concerning the offense(s) ⁴ may be used as evidence against you in a trial by court-martial.			
FOR THE COMMANDER: ⁷			
Henry V. King, CPT, Arty			
(Typed or printed name, grade and branch)			
Adjutant, 9th Bn (105,T), 99th Arty			
(Title)			
/s/ Henry V. King			

26 November 1968

SECTION II - ACKNOWLEDGMENT OF NOTIFICATION	
THRU: <u>CO Btry A, 9th Bn (105,T), 99th Arty</u> TO: <u>CO 9th Bn (105,T), 99th Arty</u> <div style="text-align: center; font-size: small;">(Organization)</div>	<div style="text-align: right;">1</div> <div style="text-align: right;">5 January 1965</div> <div style="text-align: right; font-size: small;">(Date)</div>
<p>I acknowledge receipt of the foregoing communication. Trial by court-martial <u>is not</u> ³ demanded. ⁵</p> <p style="text-align: center; font-size: small;">(is) (is not)</p> <p>Matters ³ in extenuation, mitigation, or defense <u>are</u> ³ submitted herewith</p> <p style="text-align: center; font-size: small;">(The following matters) (Matters) (are) (are not)</p> <p><u>and are contained in Section V.</u> ³</p> <p style="text-align: center; font-size: small;">(and are attached hereto) (and are contained in Section V)</p>	
<div style="display: flex; justify-content: space-between;"> <div> Browning S. Garrand, SGT (E-5), 199-24-4880 <small>(Typed or printed name, grade and Service No./SSAN)</small> </div> <div style="text-align: right;"> RA 00 000 000 <i>Browning S. Garrand</i> </div> </div>	
SECTION III - IMPOSITION OF PUNISHMENT	
(If, at this time, it is determined that no punishment is warranted, the individual concerned shall be notified of this fact and the record destroyed.)	
THRU: <u>CO Btry A, 9th Bn (105,T), 99th Arty</u> TO: <u>SGT Browning S. Garrand, 199-24-4880</u> <div style="text-align: center; font-size: small;">(Grade, first name, middle initial, last name, Service No./SSAN)</div> <u>Btry A, 9th Bn (105,T), 99th Arty</u> <div style="text-align: center; font-size: small;">(Organization)</div>	<div style="text-align: right;">1</div> <div style="text-align: right;">7 January 1965</div> <div style="text-align: right; font-size: small;">(Date)</div>
<p>1. The following punishment(s) ⁴ <u>are</u> ³ hereby imposed:</p> <p style="text-align: center; font-size: small;">(is) (are)</p> <p><u>Forfeiture of \$75.00 and reduction to the grade of Corporal (E-4).</u></p>	
<p>2. You are advised of your right to appeal in accordance with para 135, MCM, 1964: You are directed to indicate on Section IV of this form the date of receipt of this communication within <u>7 days</u> ³ after your receipt thereof and to make any appeal you may desire to make. ⁶ If you exercise your right to appeal, your appeal should be addressed</p> <p>to <u>Commanding Officer, 20th Inf Div Arty, HQ, 20th Inf Div Arty, Fort Blank, Mo.</u> ¹⁰</p> <p>Incl</p> <p><u>Richard T. Bastogne, LTC, Arty</u> <small>(Typed or printed name, grade and branch)</small></p> <p><u>Commanding Officer, 9th Bn (105,T), 99th Arty</u> ¹⁰ <i>Richard T. Bastogne</i> <small>(Title)</small></p>	

2

Figure 3-3—Continued.

SECTION IV - ACKNOWLEDGEMENT OF IMPOSITION OF PUNISHMENT	
THRU: CO Btry A, 9th Bn (105 T), 99th Arty <i>YM</i>	9 January 1965
THRU: CO 9th Bn (105 T), 99th Arty <i>RUC</i>	(Date)
THRU: _____	1
TO: CO 20th Inf Div Arty	11
<p>I received the foregoing communication (Section III) on <u>8 January 1965</u></p> <p style="text-align: right;">(Date)</p> <p>I <u>do</u> ³ appeal from this punishment. ¹²</p> <p style="text-align: center;">(Do) (do not)</p> <p>I have been in the US Army for a little over seven years and my personnel records will clearly show that this is the first time that I have received any kind of punishment. I have tried to be diligent in all of my military duties and expected what I considered to be a well earned promotion in the near future. However, because of a relatively small indiscretion on my part, I have not only lost this opportunity, but I have had my hopes for an Army career seriously damaged. I cannot agree that the punishments, particularly the reduction, imposed truly reflect the degree of my alleged misconduct. I admittedly had too much to drink, but my misconduct was not grossly disorderly. So far as the charge of resisting arrest is concerned, I merely resisted while arguing about the reason I was being arrested and only wanted to clarify that fact before being taken back to the post. I did not offer any violent resistance to the military police. Because of the severity of the punishments imposed, I will appreciate any assistance or consideration you might give to this appeal.</p>	
13	
<p style="text-align: center;">Incl</p> <p style="text-align: center;">RA 00 000 000</p> <p><u>Browning S. Garrand, CPL, 199-24-4880</u> <i>/s/ Browning S. Garrand</i></p> <p style="text-align: center;">(Typed or printed name, grade and Service No./SSAN)</p>	
SECTION V	
<p><small>THIS SPACE MAY BE USED FOR ADDITIONAL REMARKS AND CONTINUATION OF SECTIONS. THE CORRESPONDING SECTION BEING CONTINUED SHOULD BE INDICATED. THIS SPACE ALSO MAY BE USED FOR SUMMARIZING AND ORAL PROCEEDINGS. (See 133a, MCM, 1951.) IF ADDITIONAL SPACE IS REQUIRED, USE REVERSE SIDE OF THIS PAGE OR ATTACH ADDITIONAL SHEETS NUMBERING EACH SHEET CONSECUTIVELY STARTING WITH PAGE 5.</small></p> <p>Section II (Continued)</p> <p>My unit had just returned to garrison after a two-week field problem, and a group of us went to town to celebrate the high rating achieved by the Battery. I am not used to drinking and was tired out from maneuvers and this accounts for my condition. I have learned my lesson and this will not happen again.</p>	
<p>(See Reverse Side)</p> <p>3</p>	

Figure 3-3—Continued.

SECTION V (CONTINUED)

USE THE FOLLOWING INSTRUCTIONS WHERE THE CORRESPONDING NUMBER APPEARS ON THE FORM.

1/ Complete only if applicable. If record is transmitted through channels, intermediate commanders need only line out and initial.

2/ Insert language describing the nature of the alleged misconduct in the form of a concise statement of the offense charged in such terms that a specific violation or violations of the UCMJ is clearly stated. If more than one offense is involved, add language substantially as follows: "It has also been reported that on or about _____ at _____ you..." If additional space is required, use Section V.

3/ Insert applicable word(s).

4/ Strike out inapplicable word or letter.

5/ If the alleged offender is attached to or embarked in a vessel, he is not permitted to demand trial by court-martial in lieu of nonjudicial punishment. In such cases, all reference to a demand for trial by court-martial shall be lined out and an appropriate remark will be made in Section V indicating the official name of the vessel and that the alleged offender was attached to, or embarked in such vessel at the time nonjudicial punishment was imposed.

6/ The time within which acknowledgment of receipt is to be made should be determined in light of the circumstances of the case. The addressee may request an extension of time.

7/ If signed personally, strike out command line

8/ Insert title of officer who is to impose the punishment and his organization.

9/ If punishment includes correctional custody, the officer imposing the punishment will state where the correctional custody will be served. (~~See para 8c(2), AR 27-10~~) If a punishment is suspended, the action should so state and should specify the duration of the suspension. (~~See para 134, MCM, 1044~~) If punishment includes a written admonition or reprimand, this should be attached to this form and listed as an inclosure. If punishment includes a reduction, the reduction order (~~See para 8c(3), AR 27-10~~) should be attached to this form and listed as an inclosure.

10/ Designate by title the next superior authority to whom the appeal should be directed. (~~See para 135, MCM) 1044 and 1045~~

11/ When no appeal is made, address to the officer who imposed the punishment(s). If an appeal is made, address to the officer specified in para 2, Section III.

12/ If desired, state the reasons for the appeal. If additional space is required, use Section V. Attach any documents desired to be considered to the back of this form and list the number of inclosures. If none, leave blank.

13/ In the event the person punished exercises his right to appeal, the superior authority shall utilize DA Form 2627-2 which, when completed, will be attached to this form.

RECORD OF APPELLATE OR OTHER SUPPLEMENTARY ACTIONS UNDER ARTICLE 15, UCMJ		
For use of this form, see AR 27-10; the proponent agency is Office of The Judge Advocate General.		
NAME GARRAND, Browning S.	SERVICE NUMBER/SSAN 199-24-4880, RA 00 000 000	GRADE CPL (E-4)
ORGANIZATION Btry A, 9th Bn (105,T), 99th Arty	DATE OF BIRTH 4 Sep 35	BASIC PAY PER MONTH \$220.50
DATE PUNISHMENT IMPOSED 7 January 1965	PUNISHMENT(S) IMPOSED Forfeiture of \$75.00 and reduction to CPL (E-4)	
PART I—RECORD OF ACTION ON APPEAL		
SECTION I—TRANSMITTAL TO JUDGE ADVOCATE (To be completed only if the appeal is to be forwarded to a judge advocate. See para 135, MCM, 1964, for a discussion of when an appeal MUST be forwarded to a judge advocate.)		
TO: CG, 20th Inf Div HQ, 20th Inf Div (Organization)	11 January 1965 (Date)	
ATTN: Judge Advocate Forwarded herewith for consideration and advice pursuant to the provisions of Article 15(e), UCMJ. FOR THE COMMANDER: James T. Davis, MAJ, Arty (Typed or printed name, grade and branch) Adjutant, 20th Inf Div Arty (Title) <i>James T. Davis</i>		
SECTION II - ACTION BY JUDGE ADVOCATE (To be completed only if the appeal is forwarded to a judge advocate)		
TO: CO, 20th Inf Div Arty HQ, 20th Inf Div Arty (Organization)	13 January 1965 (Date)	
I have considered the appeal in this case and <u>it is my opinion that the proceedings were con-</u> (have advised you orally thereon) (it is my opinion that _____) ducted in accordance with law and regulations and that the punishments imposed were not unjust or disproportionate to the offenses committed. However, on inquiry I have Oliver W. Blackstone, CPT, JAGC (Typed or printed name, grade and branch) (Continued in Part III) HQ, 20th Inf Div (Organization) Asst Staff Judge Advocate (Title) <i>Oliver W. Blackstone</i>		
SECTION III - ACTION BY SUPERIOR ACTING ON THE APPEAL		
THRU: CO, 9th Bn (105,T), 99th Arty CO, Btry A, 9th Bn (105,T), 99th Arty THRU: CPL Browning S. Garrand, 199-24-4880, RA 00 000 000	15 January 1965 (Date)	
Appeal <u>granted in part</u> (denied) (granted) (granted in part) CPL (E-4) is suspended until 6 April 1965.		
Incl ⁶ Robert L. Normandy, COL, Arty (Typed or printed name, grade and branch) Commanding Officer, 20th Inf Div Arty (Title) <i>Robert L. Normandy</i>		

DA FORM 2627-2 REPLACES EDITION OF 1 FEB 63. SUPPLIES OF WHICH WILL BE
1 MAR 65 ISSUED AND USED UNTIL 1 MAR 66 UNLESS SOONER EXHAUSTED.

Figure 3-4.

SECTION IV - ACKNOWLEDGMENT OF ACTION ON APPEAL	
TO: CO, Btry A, 9th Bn (105,T), 99th Arty ⁸	18 January 1965 (Date)
<div style="display: flex; justify-content: space-between;"> (Organization) Received on <u>16 January 1965</u> </div>	
<div style="display: flex; justify-content: space-between;"> (Date) RA 00 000 000 Contents noted. </div>	
<u>Browning S. Garrand, SGT (E-5), 199-24-4880</u> /s/ <i>Browning S. Garrand</i> ⁹ <small>(Typed or printed name, grade and Service No./SSAN)</small>	
PART II - RECORD OF SUPPLEMENTARY ACTIONS OTHER THAN ON APPEAL	
SECTION I - SUSPENSION, MITIGATION, REMISSION OR SETTING ASIDE OTHER THAN BY SUPERIOR ACTING ON AN APPEAL	
On _____, the punishment(s) ¹⁰ of _____ <div style="text-align: right;">(Date)</div>	
<div style="display: flex; justify-content: space-between;"> (was) (were) (suspended until) _____ (mitigated to) (remitted) (set aside and all rights, privileges, and property affected restored) 4 </div>	
<div style="display: flex; justify-content: space-between;"> (by my order) (by order of) ¹⁰ _____ </div>	
<div style="display: flex; justify-content: space-between;"> (_____, the officer who imposed the punishment) (_____, the successor in command to the officer who 4 </div>	
<div style="display: flex; justify-content: space-between;"> imposed the punishment) (_____, as superior authority) </div>	
<div style="display: flex; justify-content: space-between;"> _____ Incl⁶ /s/ </div>	
<div style="display: flex; justify-content: space-between;"> (Typed or printed name and official designation) </div>	
SECTION II - VACATION OF SUSPENSION	
<div style="display: flex; justify-content: space-between;"> The suspension of the punishment(s)¹⁰ of _____ (Date) </div>	
<div style="display: flex; justify-content: space-between;"> imposed against _____ (is) (are)¹⁰ </div>	
<div style="display: flex; justify-content: space-between;"> (Name of offender) (Current organization) </div>	
<div style="display: flex; justify-content: space-between;"> hereby vacated. The unexecuted portion(s)¹⁰ of the punishment(s)¹⁰ will be duly executed. </div>	
<div style="display: flex; justify-content: space-between;"> _____ Incl⁶ </div>	
<div style="display: flex; justify-content: space-between;"> (Typed or printed name, grade and branch)¹¹ /s/ </div>	
<div style="display: flex; justify-content: space-between;"> (Title and Organization) </div>	
PART III	
<p>THIS SPACE MAY BE USED FOR ADDITIONAL REMARKS AND CONTINUATION OF SECTIONS. IF ADDITIONAL SPACE IS REQUIRED, ATTACH ADDITIONAL SHEETS, NUMBERING EACH SHEET CONSECUTIVELY, STARTING WITH PAGE 3.</p> <p>determined that prior to this incident the appellant was considered an excellent SGT and that his records contain no evidence of other disciplinary matters. I therefore recommend that the reduction be suspended until 6 April 1965.</p> <p>USE THE FOLLOWING INSTRUCTIONS WHERE THE CORRESPONDING NUMBER APPEARS ON THE FORM.</p> <div style="display: flex;"> <div style="width: 50%;"> <p>1/ If the authority acting on the appeal does not have a judge advocate assigned to his staff, the appeal should be forwarded to a judge advocate on the staff of the first superior authority whose staff includes a judge advocate.</p> <p>2/ If signed personally, strike out command line.</p> <p>3/ Complete only if applicable. If record is transmitted through channels, intermediate commanders need only line out and initial.</p> <p>4/ Insert applicable word(s).</p> <p>5/ State nature of action, if any, such as remission, suspension, mitigation, or setting aside and restoration. (See para 134, MCM) 444</p> <p>6/ Any other documents reflecting the action taken, such as</p> </div> <div style="width: 50%;"> <p>reduction or restoration orders (See para 8-22) AR 27-10 should be attached hereto and listed as an inclosure.</p> <p>7/ If appeal is acted on by an officer who has been delegated this authority, insert the following phrase: "Acting under delegation of authority made by Commanding _____" <div style="text-align: right;">(Organization)</div> </p> <p>8/ Insert title of immediate commanding officer of the appellant.</p> <p>9/ To be signed by appellant and dispatched to immediate commanding officer.</p> <p>10/ Strike out inapplicable word(s) or letter(s).</p> <p>11/ Insert the name, grade, and branch of the officer who vacated the suspended punishment.</p> </div> </div>	

Page 2

Figure 3-4—Continued.

Table 3-1. Forfeitures and Detentions of Pay Authorized Under Article 15, UCMJ, Upon Enlisted Persons

If the person to be punished has a Class Q allotment in effect at the time of punishment, the figures in parentheses should be used.

Pay grades	Monthly pay rate		Daily pay rate		Maximum forfeiture or detention per month if imposed by major or above		Maximum forfeiture or detention if imposed by captain or below			
							Forfeiture		Detention	
	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign
E-1:										
Under 4 months	\$102.30	\$110.30	\$(2.07)	\$(2.34)	\$ (31.00)	\$ (35.00)	\$(14.00)	\$(16.00)	\$(29.00)	\$ (32.00)
			3.41	3.67	51.00	55.00	23.00	25.00	47.00	51.00
2 years or less	109.50	117.50	(2.31)	(2.58)	(34.00)	(38.00)	(16.00)	(18.00)	(32.00)	(36.00)
			3.65	3.91	54.00	58.00	25.00	27.00	51.00	54.00
Over 2 years	145.50	153.50	(3.51)	(3.78)	(52.00)	(56.00)	(24.00)	(26.00)	(49.00)	(52.00)
			4.85	5.11	72.00	76.00	33.00	35.00	67.00	71.00
E-2:										
2 years or less	113.40	121.40	(2.44)	(2.71)	(36.00)	(40.00)	(17.00)	(18.00)	(34.00)	(37.00)
			3.78	4.04	52.00	60.00	26.00	28.00	52.00	56.00
Over 2 years	159.00	167.00	(3.96)	(4.23)	(59.00)	(63.00)	(27.00)	(29.00)	(55.00)	(59.00)
			5.30	5.56	79.00	83.00	37.00	38.00	74.00	77.00
E-3:										
2 years or less	137.70	146.70	(3.25)	(3.55)	(48.00)	(53.00)	(22.00)	(24.00)	(45.00)	(49.00)
			4.59	4.89	68.00	73.00	32.00	34.00	64.00	68.00
Over 2 years	192.00	201.00	(5.06)	(5.36)	(76.00)	(80.00)	(35.00)	(37.00)	(70.00)	(75.00)
			6.40	6.70	96.00	100.00	44.00	46.00	89.00	93.00
Over 3 years	205.50	214.50	(5.51)	(5.81)	(82.00)	(87.00)	(38.00)	(40.00)	(77.00)	(81.00)
			6.85	7.15	102.00	107.00	47.00	50.00	95.00	100.00
Over 4 years	218.70	227.70	(5.95)	(6.25)	(89.00)	(93.00)	(41.00)	(43.00)	(83.00)	(87.00)
			7.29	7.59	109.00	113.00	51.00	53.00	102.00	106.00
E-4:										
2 years or less	190.20	203.20	(5.00)	(5.44)	(75.00)	(81.00)	(35.00)	(38.00)	(70.00)	(76.00)
			6.34	6.77	95.00	101.00	44.00	47.00	88.00	94.00
Over 2 years	238.50	251.50	(6.61)	(7.05)	(99.00)	(105.00)	(46.00)	(49.00)	(92.00)	(98.00)
			7.95	8.38	119.00	125.00	55.00	58.00	111.00	117.00
Over 3 years	251.70	264.70	(7.05)	(7.49)	(105.00)	(112.00)	(49.00)	(52.00)	(98.00)	(104.00)
			8.39	8.82	125.00	132.00	58.00	61.00	117.00	123.00
Over 4 years	271.50	284.50	9.05	9.48	135.00	142.00	63.00	66.00	126.00	132.00
Over 6 years	285.00	298.00	9.50	9.93	142.00	149.00	66.00	69.00	133.00	139.00
E-5:										
2 years or less	226.20	242.20	7.54	8.07	113.00	121.00	52.00	56.00	105.00	113.00
Over 2 years	278.70	294.70	9.29	9.82	139.00	147.00	65.00	68.00	130.00	137.00
Over 3 years	291.90	307.90	9.73	10.26	145.00	153.00	68.00	71.00	136.00	143.00
Over 4 years	304.80	320.80	10.16	10.69	152.00	160.00	71.00	74.00	142.00	149.00
Over 6 years	324.90	340.90	10.83	11.36	162.00	170.00	75.00	79.00	151.00	159.00
Over 8 years	338.10	354.10	11.27	11.80	169.00	177.00	78.00	82.00	157.00	165.00

Table 3-1. Forfeitures and Detentions of Pay Authorized Under Article 15, UCMJ, Upon Enlisted Persons—Continued

Pay grades	Monthly pay rate		Daily pay rate		Maximum forfeiture or detention per month if imposed by major or above		Maximum forfeiture or detention if imposed by captain or below			
							Forfeiture		Detention	
	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign	Basic	Basic & foreign
Over 10 years	351.30	367.30	11.71	12.24	175.00	183.00	81.00	85.00	163.00	171.00
Over 12 years	364.20	380.20	12.14	12.67	182.00	190.00	84.00	88.00	169.00	177.00
Over 14 years	371.10	387.10	12.37	12.90	185.00	193.00	86.00	90.00	173.00	180.00
E-6:										
2 years or less	261.90	281.90	8.73	9.39	130.00	140.00	61.00	65.00	122.00	131.00
Over 2 years	318.00	338.00	10.60	11.26	159.00	169.00	74.00	78.00	148.00	157.00
Over 3 years	331.20	351.20	11.04	11.70	165.00	175.00	77.00	81.00	154.00	163.00
Over 4 years	344.70	364.70	11.49	12.15	172.00	182.00	80.00	85.00	160.00	170.00
Over 6 years	358.20	378.20	11.94	12.60	179.00	189.00	83.00	88.00	167.00	176.00
Over 8 years	371.10	391.10	12.37	13.03	185.00	195.00	86.00	91.00	173.00	182.00
Over 10 years	384.60	404.60	12.82	13.48	192.00	202.00	89.00	94.00	179.00	188.00
Over 12 years	404.40	424.40	13.48	14.14	202.00	212.00	94.00	99.00	188.00	198.00
Over 14 years	417.30	437.30	13.91	14.57	208.00	218.00	97.00	102.00	194.00	204.00
Over 16 years	430.50	450.50	14.35	15.01	215.00	225.00	100.00	105.00	200.00	210.00
Over 18 years	437.40	457.40	14.58	15.24	218.00	228.00	102.00	106.00	204.00	213.00
E-7:										
2 years or less	303.90	326.40	10.13	10.88	151.00	163.00	70.00	76.00	141.00	152.00
Over 2 years	364.20	386.70	12.14	12.89	182.00	193.00	84.00	90.00	169.00	180.00
Over 3 years	377.70	400.20	12.59	13.34	188.00	200.00	88.00	93.00	176.00	186.00
Over 4 years	391.20	413.70	13.04	13.79	195.00	206.00	91.00	96.00	182.00	193.00
Over 6 years	404.40	426.90	13.48	14.23	202.00	213.00	94.00	99.00	188.00	199.00
Over 8 years	417.30	439.80	13.91	14.66	208.00	219.00	97.00	102.00	194.00	205.00
Over 10 years	430.50	453.00	14.35	15.10	215.00	226.00	100.00	105.00	200.00	211.00
Over 12 years	444.30	466.80	14.81	15.56	222.00	233.00	103.00	108.00	207.00	217.00
Over 14 years	464.10	486.60	15.47	16.22	232.00	243.00	108.00	113.00	216.00	227.00
Over 16 years	477.30	499.80	15.91	16.66	238.00	249.00	111.00	116.00	222.00	233.00
Over 18 years	490.50	513.00	16.35	17.10	245.00	256.00	114.00	119.00	228.00	239.00
Over 20 years	497.10	519.60	16.57	17.32	248.00	259.00	115.00	121.00	231.00	242.00
Over 22 years	530.40	552.90	17.68	18.43	265.00	276.00	123.00	129.00	247.00	258.00
Over 26 years	596.70	619.20	19.89	20.64	298.00	309.00	139.00	144.00	278.00	288.00
E-8:										
Over 8 years	483.60	506.10	16.12	16.87	241.00	253.00	112.00	118.00	225.00	236.00
Over 10 years	497.10	519.60	16.54	17.32	248.00	259.00	115.00	121.00	231.00	242.00
Over 12 years	510.30	532.80	17.01	17.76	255.00	266.00	119.00	124.00	238.00	248.00
Over 14 years	523.80	546.30	17.46	18.21	261.00	273.00	122.00	127.00	244.00	254.00
Over 16 years	537.00	559.50	17.90	18.65	268.00	279.00	125.00	130.00	250.00	261.00
Over 18 years	549.90	572.40	18.33	19.08	274.00	286.00	128.00	133.00	256.00	267.00
Over 20 years	563.40	585.90	18.78	19.53	281.00	292.00	131.00	136.00	262.00	273.00
Over 22 years	596.70	619.20	19.89	20.64	298.00	309.00	139.00	144.00	278.00	288.00
Over 26 years	663.00	685.50	22.10	22.85	331.00	342.00	154.00	159.00	309.00	319.00

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E-9:

Over 10 years	576.30	598.80	19.21	19.96	288.00	299.00	134.00	139.00	268.00	279.00
Over 12 years	589.50	612.00	19.65	20.40	294.00	306.00	137.00	142.00	275.00	285.00
Over 14 years	603.30	625.80	20.11	20.86	301.00	312.00	140.00	146.00	281.00	292.00
Over 16 years	616.50	639.00	20.55	21.30	308.00	319.00	143.00	149.00	287.00	298.00
Over 18 years	630.00	652.50	21.00	21.75	315.00	326.00	147.00	152.00	294.00	304.00
Over 20 years	642.60	665.10	21.42	22.17	321.00	332.00	149.00	155.00	299.00	310.00
Over 22 years	676.50	699.00	22.55	23.30	338.00	349.00	157.00	163.00	315.00	326.00
Over 26 years	742.20	764.70	24.74	25.49	371.00	382.00	173.00	178.00	346.00	356.00

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*Table 3-2. Forfeitures and Detentions of Pay Authorized Under Article 15, UCMJ
Upon Officers and Warrant Officers When Imposed by an Officer with General
Court-Martial Jurisdiction or by a General Officer in Command*

Pay grade	Basic pay per month	Daily pay rate	Maximum authorized forfeiture or detention per month
<i>Warrant officers:</i>			
<i>W-1:</i>			
2 years or less	\$ 336.60	\$11.22	\$168.00
Over 2 years	386.10	12.87	193.00
Over 4 years	417.90	13.93	208.00
Over 6 years	436.80	14.56	218.00
Over 8 years	455.70	15.19	227.00
Over 10 years	474.30	15.81	237.00
Over 12 years	493.80	16.46	246.00
Over 14 years	512.70	17.09	256.00
Over 16 years	531.60	17.72	265.00
Over 18 years	550.20	18.34	275.00
Over 20 years	569.70	18.99	284.00
<i>W-2:</i>			
2 years or less	403.80	13.46	201.00
Over 2 years	436.80	14.56	218.00
Over 4 years	449.40	14.98	224.00
Over 6 years	474.30	15.81	237.00
Over 8 years	500.40	16.68	250.00
Over 10 years	519.30	17.31	259.00
Over 12 years	537.90	17.93	268.00
Over 14 years	556.80	18.56	278.00
Over 16 years	576.00	19.20	288.00
Over 18 years	594.60	19.82	297.00
Over 20 years	613.50	20.45	306.00
Over 22 years	638.70	21.29	319.00
<i>W-3:</i>			
2 years or less	461.10	15.37	230.00
Over 2 years	500.40	16.68	250.00
Over 4 years	506.40	16.88	253.00
Over 6 years	512.70	17.09	256.00
Over 8 years	550.20	18.34	275.00
Over 10 years	582.00	19.40	291.00
Over 12 years	600.90	20.03	300.00
Over 14 years	620.10	20.87	310.00
Over 16 years	638.70	21.29	319.00
Over 18 years	658.50	21.95	329.00
Over 20 years	683.70	22.79	341.00
Over 22 years	708.60	23.62	354.00
Over 26 years	734.10	24.47	367.00
<i>W-4:</i>			
2 years or less	507.30	16.91	253.00
Over 2 years	544.20	18.14	272.00
Over 4 years	556.80	18.56	278.00
Over 6 years	582.00	19.40	291.00
Over 8 years	607.50	20.25	303.00
Over 10 years	632.70	21.09	316.00
Over 12 years	677.40	22.58	338.00
Over 14 years	708.60	23.62	354.00
Over 16 years	734.10	24.47	367.00
Over 18 years	753.30	25.11	376.00
Over 20 years	778.20	25.94	389.00
Over 22 years	804.00	26.80	402.00
Over 26 years	866.40	28.88	433.00

*Table 3-2. Forfeitures and Detentions of Pay Authorized Under Article 15, UCMJ
Upon Officers and Warrant Officers When Imposed by an Officer with General
Court-Martial Jurisdiction or by a General Officer in Command—Continued*

Pay grade	Basic pay per month	Daily pay rate	Maximum authorized forfeiture or detention per month
<i>Officers:</i>			
<i>O-1:</i>			
2 years or less	343.20	11.44	171.00
Over 2 years	379.80	12.66	189.00
Over 3 years	474.30	15.81	237.00
<i>O-1E:</i>			
Over 4 years	474.30	15.81	237.00
Over 6 years	506.40	16.88	253.00
Over 8 years	525.30	17.51	262.00
Over 10 years	544.20	18.14	272.00
Over 12 years	563.10	18.77	281.00
Over 14 years	588.60	19.62	294.00
<i>O-2:</i>			
2 years or less	399.30	13.31	199.00
Over 2 years	474.30	15.81	237.00
Over 3 years	569.70	18.99	284.00
Over 4 years	588.60	19.62	294.00
Over 6 years	600.90	20.03	300.00
<i>O-2E:</i>			
Over 4 years	588.60	19.62	294.00
Over 6 years	600.90	20.03	300.00
Over 8 years	620.10	20.67	310.00
Over 10 years	652.20	21.74	326.00
Over 12 years	677.40	22.58	338.00
Over 14 years	696.30	23.21	348.00
<i>O-3:</i>			
2 years or less	498.30	16.61	249.00
Over 2 years	556.80	18.56	278.00
Over 3 years	594.60	19.82	297.00
Over 4 years	658.50	21.95	329.00
Over 6 years	689.70	22.99	344.00
Over 8 years	714.90	23.83	357.00
Over 10 years	753.30	25.11	376.00
Over 12 years	790.80	26.36	395.00
Over 14 years	810.00	27.00	405.00
<i>O-3E:</i>			
Over 4 years	658.50	21.95	329.00
Over 6 years	689.70	22.99	344.00
Over 8 years	714.90	23.83	357.00
Over 10 years	753.30	25.11	376.00
Over 12 years	790.80	26.36	395.00
Over 14 years	822.60	27.42	411.00
<i>O-4:</i>			
2 years or less	536.10	17.87	268.00
Over 2 years	652.20	21.74	326.00
Over 3 years	696.30	23.21	348.00
Over 6 years	708.60	23.62	354.00
Over 8 years	740.40	24.68	370.00
Over 10 years	790.80	26.36	395.00
Over 12 years	835.20	27.84	417.00
Over 14 years	873.30	29.11	436.00
Over 16 years	911.40	30.38	455.00
Over 18 years	936.90	31.23	468.00

*Table 3-2. Forfeitures and Detentions of Pay Authorized Under Article 15, UCMJ
Upon Officers and Warrant Officers When Imposed by an Officer with General
Court-Martial Jurisdiction or by a General Officer in Command—Continued*

Pay grade	Basic pay per month	Daily pay rate	Maximum authorized forfeiture or detention per month
<i>O-5:</i>			
2 years or less	635.40	21.18	317.00
Over 2 years	746.70	24.89	373.00
Over 3 years	797.70	26.59	398.00
Over 10 years	822.60	27.42	411.00
Over 12 years	866.40	28.88	433.00
Over 14 years	924.30	30.81	462.00
Over 16 years	993.60	33.12	496.00
Over 18 years	1050.60	35.02	525.00
Over 20 years	1082.10	36.07	541.00
Over 22 years	1120.20	37.34	560.00
<i>O-6:</i>			
2 years or less	794.40	26.48	397.00
Over 2 years	873.30	29.11	436.00
Over 3 years	930.30	31.01	465.00
Over 14 years	962.10	32.07	481.00
Over 16 years	1113.90	37.13	556.00
Over 18 years	1170.90	39.03	585.00
Over 20 years	1196.40	39.88	598.00
Over 22 years	1265.70	42.19	632.00
Over 26 years	1373.10	45.77	686.00

CHAPTER 4

SUSPENSION OF COUNSEL

4-1. General. When a person acting or about to act as counsel before courts-martial or as appellate counsel (pursuant to para 102, MCM, 1969) is or has been guilty of professional or personal misconduct of such a serious nature as to show that he is lacking in integrity or good demeanor or is otherwise unworthy or unqualified to perform the duties of counsel, action may, when appropriate, be initiated to suspend him from acting as counsel (see para 43, MCM, 1969). Suspension action is appropriate in the case of a person who is certified as qualified to perform the duties of counsel of general courts-martial under the Uniform Code of Military Justice, Article 27(b) (PL 506, 81st Cong.; sec. III, DA Bul. 8, 1950; 64 Stat. 107; 50 U.S.C. 551, et seq.) or who has been selected or provided as counsel by the accused under the Uniform Code of Military Justice, Article 38(b). Action to suspend a person acting as appellate counsel pursuant to paragraph 102 MCM, 1969, shall be taken by The Judge Advocate General.

4-2. Grounds for suspension. Grounds for suspension include, but are not limited to, demonstrated incompetence while acting as counsel during pretrial, trial, post-trial, or appellate stages of the proceedings; preventing or obstructing justice, including the deliberate use of frivolous or unwarranted dilatory tactics; fabricating papers or evidence; tampering with a witness; abusive conduct toward the members of the court, the military judge or other counsel; conviction of a felony or any offense involving moral turpitude; an attempt by one who is a security risk to act as counsel in a case involving a security matter; disbarment or suspension from practice by a Federal, State, or foreign court; suspension from practice as counsel before courts-martial by The Judge Advocate General of another armed

force or by the United States Court of Military Appeals; and flagrant or continued violations of any specific rules of conduct prescribed for counsel (see para 42, 44, 46, and 48, MCM, 1969), or of the Canons of Professional Ethics adopted by the American Bar Association, or of the Code of Trial Conduct adopted by the American College of Trial Lawyers. Action to suspend should not be initiated because of personal prejudices or hostility toward counsel, because he has presented an aggressive, zealous, or novel defense, or when his apparent misconduct as counsel stems solely from inexperience or lack of instruction in the performance of legal duties.

4-3. Action to suspend. a. General. Action to suspend a person from acting as counsel before courts-martial or as appellate counsel will be initiated only when other available remedial measures, including punitive action, are inappropriate, have failed to induce proper behavior, or will not prevent the person from acting as counsel before courts-martial or as appellate counsel. Accordingly, full consideration shall be given to the appropriateness and effectiveness of such measures as admonition, instruction, proceedings in contempt, punishment under the Uniform Code of Military Justice, Article 15, trial by court-martial, and relief of the person from duties as appointed counsel, assistant counsel, or appellate counsel.

b. By a court-martial. The military judge or court-martial without a military judge may determine initially and upon his or its own motion whether a person is qualified to act as counsel before the court-martial in a particular case. If counsel is guilty of misconduct, the military judge or court-martial without a military judge may admonish him and, if the misconduct is contemptuous, the court-martial may punish him (UCMJ, Article 48, MCM,

1969, para 118). If admonition or punishment is inappropriate or fails to achieve the desired standard of behavior, the court should adjourn and report the facts to the convening authority.

c. By the convening authority. When a convening authority receives information as to the misconduct of a person within the purview of paragraph 4-1 who is acting or about to act as counsel before courts-martial appointed by him, he will, if he does not exercise general court-martial jurisdiction, make a prompt report of the matter to the officer exercising general court-martial jurisdiction over the command. When an officer exercising general court-martial jurisdiction receives information indicating disqualifying conduct on the part of counsel in any case before a court-martial appointed by him or over which he exercises supervisory authority, he will act promptly to dispose of the matter in the interest of the proper administration of justice. However, if the alleged disqualifying conduct occurs during the trial of a particular case and involves counsel for the accused, action may be deferred pending completion of the trial.

(1) *Appointment of a board of officers.* If the officer exercising general court-martial jurisdiction determines that available remedial measures are not appropriate or will not be effective, he will, under AR 15-6, appoint a board of three officers to investigate the matter and report its findings and recommendations as to whether the affected person is qualified to act as counsel before courts-martial. The board so appointed shall be composed of members who are certified as qualified to act as law officers or counsel of general courts-martial (UCMJ, Arts. 26, 27). If the respondent is an officer, no member of the board shall, without the respondent's consent, be junior to him in permanent or temporary grade.

(2) *Action by the board of officers.* All proceedings of the board will be pursuant to AR 15-6. The board will cause notice to be given to the counsel concerned designating him the respondent, informing him of the misconduct or other disqualification alleged, and affording him the opportunity to appear before

the board for a hearing. The respondent will be permitted at least 5 days after receipt of notice to prepare for a hearing. Failure to appear before the board at a set date 5 days subsequent to service of notice will, unless the board has granted a continuance, constitute a waiver of appearance. The respondent is entitled to be represented at the hearing by counsel provided by him or, in the case of a military respondent, by counsel qualified in the sense of Article 27(b) of the Uniform Code of Military Justice, appointed by the authority convening the board. Upon ascertaining the relevant facts after notice and opportunity for hearing, the board will report its findings and recommendations based thereon to its convening authority.

(3) *Action by authority convening the board.* Upon receipt of the report of the board of officers, the authority convening the board may approve or disapprove the whole or any part of the findings and recommendations. He may dismiss the proceedings or return the report to the board for further action. If his final action upon the report includes an approval of a recommendation that the respondent be suspended from acting as counsel before courts-martial, the convening authority will forward the report, together with his action, to The Judge Advocate General.

d. By The Judge Advocate General. The Judge Advocate General shall determine in the case of counsel before courts-martial whether the person affected should be suspended as counsel, and such a suspension will be announced by the Department of the Army. In the case of appellate counsel, The Judge Advocate General shall have the right to suspend such counsel using such procedures as are appropriate.

4-4. Modification or revocation of suspension. The Judge Advocate General, may, upon petition of a person who has been suspended and upon good cause shown, modify or revoke a prior order of suspension.

4-5. Withdrawal of certification by The Judge Advocate General. Nothing contained in this

regulation is to be construed as a limitation upon the power of The Judge Advocate General to withdraw any certification of qualification to act as law officer made pursuant to Article 26 of the Uniform Code of Military Justice or any certification of competency to act as

counsel before general courts-martial made pursuant to Article 27(b) of the code.

4-6. Relief of counsel. A person may be relieved as the appointed counsel of a court-martial without regard to this regulation.

CHAPTER 5

SUMMARY AND SPECIAL COURTS-MARTIAL

5-1. Reporters. *a. Appointment.* Reporters shall not be appointed for summary courts-martial or for special courts-martial unless the convening authority shall have received special authorization in each instance from the Secretary of the Army. The Judge Advocate General will consider, sign, authenticate, and issue or withhold any such authorization by the authority of and for the Secretary of the Army.

b. Clerical assistance. A convening authority may furnish clerical personnel to assist summary and special courts-martial in maintaining and preparing a record of the proceedings in any case.

5-2. Preparation by court-martial personnel. To be properly prepared for duty as president or counsel of a special court-martial or as a summary court-martial officer, it is essential that persons so detailed read and understand certain departmental publications pertaining to their respective duties. Accordingly, when a commander appoints a special or summary court-martial, he will, before the trial of the first case by the court, assure himself by obtaining certificates or otherwise that—

a. The president of the special court-martial and, in the discretion of the commander, those members who may become president because of challenges or other reasons are currently familiar with DA Pam 27-15 (Military Justice Handbook—Trial Guide for the Special Court-Martial President);

b. Appointed counsel of the special court-martial are currently familiar with DA Pam 27-10 (Military Justice Handbook—The Trial Counsel and The Defense Counsel);

c. The summary court-martial officer is currently familiar with DA Pam 27-7 (Military

Justice Handbook—Guide for Summary Court-Martial Trial Procedure).

d. The defense counsel of the special court-martial is at least as well qualified by reason of training and experience as the trial counsel.

e. DA Pam 27-15 may and should be used by the special court-martial president during trial, both in open and closed sessions. DA Pam 27-7 may and should be used by the summary court-martial officer during trial.

5-3. Accused's copy of charge sheet and record of trial. *a. Charge sheet.*

(1) *Summary courts-martial.* At the opening session of the trial prior to arraignment the summary court officer will furnish a copy of the charge sheet, as received and corrected by him, to the accused.

(2) *Special courts-martial.* Immediately upon receipt of charges referred to him for trial, the trial counsel of a special court-martial will serve a copy of the charge sheet, as received and corrected by him, on the accused and will inform the defense counsel of the court that this copy has been served. See paragraph 44h, MCM, 1969.

b. Record of trial.

(1) *Summary courts-martial.* Each person who has been tried and convicted or acquitted by summary court-martial will be furnished a copy of the charge sheet completed, in the case of conviction, to and including the action of the convening authority or, in the case of acquittal, to and including the signature of the summary court officer. This copy will be furnished to the accused as soon as possible after the convening authority receives the record from the summary court officer and, in the case of conviction, has taken his action in the case.

(2) *Special courts-martial.* A copy of the record of the proceedings of each special court-martial shall be given to the accused as soon as it is authenticated (Art 54c, UCMJ).

5-4. Supervisory review of records of trial. *a. Supervisory authority.* The officer immediately exercising general court-martial jurisdiction over a command has supervisory powers over special and summary courts-martial in that command. See paragraph 94a(1), MCM, 1969.

b. Forwarding of records of trial.

(1) When the convening authority does not exercise general court-martial jurisdiction, the record of trial by summary court-martial will, after appropriate action by the convening authority including that set forth in paragraph 5-3b(1), and after publication of the promulgating order, be forwarded directly for review, ordinarily without letter of transmittal, to the supervisory authority, ATTN: Staff Judge Advocate. The last blank line on page 4 of DD Form 458 (Charge Sheet) need not be completed. A copy of the promulgating order will be furnished to the accused.

(2) When the convening authority does not exercise general court-martial jurisdiction, each record of trial by special court-martial in which the sentence as approved by the convening authority does not include a bad conduct discharge will, after publication of the promulgating order, be forwarded for review to the supervisory authority, ATTN: Staff Judge Advocate. See paragraph 91b(1), MCM, 1969. A copy of the promulgating order will be furnished to the accused.

(3) When the convening authority does not exercise general court-martial jurisdiction, each record of trial by special court-martial in which the sentence as approved by the convening authority includes a bad conduct discharge, whether suspended or not, will, after action by the convening authority, be forwarded to the supervisory authority, ATTN: Staff Judge Advocate, to be reviewed and acted upon in the same manner as a record of trial by general court-martial. Upon publication of the promulgating order a copy will be furnished to the accused. Special court-martial convening authorities who do not also exercise general court-

martial jurisdiction will not forward any such record of trial by special court-martial directly to The Judge Advocate General without specific authorization of The Judge Advocate General. See paragraph 91b(1), MCM, 1969.

c. Supervisory review. Records of trial by summary courts-martial and records of trial by special courts-martial not including approved sentences to bad conduct discharge will be reviewed by a judge advocate, normally under the supervision of the staff judge advocate of the command of the supervisory authority. Upon completion of the review and any corrective action, the judge advocate will note upon the copies of the summary or special court-martial order promulgated by the convening authority received by him the designation of the command in which the review was accomplished, the date, the result of the review, and his signature.

5-5. Disposition of records of trial and related orders. Upon completion of review and any corrective action on records of trial by summary court-martial and records of trial by special court-martial which do not involve approved bad conduct discharges, the record of trial and two copies of the initial promulgating order and any corrective orders in the case will be filed in the office of the staff judge advocate of the command of the supervisory authority. One copy of each order will be furnished to the convening authority who will cause it to be transmitted to the custodian of the personnel records of the accused for filing in the individual's Military Personnel Records Jacket, U.S. Army (DA Form 201) as a semipermanent document. On receipt of any court-martial order or other communications made by the supervisory reviewing authority after the initial orders in the case, which affirms the approved court-martial findings and sentence, the custodian of the personnel records will enter the order number, source, and date in item 53(a), DA Form 20B, Insert sheet to DA Form 20 (Record of Court-Martial Convictions), and complete the signature block of item 54(a), DA Form 20B. In the event the affirmed findings or sentence are later changed (i.e., remitted, suspended, set aside, or otherwise altered) the custodian will

fill out items 53(b) and 54(b) of DA Form 20B. In addition, on receipt of any court-martial order or other communications made by the supervisory reviewing authority after the initial orders in the case, which change (i.e., remit, suspend, set aside, or otherwise alter) any part of the approved court-martial findings or sentence, the custodian of the personnel records will make pen-and-ink changes in the current entry in DA Form 20B to make it conform to the change in the trial results. The custodian will then enter the order number, source, and date in item 53(b), DA Form 20B, and complete the signature block of item

54(b), DA Form 20B. If all the findings and sentence are set aside during appellate review, all entries pertaining to that trial will be deleted. One copy of an order in which any corrective action was taken will be transmitted to the accused. One copy of each order pertaining to enlisted accused will be forwarded to the U.S. Army Personnel Services Support Center, ATTN: AGPE, Fort Benjamin Harrison, Ind. 46249. One copy of each order pertaining to officers tried by special court-martial will be forwarded to The Adjutant General, ATTN: AGPF-F, Department of the Army, Washington, D.C. 20310.

CHAPTER 6

DISCIPLINARY PROCEEDINGS SUBSEQUENT TO EXERCISE OF JURISDICTION BY CIVIL AUTHORITIES

6-1. Purpose. This chapter sets forth policies concerning disciplinary proceedings under the Uniform Code of Military Justice against persons who previously have been tried within the meaning of Article 44, Uniform Code of Military Justice, in a civil court deriving its authority from a state of the United States or a sovereign foreign country.

6-2. Policy. A person subject to the Uniform Code of Military Justice who has been tried in a civil court *normally* will not be tried by court-martial or punished under the Uniform Code of Military Justice, Article 15, for the same act or acts over which the civil court has exercised jurisdiction.

6-3. Procedure. Subject to provisions of applicable international agreements concerning United States forces stationed in foreign countries, officers exercising general courts-martial jurisdiction may authorize disposition of a case under the Uniform Code of Military Justice and the *Manual for Courts-Martial, United States, 1969*, notwithstanding the previous trial, upon a personal determination that au-

thorized administrative action alone is inadequate and that punitive action is essential to maintain discipline in the command, provided the case is processed as follows:

a. When the officer exercising summary court-martial jurisdiction over the offender determines that the imposition of nonjudicial punishment under Article 15, Uniform Code of Military Justice, is appropriate, a full written report will be forwarded through channels to the officer exercising general court-martial jurisdiction who may, within his discretion, dispose of the matter himself or authorize proceeding under Article 15.

b. When the officer exercising summary court-martial jurisdiction over the offender determines that trial by court-martial is required, a full written report to include charge sheets will be forwarded as required by paragraph 32f, *Manual for Courts-Martial, United States, 1969*, through channels, to the officer exercising general court-martial jurisdiction who may, at his discretion, dispose of such charges himself or, by indorsement, authorize a subordinate to take such action.

CHAPTER 7

INVESTIGATION AND PROSECUTION OF CRIMES OVER WHICH THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF DEFENSE HAVE CONCURRENT JURISDICTION

7-1. Purpose. This chapter implements a Memorandum of Understanding between the Department of Defense and the Department of Justice delineating the areas of responsibility for the investigation and prosecution of offenses over which the two Departments have concurrent jurisdiction. Pertinent extracts from the text of the Memorandum are quoted below.

7-2. General. The Memorandum of Understanding applies only within the United States and its possessions and only to those offenses which are triable in the district courts of the United States. Any offense punishable in the district courts of the United States by death or imprisonment for more than 1 year may be considered as being a "serious crime" as that term is used in the Memorandum, and any other offense triable in the district courts is a "minor" offense (see 18 U.S.C.1).

7-3. Local application. As stated in paragraph 4 of the Memorandum, decisions with respect

to the application of the provisions of the Memorandum will, whenever possible, be made at the local level between the Special Agent in charge of the local office of the Federal Bureau of Investigation and the local military commander. In the event agreement in the particular case is not reached at the local level, the local commander will, if he does not himself exercise general court-martial jurisdiction, promptly report the matter to the commander exercising general court-martial jurisdiction over his command. If the commander exercising general court-martial jurisdiction, acting through his staff judge advocate, is unable to effect an agreement, he will report the matter to The Judge Advocate General, Department of the Army, Washington, D.C. 20310.

7-4. Administrative action. Administrative action pursuant to paragraph 4 of the Memorandum will be conducted in such a manner as not to interfere with or otherwise prejudice investigation by the FBI.

PERTINENT EXTRACTS FROM MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENTS OF JUSTICE AND DEFENSE RELATING TO THE INVESTIGATION AND PROSECUTION OF CRIMES OVER WHICH THE TWO DEPARTMENTS HAVE CONCURRENT JURISDICTION, DATED 19 JULY 1955

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It is hereby agreed and understood between the Department of Justice and the Department of Defense as follows:

1. **Crimes committed on military installations.** Except as hereinafter indicated, all crimes committed on a military installation by individuals subject to the Uniform Code of Military Justice shall be investigated and prosecuted by the military department concerned if such department makes a determination that there is a reasonable likelihood that only individuals subject to the Uniform Code of Military Justice are involved in such crime as principals or accessories, and, except in extraordinary cases, that there is no victim other than persons who are subject to the Uniform Code of Military Justice or who are *bona fide* dependents or members of a household of military or civilian personnel residing on the installation. Unless such a determination is made, the military department concerned shall promptly advise the Federal Bureau of Investigation of any crime committed on a military installation if such crime is within the investigative authority of the FBI. The FBI shall investigate any serious crime of which it has been so advised for the purpose of prosecution in the civil courts unless the Department of Justice determines that investigation and prosecution may be conducted more efficiently and expeditiously by the military department concerned. Even if the determination provided for in the first sentence of this paragraph is made by the military department concerned, it shall promptly advise the FBI of any crime committed on a military installation in which there is a victim who is not subject to the Uniform Code of Military Justice or a *bona fide* dependent or member of the household of military or civilian personnel residing on the installation and that such department is investigating the crime because it has been determined to be extraordinary. The military department concerned shall promptly advise the Federal Bureau of Investigation whenever the crime, except in minor

offenses, involves fraud against the government, misappropriation, robbery, or theft of government property or funds, or is of a similar nature. All such crimes shall be investigated by the military department concerned unless it receives prompt advice that the Department of Justice has determined that the crime should be investigated by the FBI and that the FBI will undertake the investigation for the purpose of prosecution in the civil courts.

2. **Crimes committed outside of military installations.** Except as hereinafter indicated, all crimes committed outside of military installations, which fall within the investigative jurisdiction of the FBI and in which there is involved as a suspect an individual subject to the Uniform Code of Military Justice, shall be investigated by the FBI for the purpose of prosecution in civil courts, unless the Department of Justice determines that investigation and prosecution may be conducted more efficiently and expeditiously by other authorities. All such crimes which come first to the attention of military authorities shall be referred promptly by them to the FBI, unless relieved of this requirement by the FBI as to particular types or classes of crimes. However, whenever military personnel are engaged in scheduled military activities outside of military installations such as organized maneuvers or organized movements, the provisions of paragraph 1 above shall apply unless persons not subject to the Uniform Code of Military Justice are involved as principals, accessories or victims.

If, however, there is involved as a suspect or as an accused in any crime committed outside of a military installation and falling within the investigative authority of the FBI an individual who is subject to the Uniform Code of Military Justice and if the military authorities believe that the crime involves special factors relating to the administration and discipline of the armed forces which would justify investigation by them for the purpose of prosecution before a military tribunal, they shall promptly

advise the FBI of the crime and indicate their views on the matter. Investigation of such a crime may be undertaken by the military authorities if the Department of Justice agrees.

3. Transfer of investigative authority. An investigative body which has initiated an investigation pursuant to paragraphs 1 and 2 hereof shall have exclusive investigative authority and may proceed therewith to prosecution. If, however, any investigative body comes to the view that effectuation of those paragraphs requires the transfer of investigative authority over a crime, investigation of which has already been initiated by that or by any other investigative body, it shall promptly advise the other interested investigative body of its views. By agreement between the Departments of Justice and Defense, investigative authority may then be transferred.

4. Administrative action. Exercise of exclusive investigative authority by the FBI pursuant to this agreement shall not preclude the military authorities from making inquiries for the purpose of administrative action related to the crime being investigated. The FBI will make the results of its investigations available

to the military authorities for use in connection with such action.

Whenever possible, decisions with respect to the application in particular cases of the provisions of this Memorandum of Understanding will be made at the local level, that is, between the Special Agent in charge of the local office of the Federal Bureau of Investigation and the local military commander.

5. Surrender of suspects. To the extent of the legal authority conferred upon them, the Department of Justice and the military authorities will each deliver to the other promptly suspects and accused individuals if authority to investigate the crimes in which such accused individuals and suspects are involved is lodged in the other paragraphs 1 and 2 hereof.

Nothing in this memorandum shall prevent a military department from prompt arrest and detention of any person subject to the Uniform Code of Military Justice whenever there is knowledge or reasonable basis to believe that such a person has committed an offense in violation of such code and detaining such person until he is delivered to the Federal Bureau of Investigation if such action is required pursuant to this memorandum.

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CHAPTER 8

COURT MEMBERSHIP AND OTHER RELATED MILITARY JUSTICE DUTIES BY NON-JAGC PERSONNEL

8-1. General. This chapter is an informational reference to various restrictions on Army personnel, other than JAGC officers, as to membership of courts-martial and other related military justice duties. This chapter is not regulatory in nature and the references are subject to change based on changes in the cited regulatory sources.

8-2. WAC personnel. A general or special court to which charges against a member of the Women's Army Corps are referred will include Women's Army Corps personnel, if available, in its membership. (Paragraph 8-2 was taken from paragraph 14 of AR 600-3.)

8-3. Chaplains. *a.* Commanders will not detail or assign chaplains to duties unrelated to their profession as clergymen except on a temporary basis in cases of military emergency.

b. Commanders will not assign chaplains for trial counsel of a court-martial, investigating officer, defense counsel, law officer, or as a member of the court. (Paragraph 8-3 was taken from paragraph 12 of AR 165-20, 18 May 1966.)

8-4. Medical officers (Doctors of Medicine and Osteopathy). Except when regulations specifically stipulate to the contrary, such officers will not be detailed as members of courts-martial, nonprofessional boards or committees, or assigned to other duties in which medical training is not essential. Similarly, every effort consistent with due process of law will be made to utilize reports, depositions, or affidavits submitted by medical officers in connection with courts-martial, boards, or committees in preference to requiring the appearance of medical officers as witnesses to present testimony

in person. (Paragraph 8-4 was taken from paragraph 9 of AR 40-1, 1 June 1965.)

8-5. Dental officers. The applicable portions of paragraph 4 govern the use of dental officers. (Paragraph 8-5 was taken from paragraph 14 of AR 40-1, 1 June 1965.)

8-6. Veterinary officers. The applicable portions of paragraph 4 govern the use of veterinary officers. (Paragraph 8-6 was taken from paragraph 19 of AR 40-1, 1 June 1965.)

8-7. Inspectors general. Officers detailed as inspectors general normally will not be appointed as investigating officers under Article 32, Uniform Code of Military Justice, under AR 15-6, or under any other regulation or directive providing for the appointment of investigating officers, members of administrative boards, or members of courts-martial, or be given other similar duties which may subsequently disqualify them from making impartial investigations or inquiries into any function of their command or any aspect of their command's activities. (Paragraph 8-7 was taken from paragraph 4c of AR 20-1, 27 May 1966.)

8-8. Warrant officers. *a.* When designated "commanding officer", or by other appropriate title with the same official connotation, warrant officers are authorized to administer nonjudicial punishment pursuant to Article 15, Uniform Code of Military Justice.

b. In addition to primary duties, warrant officers may be assigned additional duties in the same manner as commissioned officers, except as expressly prohibited by the following paragraph.

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c. Warrant officers may not perform the following types of duties:

- (1) Act as summary court-martial.
- (2) Act as a member of any court-martial at the trial of a commissioned officer.
- (3) Act as trial counsel or appointed defense counsel, or assistant appointed defense counsel of a special court-martial.
- (4) Act as trial or defense counsel of a general court-martial.
- (5) Act as individual defense counsel before a general court-martial unless legally qualified in the sense of Article 27b, Uniform Code of Military Justice.

(6) Act as law officer for general courts-martial.

(7) Act as investigating officer appointed under the provisions of Article 32, Uniform Code of Military Justice, and paragraph 33e, *Manual for Courts-Martial, United States, 1969*.

(8) Act as a member or recorder of a military board whose investigation includes the conduct, status, liability or rights of a commissioned officer. (Paragraph 8 was taken from paragraph 6, change 8 to AR 611-112, 3 April 1967.)