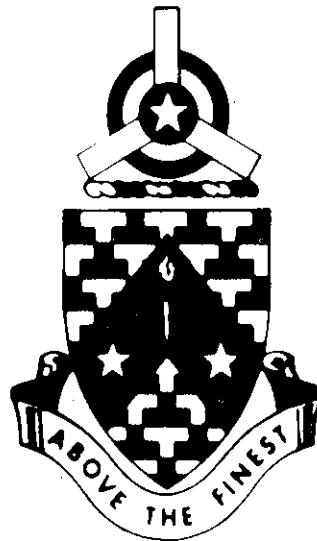


# PROGRAMED TEXT

MILITARY LAW  
Part I  
The Military Justice System  
WD-28/OD-18



DECEMBER 1968

UNITED STATES ARMY  
PRIMARY HELICOPTER SCHOOL  
FORT WOLTERS, TEXAS

# PROGRAMED TEXT

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**PROGRAM TEXT****FILE NO:**

WO-28/OD-18

**PROGRAM TITLE**MILITARY LAW Part I  
The Military Justice System

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**POI SCOPE:**

This program will teach the student the basic principles of military justice, and the pretrial procedures of military law.

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**INSTRUCTOR REFERENCES:**

The Manual for Courts Martial, 1951 edition.

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**PREPARED BY:**CPT CL Mielke  
Leadership Branch  
TFPL**DATE:**

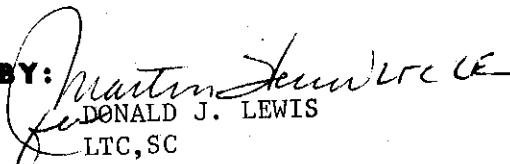
December 1967

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**REVISED BY:****DATE:**

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**APPROVED BY:**

  
DONALD J. LEWIS  
LTC, SC  
Chief, OCD

**DATE:**

December 1968

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The Military Justice System

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## PREFACE

This self teaching text in military law is designed to give you the basic knowledges that every officer needs. It provides a foundation for you when called upon to advise personnel on their rights and responsibilities.

The instructional material in this text is Part I of a three part course. The three parts are as follows:

Part I	The Military Justice System
Part II	Non-Judicial Punishment
Part III	The Courts-Martial System

## ORGANIZATION OF TEXT

This text consists of 20 frames. A frame presents a single item of information which usually requires an answer to a specific problem.

Some of these problems will require a written answer, while in others you will select the correct answer or answers from those listed.

## HOW TO STUDY

1. Start with FRAME 1. Study the information presented then answer the question by drawing a circle around the letter preceding the correct answer(s).
2. Turn to FRAME 2. The correct answer to FRAME 1 is printed at the top of the frame. If you were correct in your answer, proceed with the new information on FRAME 2. If your answer to FRAME 1 was incorrect, turn back to that frame and review it.
3. Continue frame by frame until you have completed the text.

## **PERFORMANCE OBJECTIVES**

**At the end of the period you will be able to:**

1. Interpret the definition of Military Justice.
2. Specify the three ways discipline is maintained through Military Justice.
3. Interpret the definition of Military Law.
4. Identify the three sources of Military Law.
5. Describe the type of offense over which Military Justice has jurisdiction.
6. Explain the "Double Jeopardy" rule.
7. Interpret Article 31 and determine when it must be used.
8. Interpret Article 32 and explain its purpose.

## FRAME 1

The military service must have a system of justice that is adapted to its own requirements. The word justice means reward or penalty as deserved, just treatment, the administration of law, etc.

The formal definition of Military Justice is the application of rules and regulations to persons subject thereto and accused of the commission of offenses under the Uniform Code of Military Justice. Military Justice, therefore, is the fair and impartial application of the rules and regulations to all the people that are governed by them and accused of breaking them.

If Private Jones steals a wallet and CPT Smith, his accuser, is a member of the Court-Martial, check the following principle(s) of Military Justice which is (are) being violated.

- ☒ a. Fair treatment
- ☐ b. Partial treatment
- ☒ c. Impartial treatment
- ☐ d. Preconceived treatment

ANSWER: a and c. He would not be fair and impartial since he would be familiar with the case.

.....

## FRAME 2

Discipline is the motivating force in the military justice system. We can keep discipline in our men in three ways: (1) Prevention of breaches in discipline, (2) correction of violations of discipline and (3) punishment of the guilty.

Prevention means to stop a breach of discipline from happening.

Circle the best definition(s) of prevention.

- a. Lock the door after the horse has been stolen.
- ☒ b. An ounce of precaution is worth a pound of cure.
- c. Don't cry over spilled milk.
- d. Wet Birds don't fly at night.

ANSWER: b. An ounce of precaution is worth a pound of cure.

.....

FRAME 3

The second step, which is correction, is applied only when prevention fails. It means to change from wrong to right. Answer each of the following:

1. The first two steps of maintaining discipline are:

- a. *prevention*
- b. *correction*

2. Circle the item(s) that define correction.

- ☒ a. Verbal reprimand
- ☐ b. Punishment
- ☒ c. Remedial training
- ☐ d. Chastisement



- ANSWER: 1. a. Prevention  
b. Correction
2. a. Verbal reprimand  
c. Remedial training

NOTE: Verbal reprimand and remedial training are corrective steps, not punishment. Punishment can be administered only by Article 15 and Court-Martial action.

.....

#### FRAME 4

Punishment, which is the third step in maintaining discipline, is used only when the first two steps fail. It means to impose penalty for wrong doing. Complete the following:

1. The three steps in maintaining discipline are:

- a. *prevention*  
b. *correction*  
c. *punishment*

2. Circle the example(s) that indicate(s) how punishment can be administered.

- ☒ a. Courts-Martial  
b. Additional training  
☒ c. Article 15  
d. Counselling

- ANSWER: 1. a. Prevention  
b. Correction  
c. Punishment
2. a. Courts-Martial  
c. Article 15
- .....

FRAME 5

Are both of the following statements true? If not, why? *no*

- a. Military justice is both the fair and <sup>im</sup>partial application of military law.
- b. The three steps, in order, of maintaining discipline are: Correction, Prevention and Punishment.

ANSWER: Neither one is true.

- a. Because military justice is fair and impartial.
- b. The steps, in order, are:
  - 1. Prevention
  - 2. Correction
  - 3. Punishment

.....

FRAME 6

The Uniform Code of Military Justice is a special set of laws enacted by Congress for Armed Forces Personnel and certain other people connected with the Armed Forces.

Examples:

- 1. All members of a regular component of the Armed Forces (Army, Navy, Air Force, Marines, and Coast Guard).
- 2. Prisoners of war in custody of the Armed Forces.
- 3. In time of war, persons serving with or accompanying an Armed Force in the field.
- 4. Members of the Coast and Geodetic Survey, Public Health Service, and other organizations, when assigned to and serving with the Armed Forces.

An American Red Cross director serving with a US Infantry Division in Vietnam is subject to the Uniform Code of Military Justice.

/✓ Yes

/ / No

ANSWER: / / Yes. He is a member of an organization assigned to and serving with an Armed Force. This is based on the present interpretation of the constitutionality of the laws permitting the military to exercise UCMJ jurisdiction over civilians working with the military.

.....

FRAME 7

Military Law is the rules and regulations that govern the conduct and punishment of all personnel subject to the Uniform Code of Military Justice.

The conduct of a news reporter assigned to an airmobile division in a war zone is regulated by Military Law.

Check the following personnel that are regulated by Military Law.

- /✓ 1. An Army officer assigned to a university staff.
- /✓ 2. A WOC going through flight school.
- / / 3. A civilian construction worker building an Air Force base exchange.
- /✓ 4. A Sergeant First Class living in Bemidji, Minn., near no military installation, serving as a recruiter.

ANSWER: 1, 2, and 4.

The construction worker is not assigned to the Armed Forces. He is part of a civilian construction company. If you chose number 3, re-read Frame 6.

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#### FRAME 8

The rules and regulations of Military Law are derived or constructed from 3 different sources. One of these sources is the Manual for Courts-Martial (MCM).

This manual is divided into numerous chapters and many appendices. The chapters contain a detailed description of the laws contained in the Uniform Code of Military Justice (UCMJ).

Which one of the following is correct?

- a. A complete detailed definition of the terms and articles can be found in the UCMJ.
- ☒ b. A complete definition of terms used in the UCMJ are found in the MCM.

ANSWER: b

.....

FRAME 9

The other two sources of the rules and regulations of Military Law are the UCMJ and the United States Constitution. In addition, certain Army Regulations, such as AR27-15 on Article 15 punishment, govern the application of Military Law.

These two are also found in the MCM but as appendices and are separate parts.

1. If you were involved in a Courts-Martial and you were not sure what one particular article was, where could you find it? *UCMJ.*
2. If you wanted to find a detailed explanation of a law, where would you look? *Man. of Court. Mar.*

- ANSWER: 1. UCMJ  
2. The chapters of the MCM.
- .....

FRAME 10

Read the following statements and indicate whether they are true(T) or false(F).

- F** 1. Military Law is a set of rules and regulations that regulate the conduct of all *military* persons.
- T** 2. The UCMJ may be used in dealing with some civilian personnel.
3. The MCM and the Constitution contain the same ideas and material. *MCM has a break down of UCMJ and is subject to the U.S. Constitution*

- ANSWER: F 1. Does not regulate people who are not subject to the Uniform Code of Military Justice.
- T 2.
- F 3. The MCM, like all statutes, regulations and executive orders is subject to the general provisions of the US Constitution.
- .....

FRAME 11

The system of courts that we have in the military are established to deal with only criminal cases. A civil case is one in which someone's private rights have been violated and a criminal case is one in which a law set up by the government has been violated. Generally speaking, a civil case is one in which one or more people oppose another party and a criminal case is one in which a state or federal government oppose one or more individuals.

Check the following cases or situations that would be considered criminal in nature.

IC/ a. General Smith vs the Maytag Company for failure to fulfill said contract.

ICR b. The state of Texas vs CPL Shoelage for illegal possession of liquor.

IC/ c. CPT Jones vs PFC Dikes for failure to pay said debts.

ICR d. CPT Nice and COL Welter have been accused of stealing a 3/4 ton truck.



ANSWER: b and d are both criminal cases. Only private persons are involved in statements a and c.

Breaking of a contract or failure to pay debts is not a criminal offense. Illegal possession of liquor and theft is, however, a criminal offense. The same act may give rise to both criminal and civil liability. For example, a person could also sue in civil court for damages resulting from assault and battery, a criminal offense.

.....

## FRAME 12

The Double Jeopardy Rule as found in the Constitution and in Article 44 of the UCMJ states that a person cannot be tried twice for the same offense in the same court.

A man that has been found innocent in a Federal Court on a rape charge cannot be tried again in a military court because a military court is a Federal Court. If he had been tried in a state or local court, however, the rule of Double Jeopardy would not apply.

If a service man is found guilty in a city court for being drunk and disorderly in a public place, could he later be given Article 15 or a Court-Martial for this offense? (Answer Yes or No) *yes*

ANSWER: Yes, with certain qualifications. First, as you will learn later, punishment under Article 15 is not a trial. Secondly, the offense of drunk and disorderly comes under Article 34, conduct bringing discredit. This is a different charge so the trial would be legal.

27-10  
We do not intend to punish offenders excessively and in AR 27-10 a restriction is placed on punishing an individual more than once. It states: "A person subject to the UCMJ who has been tried in a civil court normally will not be tried by Court-Martial or punished under the UCMJ Article 15, for the same act or acts over which the civil court has exercised jurisdiction."

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### FRAME 13

1. Check the following situation that would be considered under criminal law.

- ☒ a. Murder.
- ☒ b. Robbing a bank.
- ☐ c. General Motors breaking a contract with the state of North Dakota.
- ☒ d. Your landlord breaking a contract with you.

2. If you robbed a store would you normally be tried twice in both a state court and in a military court?

/ / a. Yes

/ ☒ b. No

- ANSWER: 1. a and b. These are both federal offenses (against Federal Law). <sup>29-10</sup>
2. No. The rule of double jeopardy would not apply, but AR ~~22-12~~ would protect you.
- .....

FRAME 14

We have been discussing how a person may be tried under the different laws. Now lets take a look at one of the rights an accused person has.

Under Article 31, compulsory self-incrimination is prohibited. A person that has been apprehended, arrested or confined must be informed of his rights before being questioned, interrogated or required to sign a statement. Select the item(s) that is/are correct.

- ✓ a. Upon apprehension of a person, you should advise him of his right if you intend to question him.
- b. Article 31 is used in trial proceedings only.
- c. Upon arrest of a person, it is permissible to ask him questions, and then inform him of his rights.
- ✓ d. Any person who is apprehended, arrested, or confined and then questioned should be informed of his rights prior to questioning.

ANSWER: a and d

NOTE: A person that is apprehended or confined and not questioned does not have to be informed of his rights under Article 31. A good policy to follow, however, is to inform him of his rights anyway in case he is later questioned. Based on a recent Supreme Court ruling you should further advise him that he is authorized to have legal counsel present during questioning or investigation, either formal or informal.

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FRAME 15

When advising a man of his rights, he must be told: (1) of the accusation against him, (2) that he does not have to make a statement, and (3) that any statement he makes may be used as evidence against him. Select the statement(s) that show(s) the correct procedure for Article 31:

- a. "I am advising you of your rights under Article 31 of the UCMJ."
- ☒ b. "You are accused of theft, you do not have to make any statements, but if you do, they may be used as evidence against you."
- c. "You do not have to make any statements, but, if you do they can be used as evidence against you."
- ☒ d. "You are suspected of theft, you do not have to make any statement but any statement you make may be used as evidence against you."

ANSWER: b and d

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FRAME 16

Any evidence or statements obtained in violation of Article 31 can not be used in court as evidence against a person.

You have just apprehended a person for committing a crime. Select the item(s) below that would be correct for your next step.

- a. Ask him only those questions you feel are necessary.
- ☒ b. If you desire to question him, first advise him of his rights under Article 31, UCMJ.
- ☒ c. You feel you do not intend to question him, but only turn him over to proper military authority. You should also advise him of his rights under Article 31.
- d. Question him freely then ask him if he is aware of his rights under Article 31.

ANSWER: b and c

If you have a question about "c" refer to the note on page 16.

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#### FRAME 17

Article 32 of the UCMJ provides that no charges shall be referred to a General Court-Martial for trial until a complete investigation has been made in compliance with the provisions of the article.

The purpose of the investigation is to ascertain all the facts and circumstances surrounding the alleged offense.

Check the following item(s) that you consider to be correct.

- a. The investigation will determine if a person is guilty or innocent.
- b. The investigation will check out only those facts which have already been presented.
- ☒ c. The investigation is intended to verify the validity of the facts and circumstances.
- ☒ d. The investigation should establish all the facts surrounding a case.

ANSWER: c and d

NOTE: The investigating officer is expected to completely investigate the facts and circumstances surrounding the alleged offense. He may recommend trial by any type court: Non-Judicial punishment, board action or dismissal of charges. The officer who appointed the investigating officer is not required, however, to follow any of these recommendations.

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#### FRAME 18

The accused is entitled to representation by counsel during the course of the investigation. He may be represented by the appointed defense counsel; he may request special counsel; or he may hire civilian counsel at his own expense. Both counsel (prosecution and defense) will be qualified attorneys. The accused may also waive counsel, but he may not waive the investigation.

The sessions of the investigation are open to anyone, the accused may cross-examine witnesses and may present witnesses or evidence in his own behalf. The accused also cannot be called as a witness without his consent.

If Private Dogpatch has been accused of an offense, check the items below that are within his rights under Article 32.

- ☒ a. Requesting that his First Sergeant be allowed to attend one of the sessions.
- b. Requesting that an investigation not be held since the facts are cut and dry.
- c. Requesting that his brother, a law student, <sup>not qualified</sup> represent him at the investigation.
- ☒ d. Questioning a witness after his counsel has already done so.

ANSWER: a and d

- a. The sessions are open to anyone.
- b. Investigation cannot be waived.
- c. Counsel must be a qualified attorney.
- d. He has the right to cross-examine witnesses.

FRAME 19

SGT Buck has been accused of stealing money from the Unit Fund. The sequence of events goes like this.

He is put into confinement and forced to answer questions concerning the theft. An investigation is then held at which SGT Buck is not represented by counsel since he did not want one. During one of the sessions he is forbidden to present evidence that he says will help him in his case. One of the witnesses is also allowed to question him about the offense.

List briefly some of the things that are wrong with the handling of this case.

art. 31 not read or fa  
no veridical of his own



- ANSWER:
1. He was not informed of his rights under Article 31 and he was forced into giving answers.
  2. He should have been able to present evidence in his own behalf.
  3. The witnesses are there to be questioned, not to question.
- .....

## FRAME 20

This period of instruction has been presented to familiarize you with some of the different terms that are used in military law and the meaning of Articles 31 and 32.

It is necessary for you to have this general background information so you will better understand the next two periods that deal with Courts-Martial and Article 15. The Court-Martial and Article 15 were established to deal with violators of the rules and regulations.

## SELF EVALUATION EXERCISE

1. The definition of Military Justice is interpreted as:
  - a. The application of military law to any one accused of an offense.
  - b. The punishment of those people subject to military law.
  - ☒ c. The application of military law to those people subject to it and accused of an offense.
  - d. Applying to all persons.
2. The rules and regulations of Military Law apply to:
  - a. All personnel.
  - b. Only military personnel subject to the Uniform Code of Military Justice.
  - ☒ c. All personnel subject to the Uniform Code of Military Justice.
  - d. Both civilian and military personnel.
3. The rules and regulations of Military Law are obtained from which of the following sources?
  - a. The Constitution and Uniform Code of Military Justice.
  - b. The Uniform Code of Military Justice and Manual for Courts-Martial.
  - c. The Manual for Courts-Martial, Uniform Code of Military Justice and Supreme Court decisions.
  - ☒ d. The Uniform Code of Military Justice, U. S. Constitution, the Manual for Courts-Martial and pertinent Army Regulations.
4. The three ways discipline is maintained through military justice are:
  - a. Summary, Special, and General Courts-Martial.
  - b. Written or oral reprimands, non-judicial punishment, and courts-martial.
  - c. Non-judicial punishment, courts-martial and civilian courts.
  - ☒ d. Prevention of breaches in discipline, correction of violations of discipline, and punishment of the guilty.
5. Military Justice involves jurisdiction over:
  - a. Civil cases only.
  - ☒ b. Criminal cases only.
  - c. Both civil and criminal cases.
  - d. As determined by the location in which the crime was committed.

6. According to the rule of "Double Jeopardy":

- a. A soldier may be tried twice for the same offense in the same court.
- b. A soldier who has been tried in a civil court will never be tried by courts-martial or punished under Article 15 for the same offense.
- c. A soldier can be tried only once for an offense.
- ☒ d. A soldier cannot be tried twice for the same offense in the same court.

7. Article 31 states that a person accused of an offense:

- a. May be forced to answer a question even though it may incriminate him.
- b. May be requested to make a statement before he is advised of his rights.
- ☒ c. Is protected from compulsory self-incrimination.
- ~~d. Has the right to be represented by counsel.~~

8. The purpose of Article 32 is:

- a. To protect a person from self-incrimination.
- ☒ b. To make sure that all facts and circumstances surrounding the alleged offense are investigated.
- c. To make sure that a person accused of an offense is not given a chance to cross-examine witnesses against him.

# ANSWERS TO SELF EVALUATION EXERCISE

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## VALIDATION RESULTS

1. Title of programed instruction: Military Justice (3 parts)
2. Media used: Programed Text and Programed ETV Tape
3. Performance Objectives: See each part
4. Criterion test: Inclosed
5. Number of students taking program: 22
6. Time data:
  - a. Conventional group: Scheduled 3 hours
  - b. Programed group:
    - (1) Average of class: 2 hours-9 minutes
    - (2) Range: Lowest time 1 hour-59 minutes Highest time 2 hours-20 min.
7. Criterion test results (raw score in %):

	<u>PRETEST</u>		<u>POST TEST</u>	
a. Range	Low <u>14</u>	High <u>75</u>	Low <u>68</u>	High <u>96</u>
b. Average grade	<u>47</u>		<u>84</u>	
8. Average gain rate: 37 points
9. Scoring analysis in %:
  - a. 90 or better: 22.7%
  - b. 80 or better: 63.6%
  - c. 70 or better: 95.5%
  - d. Below 70 : 4.5%