

5-4. Oath Administration Procedure. Counsel. a. A counsel certified under the terms of Article 27(b), UCMJ, who is a member of The Judge Advocate General's Corps will take an oath (fig. 5-2) to perform his duties faithfully in any case to which he is detailed as counsel. This oath will be taken before an officer qualified to administer oaths (Art. 136(a), UCMJ). An oath need not again be taken when previously sworn counsel are detailed to that duty. Counsel who are members of other armed services who have taken oaths to perform their duties faithfully in any case to which they are detailed as counsel need not take an oath when they are detailed as counsel at courts-martial convened in the Army. All other counsel at courts-martial including individually requested JAG counsel (unless later detailed) shall be administered the counsel's oath (para 5-8h (2)) or the individual counsel's oath (para 5-8h(3)), as appropriate, at the courts-martial by the military judge if one is detailed to the court, otherwise by the president. At the discretion of the authority convening a court-martial, however, counsel may take an oath (para 5-8h(2)) for any case referred to the court convened by the order detailed them as counsel.

COUNSEL'S OATH

For use of this form, see AR 27-10; the proponent agency is Office of The Judge Advocate General.

With The United States Army

At \_\_\_\_\_

"I \_\_\_\_\_ do (swear) (affirm) that I will  
faithfully perform the duties of counsel in any case in which I am detailed to act as the same.  
(So help me God)"

\_\_\_\_\_  
(Signature)

I, \_\_\_\_\_, an officer empowered to administer  
oaths under Article 136(a), Uniform Code of Military Justice, do hereby certify that on this \_\_\_\_\_  
day of \_\_\_\_\_ at \_\_\_\_\_,  
having been duly certified to be qualified for duty as a counsel before courts-martial by The  
Judge Advocate General of the Army and being a member of The Judge Advocate General's  
Corps of the Army, personally appeared before me and was administered by me the above (oath)  
(affirmation).

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

Form of Oath

5-8. a. Paragraph 61i, MCM, 1969 (Rev.) provides:

B.F. { "i. Oaths. The oaths for military judges, court members, counsel, reporters, and interpreters shall be prescribed in regulations of the Secretary concerned (Art. 42(a)). "

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b.

(1) Oaths for military judge. The following oath,

will be administered if the military judge has not been previously sworn pursuant to paragraph 5-3.

"You (name of military judge) do swear (or affirm) that you will faithfully and impartially perform, according to your conscience and the laws applicable to trials by courts-martial, all the duties incumbent upon you as a military judge. (So help you God.)"

(2) Oaths for counsel. The following oath, as appropriate, will be administered to trial counsel and to each assistant trial counsel, if any, and to defense counsel and to each assistant defense counsel,

if any; if they are not members of The Judge Advocate General's Corps or other services who have been previously sworn pursuant to paragraph 5-4.

"You (name(s) of counsel) do swear (or affirm) that you will faithfully perform the duties of counsel (in the case now in hearing) (in any case in which you are detailed to act as the same). (So help you God.)"

(3) The following oath will be administered to individual counsel (military or civilian), if any:

"You (name of counsel) do swear (or affirm) that you will faithfully perform the duties of individual counsel in the case now in hearing. (So help you God.)"

(4) Oaths for court members. The following oath, as appropriate, will be administered to court-martial members:

"You (name(s) of member(s)) (each of you) do swear (or affirm) that you will faithfully perform all the duties incumbent upon you as a member of this court; that you will faithfully and impartially try, according to the evidence, your conscience, and the laws applicable to trials by courts-martial, the case of (any accused brought before you) (the accused now before this court); and that you will not disclose or discover the vote or opinion of any particular member of the court (upon a challenge or)\* upon the findings or sentence unless required to do so in due course of law. (So help you God.)"

(5) Oaths for reporter. The following oath, as appropriate, will be administered to court reporters:

"You swear (or affirm) that you will faithfully perform the duties of reporter (to this court) (to any court to which you shall be detailed). (So help you God.)"

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\* For use only in trials without a military judge.

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(6) Oaths for interpreter. The following oath, as appropriate, will be administered to every interpreter in the trial of any case before a court-martial before he enters upon his duties:

"You swear (or affirm) that (in the case now in hearing) (in any case to which you are detailed) you will interpret truly the testimony you are called upon to interpret. (So help you God.)"

2-13. Qualified Counsel at Special Courts-Martial. a. Paragraph 6c, MCM, 1969 (Rev.), states in part: "In all special courts-martial the accused must, prior to an Article 39(a) session or assembly of the court, be afforded the opportunity to be represented by counsel qualified under Article 27(b) unless such counsel cannot be obtained because of physical conditions or military exigencies (Art. 27(c))."

b. As soon as possible after the referral of a case to a special court-martial the detailed defense counsel, if he is not qualified under Article 27(b), will inform the accused of his right to have qualified counsel <sup>to</sup> represent him. The accused must be informed of this right prior to an Article 39(a) session or assembly of the court. A request for qualified counsel must be made before the assembly of the court-martial. After having been fully advised of all his rights <sup>for</sup> counsel, the accused's choice in this regard will be recorded in writing, Fig. 2-1, and signed by the accused in the presence of the defense counsel. See also Para. 46d, MCM, 1969 (Rev.).

c. If the accused waives his right to qualified counsel he may revoke such waiver at anytime prior to assembly. If after assembly, the accused wishes to revoke such waiver the military judge or president of a special court-martial without a military judge will decide in his sound discretion whether revocation of the waiver is appropriate under the circumstances.

d. If the accused requests qualified counsel detailed by the convening authority and such counsel is provided, the convening authority may prior to arraignment relieve the initially detailed defense counsel and assistant defense counsel of their duties by amending the convening order for that case only or by referring the case to a court convened by an order on which qualified counsel is detailed.

2-22. Preparation by court-martial personnel. a. 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 convenes 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:

(1) 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 familiar with DA Pam 27-15 (Military Justice Handbook--Trial Guide for the Special Court-Martial).

(2) Detailed counsel of the special court-martial are familiar with DA Pam 27-10 (Military Justice Handbook--The Trial Counsel and The Defense Counsel);

(3) The summary court-martial officer is familiar with DA Pam 27-7 (Military Justice Handbook--Guide for Summary Court-Martial Trial Procedure).

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

b. DA Pam 27-15 should be used by the special court-martial president during trial, both in open and closed sessions when a military judge is not detailed to the court. DA Pam 27-7 should be used by the summary court-martial officer during trial.



5-3. Oath Administration Procedure. Military Judges. a. A military judge (Art. 26(b)) will take an oath to perform his duties faithfully and impartially in all cases to which he is detailed before an officer qualified to administer oaths by Article 136(a). An oath need not again be taken when the military judge is detailed to a court-martial. Military judges of other armed forces who have taken oaths to perform their duties faithfully in all cases to which they are detailed need not take an oath when they are detailed as military judges at courts-martial convened in the Army.

b. It is unlikely that a military judge, not previously sworn, will ever be detailed in a particular case. In such event, however, the trial counsel will administer the oath at paragraph 5-8b(1) to the military judge at the appropriate point in the proceedings (para 61i and k and appendices 8a and 8b, MCM, 1969 (Rev.)).

c. After the military judge is certified the order announcing the certification will be forwarded to him and he will take the prescribed oath (Fig 5-1) before an officer empowered to administer oaths under Article 136(a), UCMJ, and execute the form set forth at figure 5-1 in quadruplicate. One copy of the completed form will be retained by the military judge and a second copy will be placed in the officer's Military Personnel Records Jacket (DA Form 201). The remaining copies will be forwarded to Headquarters, Department of the Army, Office of The Judge Advocate General, ATTN: Career Management Division, The Pentagon, Washington, D. C. 20310.

d. The first person oath, figure 5-1, is the only oath which may be administered for all cases to which the military judge is detailed. The military judge's oath at paragraph 5-8b(1) should be used when the military judge has not previously been sworn.

~~5-4. Oath Administration Procedure. Counsel.~~ a. A counsel certified under the terms of Article 27(b), UCMJ, who is a member of The Judge Advocate General's Corps will take an oath (figure 5-2) to perform his duties faithfully in any case to which he is detailed as counsel. This oath will be taken before an officer qualified to administer oaths (Art. 136~~3~~, UCMJ). An oath need not again be taken when previously sworn counsel is detailed to that duty. Counsel who are members of other armed services who have taken oaths to perform their duties faithfully in any case to which they are detailed as counsel need not take an oath when they act as counsel at courts-martial convened in the Army. All other counsel at courts-martial shall be administered the counsel's oath (para. 5-8b(2)) at the courts-martial by the military judge if one is detailed to the court, otherwise by the president. At the discretion of the authority convening a court-martial, however, counsel may take an oath (para. 5-8b(2)) for any case referred to the court convened by the order detailing them as ~~counsel.~~

b. The oath for faithful performance of duty in all cases (Fig. 5-2) will generally be administered to members of The Judge Advocate General's Corps as part of their certification under Article 27(b)(2), UCMJ. It may also be administered at anytime by an officer qualified to administer oaths under Article 136~~3~~, UCMJ. At the time the oath is administered, the form set forth at figure 5-2 will be completed. One copy of the form will be retained by the judge advocate who took the oath, one copy placed in his Military Personnel Records Jacket, and two copies forwarded to: The Judge Advocate General, Department of the Army, ATTN: Career Management Division, Washington, D.C. 20310.

c. The first person oath, figure 5-2, is the only oath which may be administered to a member of The Judge Advocate General's Corps for all cases to which he is detailed as counsel. The counsel's oaths at paragraph 5-8b(2) should be used when counsel is not a member of The Judge Advocate General's Corps or when a member of The Judge Advocate General's Corps has not previously been sworn.

5-5. Oath Administration Procedure. Court-Members.

normally

The trial counsel will administer the oath to court members in open session. The administration of such oaths at every court-martial is desirable to impress the participants with the solemnity of such proceedings. In the discretion of the officer who convened the court, however, the court members may take one oath to perform their duties faithfully in all cases referred to that court.

The convening authority authorizing the administration of this type of oath will maintain records of such oath administration so that it may readily be determined if court members have been previously sworn. When court members are not sworn because they have been administered such an oath previously, this fact will be noted in the record of trial.

5-6. Oath Administration Procedure. Reporters.

The trial counsel will administer the oath to the reporter at the court-martial. At the discretion of the general court-martial convening authority to which the reporter is assigned, however, reporters may take an oath to perform their duties faithfully in all cases to which they are detailed at anytime before an officer qualified to administer oaths (Art. 136(2)). Such oath shall expire when the reporter is no longer assigned to the GCM convening authority who authorized the administration of the oath. The convening authority authorizing the administration of this type of oath will maintain records of such oath administration so that it may readily be determined if the reporter has been previously sworn. When reporters are not sworn in because they have been administered such an oath previously, this fact will be noted in the transcript or record of trial.

5-7. Oath Administration Procedure. Interpreters.

The trial counsel or summary court will administer the oath to interpreters at the court-martial. At the discretion of the general court-martial convening authority to which an interpreter is assigned, however, interpreters may take an oath to interpret truly in all cases to which they are detailed. The convening authority authorizing the administration of this type of oath will maintain records of oath administration so that it may readily be determined if an interpreter has been previously sworn. Such oath shall expire when the interpreter is no longer assigned to the general court-martial convening authority who authorized administration of the oath. When interpreters are not sworn because they have been administered such an oath previously, this fact will be noted in the transcript or record of trial.

Chapter 9.

UNITED STATES ARMY JUDICIARY - MILITARY JUDGE PROGRAM

9-1. Purpose and scope. a. This chapter governs the Army-wide operation of the Military Judge program and provides information setting forth procedures to be followed in administering the program. These regulations implement Article 26, UCMJ, as amended by the Military Justice Act of 1968, providing for the establishment within the United States Army of an independent judiciary.

b. Paragraph 4e, MCM, 1969 (Rev.) states in part:

"e. Military judge of a court-martial. The authority convening a general court-martial shall, and, subject to regulations of the Secretary concerned, the authority convening a special court-martial may, detail a military judge thereto (Art.26(a))".

"A military judge shall be a commissioned officer of the armed forces on active duty who is a member of the bar of a Federal court or a member of the bar of the highest court of a State and who is certified to be qualified for duty as a military judge by The Judge Advocate General of the armed force of which such such military judge is a member (Art. 26(b))".

9-2. Definition of terms. a. Military judge program.

A system in which military judges are designated and made available for detail as judges of general and special courts-martial.

b. Military Judge. A judge advocate officer who has been certified by The Judge Advocate General as qualified to preside over general or special courts-martial, or both.

c. Military judge of general courts-martial. A military judge who is assigned to the US Army Judiciary and whose primary duty is to preside over general and special courts-martial to which he is designated by The Judge Advocate General, or his designee, for detail by the convening authority.

d. Military judge of special courts-martial.

(1) A military judge who is assigned to the US Army Judiciary and whose primary duty is to preside over special courts-martial to which he is detailed by the convening authority.

(2) A military judge who is not assigned to the US Army Judiciary, but who may be detailed by the convening authority to preside over special courts-martial, in addition to his primary duties as a judge advocate in the command to which he is assigned.

e. Judicial circuit. One or more general court-martial jurisdictions, or the geographical area wherein the headquarters of such jurisdictions are situated, as designated by The Judge Advocate General.

f. Judicial area. One or more judicial circuits as designated by The Judge Advocate General.



g. Circuit Military Judge. The senior military judge in each judicial circuit.

h. Area Military Judge. The senior military judge of each judicial area.

i. Chief, Trial Judiciary. A military judge who is designated by The Judge Advocate General as the chief of the military judges of general and special courts-martial assigned to the US Army Judiciary, and of military judges of special courts-martial not assigned to the US Army Judiciary with regard to their judicial responsibilities only.

j. Chief Judge of the Court of Military Review. An appellate military judge of the US Army Court of Military Review who is designated as Chief Judge of that court by The Judge Advocate General.

k. Director, Administrative Office, US Army Judiciary. The Director, Administrative Office, US Army Judiciary, will serve under the supervision and direction of The Judge Advocate General as the administrative director of the US Army Judiciary, with overall responsibility for its organization and functioning, except for those judicial and appellate functions of the Court of Military Review, Trial Judiciary, and other divisions, which are required by law to be independently exercised.

9-3. Qualifications of military judges. Before performing duties as a military judge of general courts-martial, a judge advocate officer must be certified by The Judge Advocate General as qualified for duty as a military judge, designated for detail as a military judge by The Judge Advocate General, or his designee, and assigned to the US Army Judiciary. A military judge of special courts-martial must be certified as qualified for duty as a military judge of special courts-martial by The Judge Advocate General. Certification of military judges for detail <sup>to</sup> ~~at~~ general courts-martial will include certification for detail to special courts-martial. Certification will be evidenced by the issuance of certification orders by The Judge Advocate General. Appropriate records will be maintained by The Judge Advocate General consisting of current lists of military judges assigned to the US Army Judiciary and a separate list of military judges not assigned to the US Army Judiciary, who may be utilized as military judges of special courts-martial. Supporting documents showing that qualifications have been met by each military judge will be kept.

9-4. Judicial Areas and Circuits. Judicial areas and circuits will be established, but may be altered and dissolved by The Judge Advocate General, as required, at which times all convening authorities concerned will be notified. The Judge

Advocate General will also designate one or more duty stations within each judicial circuit. Military judges assigned to the US Army Judiciary will be assigned duty stations at an installation within a judicial circuit.

9-5. Duties and functions of military judges. a. General.

The primary functions of a military judge are to preside over each court-martial to which he has been detailed, determine relevancy and validity of challenges for cause, inquire into the providency of pleas of guilty, inquire into the understanding of the accused of his right to request trial before the military judge alone, rule upon requests for depositions, rule finally upon all questions of law and all interlocutory questions arising during the proceedings (other than the factual issue of mental responsibility), instruct the court as to the elements of the offense and other matters in issue, and authenticate records of trials over which he has presided as the judge. The military judge will with the concurrence of the convening authority or his representative set the place of trial. His judicial duties include but are not limited to calling the court into session without the presence of members to hold the arraignment, receiving pleas and resolving matters which the court members are not required to consider (Art. 39a, UCMJ), entering findings of guilty based

upon providently entered pleas of guilty immediately without a vote, approving the request by an accused for trial by a military judge alone absent unusual circumstances and if satisfied that it was made voluntarily and understandingly, and granting continuances. The purpose of an Article 39a session is to dispose of all matters not requiring the attendance of the members of the court. To achieve the maximum utilization of such a session, the military judge must insure that counsel have due notice of the session and have sufficient time to prepare for the disposition of matters which must or should be considered (See 2-27).

To perform these functions effectively, it is important for the military judge to maintain his personal legal proficiency by studying current appellate decisions and other pertinent legal publications and by careful pretrial research into the special legal problems of each individual case.

The judicial duties of military judges of special courts-martial not assigned to the US Army Judiciary take priority over all other duties.

b. Summary Courts-Martial. Military judges of special courts-martial are professionally qualified, well-equipped, and authorized to serve as summary courts-martial.

c. Courts-martial composed of a military judge only.

A military judge who is detailed to a court-martial must satisfy himself that an accused's request for trial by a court-martial consisting only of a military judge has been made knowingly and voluntarily. After a full inquiry into the accused's understanding of his request, the military judge should grant the request absent ~~absent~~ unusual circumstances. If the trial counsel has indicated a desire to contest the appropriateness of a trial by military judge alone, the military judge should hear arguments from trial and defense counsel prior to deciding the issue (See 53d(2)a and App. 8e, MCM, 1969 (Rev.)). In addition to the duties and functions he must perform when sitting with members, except those relating to instructions, the military judge, when sitting as a court consisting of only a military judge, will rule finally upon all questions of law and fact arising during the proceedings, determine the guilt or innocence of the accused in the form of general findings, make special findings when required or otherwise appropriate (Art. 51(d)) and, if the accused is convicted, adjudge an appropriate sentence.

d. Administrative Responsibilities. Each military judge is responsible for:

(1) Maintaining an orderly trial calendar which will make efficient use of available time and provide to

the maximum extent possible for scheduling of trials as requested by convening authorities;

(2) Submitting required reports;

(3) Arranging the availability of military judges of special courts-martial, over whom he is given this administrative responsibility, and providing a military judge, when available, for designation by the supervising general court-martial convening authority acting through his staff judge advocate. (See para. 2-13b) Determinations of non-availability will be made by the Area Military Judge (See para 9-8b);

(4) Cooperating closely with staff judge advocates and other military judges in his circuit. The military judge must exercise every legitimate and appropriate effort to assist convening authorities in the expeditious handling of court-martial cases, while taking care to avoid any act which constitutes a usurpation of the powers, duties, or prerogatives of a convening authority or his staff; and

(5) Seeking appropriate assistance through judicial administrative channels in case of conflict in trial dates or in any other situation when another military judge may be required within the circuit.

9-6. Additional responsibilities of the Area Military Judge.

The Area Military Judge will be responsible for:

(1) General administration of the military judge program within his judicial area;

(2) Recommendations to The Judge Advocate General, or his designee, relating to the operation of the program within his area;

(3) Obtaining necessary military judges by conferring with the Chief, Trial Judiciary ~~Judge~~, or his designee;

(4) Determining which general court-martial jurisdictions will come under the primary responsibility of each military judge of general courts-martial within his area;

(5) Designating, when given this administrative responsibility, which military judges of general courts-martial are responsible for arranging the availability of military judges of special courts-martial (See paragraphs 9-5d(3) and 2-15b);

(6) Making final determinations of the non-availability of military judges of special courts-martial (See paragraph 9-8b);

(7) Designating, rating, indorsing and reviewing officers as required for efficiency reports concerning military judges in his area; and

(8) Assisting in the training of Reserve officers concerning the military judge program.

9-7. Additional responsibilities of Circuit Military Judges.

Circuit military judges will perform such administrative duties as may be delegated to them by the Area Military Judge.

9-8. Detailing of military judges. a. General courts-martial.

Military judges of general courts-martial will preside at all general or special courts-martial to which they may be detailed in their respective circuits, or elsewhere as they may from time to time be designated for detail by The Judge Advocate General or his designee. Prior to the trial of each case by general court-martial and as early as practicable, the convening authority or his representative will contact the military judge who has the primary responsibility to preside over general courts-martial in that jurisdiction and inform him of:

- (1) The nature of the charge, and
- (2) The estimated duration of the trial, and
- (3) The proposed date and place of the trial.

Based on this information, and dependent upon case load and availability, the military judge will confirm the date of trial and notify the convening authority of his availability or of the identity of the military judge who will be available to preside. To the extent practicable and consistent with each accused's right to a speedy trial, pending cases should



9-9. Administrative and logistical support. a. Duty Station.

Commands selected as duty stations will provide administrative and logistical support for military judges, to include:

(1) Permanent quarters for each military judge and his dependents to the same degree as are provided regularly assigned officers of like grade and rank and similar responsibility;

(2) Preparation of pay vouchers and payment of military judges;

(3) Maintenance of the Military Personnel Records Jackets, US Army, officer qualification records, leave records, and all other personnel records; and

(4) Completion of entries by the personnel officer on DA form 67-6 (US Army Officer Efficiency Report), and forwarding of the efficiency report at the appropriate time to Headquarters, US Army Judiciary, Washington, D. C. 20315, for action by the rater, indorser, and reviewer, unless directed otherwise by that headquarters.

b. Duty and other stations. Commands selected as duty stations, and, commands at or near a location where a military judge is to preside over a trial, will provide to the extent possible, such administrative and logistical support for military judges, as may be necessary in the performance of his duties to include:

- (1) Private Office space;
- (2) Office furniture, equipment, and supplies;
- (3) Class A telephone service;
- (4) Stenographic, clerical, and administrative assistance as required in the expeditious performance of his duties;

- (5) Army transportation facilities, including aircraft, as far as is practicable; and

- (6) Issuance of such temporary duty orders, at the request of the military judge concerned, as may be necessary in the exercise of his duties.

(a) Authority for commanders to issue temporary duty orders for travel of military judges within continental United States and to issue temporary duty orders involving travel of military judges from locations within the continental United States to destinations outside the continental United States is governed by AR 310-10.

(b) Where AR 310-10 does not delegate authority to commanders to issue temporary duty orders for military judges assigned to US Army Judiciary to travel from locations within the continental United States to areas outside the continental United States, orders will be issued by the Department of the Army when travel to destinations outside the continental United States is necessary.

(c) Orders involving travel outside the continental United States will direct use of military aircraft when available and will authorize use of other modes in the event military aircraft is not available. When a court-martial case has been scheduled for trial on a certain date, the military judge who has been detailed to preside at the trial must arrange his travel to arrive in sufficient time before commencement of the trial. Military aircraft generally should be considered not available whenever such aircraft cannot arrive at the place of the trial within a reasonable time before the date of trial, usually one day preceding such date. The military judge concerned should be furnished commercial air transportation under such circumstances.

(d) Orders will state that authority is granted to make such changes in itinerary and to proceed to such additional places as may be necessary for accomplishment of the assigned mission.

(e) Travel costs and per diem for all military judges assigned to the US Army Judiciary will be budgeted and funded by The Judge Advocate General, Department of the Army, Washington, D. C.

(f) Distribution of travel orders will include two copies of the travel orders to Finance and Accounts Office, U. S. Army, Pentagon Branch, ATTN: Funds Control Section, Washington, D. C. 20310, for each individual on the orders.

c. Leaves and passes. When time permits, leaves and passes will be requested by military judges assigned to the US Army Judiciary and forwarded within judicial administrative channels as follows:

(1) By military judges within a circuit, to the Circuit Military Judge;

(2) By Circuit Military Judges to the Area Military Judge; and

(3) By Area Military Judges to Headquarters, US Army Judiciary, OTJAG, Washington, D. C. 20315;

In emergency situations, clearance may be obtained by electrically transmitted messages or telephone. It will be assumed unless affirmatively noted that a requested absence will not interfere with the timely administration of military justice.

CHAPTER 12  
COURT-MARTIAL ORDERS

12-1. Types of Court-martial orders. a. Convening orders. A

convening order is used to announce the detail of the members, counsel, and military judges, as appropriate, of general, special or summary courts-martial.

b. Promulgating orders. An initial promulgating order is used to promulgate the result of a trial by a general, special, or summary court-martial and the initial action of the convening authority thereon. A supplementary promulgating order is used to promulgate any subsequent action taken by the convening or higher authority with respect to the findings or sentence of a general, special, or summary court-martial.

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12-2. Convening orders. As soon as practicable after the convening authority has personally determined the composition of a court-martial, he will issue convening orders for each general, special, and summary court-martial. Oral convening orders will be confirmed by written orders as soon as practicable. Convening orders may be amended.

12-3. Promulgating orders. a. Initial promulgating orders. In all cases, the convening authority will issue an order promulgating the results of trial by a general, special, or summary court-martial.

b. Supplementary promulgating orders. Action taken on the findings or sentence of a general, special, or summary court-martial case subsequent to the initial action thereon by the convening authority shall be promulgated, as appropriate, by the convening authority who took the initial action in the case, the commanding officer of the accused who is authorized to take the action being promulgated, an officer exercising general court-martial jurisdiction over the accused at the time of the action, or by the Secretary of the Army.

c. Initial and supplementary promulgating orders in general, special, and summary court-martial are designated GENERAL COURT-MARTIAL ORDER, SPECIAL COURT-MARTIAL ORDER, or SUMMARY COURT-MARTIAL ORDER, respectively.

12-4. Form.

a. Heading. The heading of court-martial orders is the same as that used for special orders, except that the words "Court-Martial Convening Order," "General Court-Martial Order," "Special Court-Martial Order," or "Summary Court-Martial Order" are substituted for the words "Special Orders." (Para 10a, AR 310-10)

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DEPARTMENT OF THE ARMY  
Headquarters, 20th Infantry Division and Fort Blank  
Fort Blank, Missouri 63899

GENERAL COURT-MARTIAL ORDER  
NUMBER 25

12 August 1969

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Dates will be indicated as follows:

(1) An initial promulgating order will bear the date of the action of the convening authority on the record of trial.

(2) An initial order promulgating an acquittal or a supplementary order will bear the date of its publication.

b. Body.

(1) General. Detailed instructions regarding court-martial orders are contained in the Manual for Courts-Martial, United States, 1969 (revised).

(2) Court-Martial convening orders (figs. 12-1-A, B, C, & D).

The body of a convening order normally contains the following elements:

(a) Designation of the kind of court-martial to be convened and, if appropriate, a citation of authority therefor. In the latter connection, see note 5, appendix 4a, MCM, 1969 (rev.). (fig. 12-1-B).

(b) In the case of a general or special court-martial, the place at which it is to proceed, names of members detailed to the court, the personnel of the prosecution and the defense, and when appropriate, the military judge. Personnel detailed will be designated by grade, name,

SSAN, branch of service, and organization. Identification of detailed counsel in general court-martial will include an express statement that each counsel is or is not certified in accordance with



Article 27(b) and will indicate if he has been previously sworn in accordance with Article 42(a). Identification of detailed counsel at special court-martial will state that counsel is certified in accordance with Article 27(b), or that counsel is a judge advocate or member of the bar of the highest court of a state or of a federal court but has not been certified in accordance with Article 27(b), or that counsel is not a lawyer in the sense of Article 27(b) (fig. 12-1-C). They will also indicate if he has been previously sworn in accordance with Article 42(a). Identification of a military judge detailed to a special court-martial will expressly state that he is certified as qualified for such duty by The Judge Advocate General (Art. 26(b)) (fig. 12-1-A). In the case of a general court-martial the order will further state that the military judge has been designated and assigned in accordance with Article 26(c) (fig. 12-1-B). Orders will indicate if the military judge has been previously sworn in accordance with Article 42(a). If enlisted persons are detailed as members of the court, their unit, as well as organization, will be designated. See paragraph 4, MCM, 1969 (Rev.).

(c) Summary courts-martial convening orders will/ grade, list the name, service number/SSAN, branch of service, and organization of the detailed summary court-martial.

(3) Initial general, special, and summary court-martial promulgating orders (fig. 12-2). The body of the order contains the following elements:

(a) Fact of trial. If the order promulgates the proceedings of a rehearing, it will recite that fact together with the number and date of the court-martial orders publishing the former proceedings.

(b) Type of court-martial and place of trial.

(c) Designation of the court-martial convening order, including any amendatory orders.

(d) Headquarters issuing the court-martial convening order.

(e) Grade, pay grade, name, service number/SSAN, military service, and organization of the accused.

(f) Charges and specifications exactly as they appear on the charge sheet, unless withdrawn before arraignment, amended after arraignment and before the findings, or objectionable matter (MCM, <sup>1969 (Rev.)</sup> para 90c) is contained therein. Matters unfit for publication will be set forth only in the orders retained for unit files, those copies which accompany the record of trial, such copies as may be furnished to The Adjutant General, to the authorities of the post or other place where the accused is located, and to the commanding officer of the place where the accused is to be confined, if confinement is involved.

(g) Pleas, including any changes.

(h) Findings, including the granting of a motion for a finding of not guilty. The findings will be copied verbatim from the record. When a specification is withdrawn by order of the convening authority after evidence on the merits has been received, such fact and the reasons for withdrawal will be stated. If general findings were made by a military judge presiding without members this fact will be noted.

(i) Sentence or acquittal. The sentence will be copied verbatim from the record. A statement concerning the number of previous convictions considered by the court is included in parentheses after the statement of the sentence; if no previous convictions were considered, that fact will be similarly indicated.

(j) Date on which the sentence was adjudged or the acquittal was announced by the court.

(k) Action by the convening authority copied verbatim from the action sheet, including the heading, date, signature, and full statement of any reprimand. See Appendix 14, MCM, 1969 (Rev.) for forms of action involving deferment of sentence.

(4) Supplementary general, special, and summary court-martial promulgating orders. (Fig 12-3)

(a) Description of the accused by grade, pay grade, name, SSAN, military service and organization.

(b) Citation of previous order, including date and issuing headquarters.

(c) Specific findings and sentence as affirmed, including effective date of forfeitures and other actions by appellate agencies.

(d) Reference to the Article of the Uniform Code of Military Justice under which the sentence is affirmed or other action by appellate agency is taken.

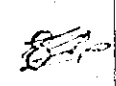
(e) Order of execution of sentence, deferment or rescission of deferment of sentence, suspension, or restoration of rights, as appropriate.

(f) Designation of place of confinement if confinement is involved. In order to provide necessary data to confinement officers for computation of time to be served in confinement, additional information as indicated in 1, 2 and 3 below, should be included in certain court-martial orders.

1. When the initial promulgating order suspends or defers the sentence to confinement and it is desired to vacate the suspension or rescind the deferment, the order of vacation or rescission should, in addition to the information contained in Appendix 15e, f or g, MCM, 1969 (Rev.), include the date the sentence was adjudged, the term of confinement as approved and any modifications thereof, and the effective date of the suspension or deferral.

2. When the sentence to confinement is suspended or deferred by a separate order and it is desired to vacate the suspension or rescind the deferral, the vacation or rescission order should, in addition to the information contained in Appendix 15e, f or g, MCM, 1969 (Rev.) include the effective date of suspension or deferment, the term of confinement as approved and any modification thereof, the date the sentence was adjudged and identifying data as to the promulgating and subsequent orders affecting the sentence to confinement and their dates (Fig. 12-4 and Fig. 12-5). For example, the body of an order vacating a suspension under Article 72(c) may be worded as follows:

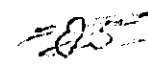
So much of the order published in Special Court-Martial Order No. \_\_\_\_\_ ((this headquarters) (Headquarters \_\_\_\_\_)) \_\_\_\_\_, 19\_\_\_\_,



as suspends, effective \_\_\_\_\_ 19\_\_\_\_,  
execution of the approved sentence to confinement at  
hard labor for \_\_\_\_\_ months (and \_\_\_\_\_) in the  
case of \_\_\_\_\_,  
adjudged \_\_\_\_\_, 19\_\_\_\_, (and) promulgated  
in Special Court-Martial Order No. \_\_\_\_\_ ((this head-  
quarters) (Headquarters \_\_\_\_\_))  
\_\_\_\_\_, 19\_\_\_\_, (not subsequently modi-  
fied), (and modified by Special Court-Martial Order  
No. \_\_\_\_\_ ((this headquarters) (Headquarters \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_ to  
confinement at hard labor for \_\_\_\_\_ months is  
vacated. The unexecuted portion of the sentence to con-  
finement (and \_\_\_\_\_) will be duly exe-  
cuted. The prisoner will be confined in \_\_\_\_\_  
and the confinement will be served therein, or elsewhere  
as competent authority may direct.

3. The date the sentence was adjudged should be included in  
supplementary orders promulgating the results of affirming action  
(App. 15b, MCM, 1969 (Rev.) and court-martial orders suspending  
or deferring the unexecuted, unserved, or unapplied portions of  
sentence (App. 15c, MCM, 1969 (Rev.).

(g) General court-martial case number (CM 000000)



c. Authentication.

(1) Court-martial orders are authenticated in the same manner as other orders discussed in paragraph 10c, AR 310-10, with the exception of the authority line. The authority line in convening orders indicates that the commander has personally acted with respect to the selection of the personnel named in the order.

(2) The authority line for court-martial orders varies from that used for other types of orders (para 10c(1), AR 310-10). In court-martial orders the authority line reads "BY COMMAND OF (grade and last name)" when the commander is a general officer and "BY ORDER OF (grade and last name)" when the commander is below the grade of brigadier general.

d. Distribution designation.

(1) The word "DISTRIBUTION" is placed beginning at the left margin on the second line below the "OFFICIAL" section. (See Fig. 12-4.) A list of the individuals, organizations, and installations to which copies of the order should be furnished, together with the number of copies to be furnished each, will be indicated under "DISTRIBUTION." The distribution list will include a copy for the record set of military publications.

(2) Standard distribution of orders within a command and to agencies requiring full distribution may be designated by letters; e.g., distribution A, B, etc., or combinations thereof, to indicate

all or part of the distribution made. Agencies included in each letter designation are shown in a distribution list prepared and published by the headquarters or agency concerned. (See para. 10d, AR 310-10.)

12-5. Distribution of court-martial orders.

(together with amending orders, if any)  
Official copies of court-martial orders/issued from the various headquarters are distributed as follows:

a. Convening orders.

- (1) Each individual named in the order, one copy.
- (2) Officer exercising general court-martial jurisdiction, one copy (inferior courts only).

- (3) Record of trial, one copy (App. 9a, MCM, 1969).

b. All initial general court-martial and special court-martial promulgating orders involving an approved punitive discharge or dismissal whether or not suspended. In all cases to -

- (1) Individual tried, one copy.
- (2) Military judge, trial counsel, and defense counsel of the court-martial before which the case was tried, each one copy.
- (3) The disbursing officer responsible for the pay accounts of the individual concerned, one copy.
- (4) Individual's immediate commanding officer and intermediate commander, one copy each.



(5) Commanding officer and to the prison officer of the installation at which the individual tried is in custody; each one copy.

(6) Records of the individual tried, for delivery by the guard under seal, at the time of delivery of the prisoner to the commandant of the disciplinary barracks, or the warden of a Federal penal or correctional institution, or the commanding officer of the installation or rehabilitation center in which the individual tried is to be confined under sentence; 12 copies.

(7) Commanding general of the major command in whose area the designated place of confinement is located; one copy.

(8) The Adjutant General, ATTN: AGPF-F, Department of the Army, Washington, D. C. 20310; one copy for each officer affected. Commanding Officer, U. S. Army Personnel Services Support Center, ATTN: AGPE-F, Fort Benjamin Harrison, Ind. 46249; one copy for each enlisted person affected.

(9) The Provost Marshal General, Department of the Army, Washington, D. C. 20315; two copies for each person affected.

(10) The Judge Advocate General, Department of the Army, Washington, D. C. 20310; 10 copies as to each person accused (included in the record of trial).

(11) Veterans Administration Insurance Center, Post Office Box 8079, Philadelphia, Pennsylvania 19101; two copies of general or special court-martial orders announcing approved findings of guilty of mutiny, treasonable acts in violation of Articles 99, 104 or 134, UCMJ, spying, desertion, or because of conscientious objections, refusal to perform

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service in the Army of the United States or refusal to wear the uniform of the Army of the United States.

(12) Professor of Law, United States Military Academy, in the cases of officers only; two copies of general court-martial orders only.

(13) Chief, Examination Division, Military Pay Operations, Finance Center, U. S. Army, Indianapolis, Ind. 46249; one copy.

(14) Individual's unit personnel officer, to be filed in the financial data records folder; one copy.

c. Summary court-martial orders and all initial general and special court-martial promulgating orders not involving a punitive discharge or dismissal. In all cases to-

(1) Individual tried; one copy.

(2) Individual's immediate commanding officer and intermediate commander; one copy each.

(3) Commanding officer and to the prison officer of the installation at which the individual tried is in custody; each one copy.

(4) Records of the individual tried, for delivery by the guard under seal at the time of delivery of the prisoner to the commanding officer of the installation or rehabilitation center in which the individual tried is to be confined under sentence; two copies.

(5) In summary and in special court-martial cases, the officer exercising general court-martial jurisdiction over the command to whom the record of trial is forwarded; four copies as to each accused (included in the record of trial). See chapter 2.

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(6) In general court-martial cases; 10 copies as to each accused to The Judge Advocate General (included in the record of trial).

(7) Chief, Examination Division, Military Pay Operations, Finance Center, U. S. Army, Indianapolis, Ind. 46249; one copy.

(8) Individual's unit personnel officer, to be filed in the financial data records folder; one copy.

(9) The Adjutant General, ATTN: AGPF-F, Department of the Army, Washington, D. C. 20310; one copy for each officer affected, Commanding officer, U. S. Army Personnel Support Center, ATTN: AGPB-F, Fort Benjamin Harrison, Ind. 46249; one copy for each enlisted personnel affected.

d. General and special court-martial orders of prisoners. Two copies of all general and special court-martial orders of prisoners with approved sentences to confinement (totaling one year or more) without punitive discharge will be forwarded to the Provost Marshal General, Department of the Army, Washington, D. C. 20315.

e. Supplementary orders involving a punitive discharge or dismissal  
The distribution of supplementary general court-martial orders involving an approved punitive discharge or dismissal, whether suspended or ordered executed, and supplementary special court-martial orders involving an approved punitive discharge whether suspended or ordered executed, will be the same as indicated in b(1), (3) through (13) above. Supplementary special court-martial orders which involve a disapproved punitive discharge

will be distributed as provided in b(1), (3) through (9), and (11) through (13), above. In addition, if the authority issuing the supplementary orders is different from the authority who issued the initial order, the authority who issued the initial order will be furnished two copies of the supplementary order. The Settlements Operations, Finance Center, U. S. Army, Indianapolis, Ind. 46249 and the Chief, Examination Division, Military Pay Operations, Finance Center, U. S. Army, Indianapolis, Ind. 46249, will each be furnished a copy of the supplementary orders promulgating results of affirming action in all cases where the original order approved a punitive discharge or dismissal and either ordered the sentence as to forfeitures applied or provided that the forfeitures should apply to pay and allowances becoming due on and after the date of the convening authority's action.

f. Supplementary general and special court-martial orders  
modifying findings or sentence or deferring sentence. Copies of every supplementary order modifying <sup>all</sup> ~~the whole~~ or any part of the findings or sentence or deferring or rescinding deferment of a sentence of a general or special court-martial in which the initial order involved an approved punitive discharge or dismissal will be distributed as provided in b(1), and (3) through (13), above. Copies of every supplementary general court-martial order modifying the whole or any part of the findings or sentence or deferring or rescinding deferment of a sentence of special court-martial in which the initial order did not involve an approved punitive discharge will be distributed as provided in c(1) through (5), and (7) through (9), above.

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12-6. Modification of findings or sentence. Orders modifying the findings or remitting, mitigating, suspending, or deferring all or any part of the sentence of a general, special, or summary court-martial issued subsequent to the order promulgating the result of a trial are published in appropriate supplementary court-martial orders (Figures 12-4, 12-5, 12-6, and Appendix 15, MCM, 1969 (Rev.).