

US ARMY RECRUITING COMMAND MILITARY JUSTICE BRIEF



MILITARY JUSTICE A SOLDIER'S BRIEFING



TRAINING OBJECTIVES

- Compare Military & Civilian Justice Systems
- UCMJ Overview
- Discuss Administrative Actions
- Discuss Nonjudicial Punishment, Article 15
- Understand Courts-Martial

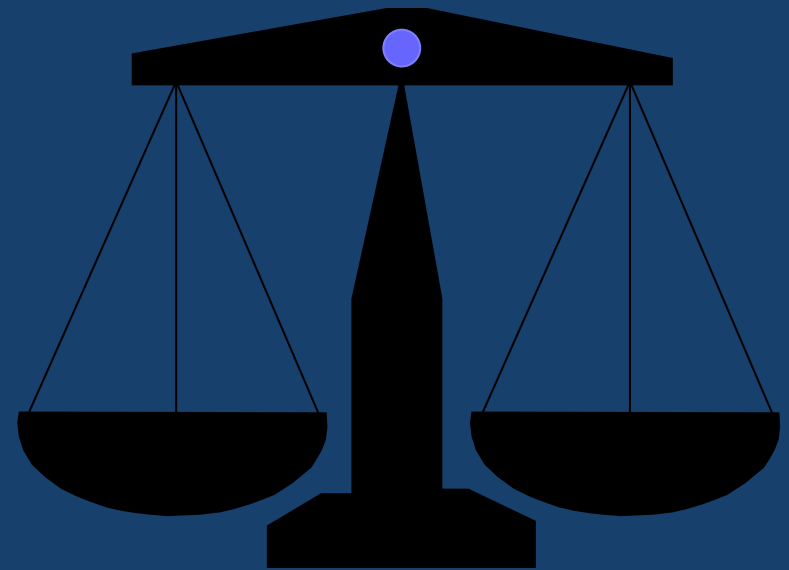
WHY DO WE HAVE A MILITARY JUSTICE SYSTEM?

- Promote Justice
- Help Maintain Good Order and Discipline in the Armed Forces
- Promote Efficiency and Effectiveness in the Military
- Strengthen National Security



COMPARISON OF MILITARY AND CIVILIAN JUSTICE SYSTEMS

- Article 32 Preliminary Hearing v. Grand Jury
- Right to Counsel
- Article 31 Rights
- Jury System
- Guilty Pleas



UCMJ JURISDICTION

Over the Person:

- Active Duty Soldiers and Reservists while on AD
- Military Academy Cadets and Midshipmen
- National Guard Personnel in Federal Service Under Title 10, U.S.C.
- Retirees
- Enemy Prisoners of War
- Others (Some Civilians deployed with units)



Over the Offense:

- Worldwide Jurisdiction
- Possible Concurrent Jurisdiction



EXAMPLES OF UCMJ CRIMES

Common Law Crimes

- Murder/Manslaughter
- Sexual Assault
- Larceny/Burglary
- Drug Offenses
- Assault



Military Crimes

- Disrespect
- Disobedience
- AWOL/Desertion
- Conduct Unbecoming an Officer
- Conduct Prejudicial to Good Order and Discipline

EXAMPLES OF UCMJ CRIMES/MISCONDUCT

- Rolling your eyes
- Not standing at Parade Rest/Attention when told to do so
- Shoulder Shrug
- Mumbling under your breath when DS is speaking to you
- Late to formation
- Contraband (food, candy, civilian clothes, cell phones, etc) at basic training
- Fighting
- Use of marijuana

SUSPECT'S RIGHTS

Article 31(b), UCMJ:

- To be informed of the nature of the suspected offense
- To remain silent
- To be informed that any statement you make can be used against you

Applies anytime a person subject to the UCMJ questions a Soldier suspected of an offense



KEY PERSONNEL IN THE MILITARY JUSTICE SYSTEM

- Commander
- Staff Judge Advocate
- Trial Counsel
- Defense Counsel
- Special Victim Counsel
- Military Judge
- Panel Members (Jury)
- Paralegal Specialist

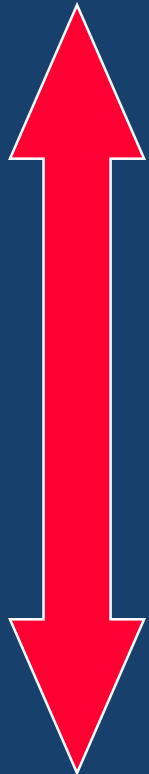


COMMANDER'S RESPONSIBILITIES

- **Maintain Good Order and Discipline**
- Investigate/Report Offenses
- Enforce the Law
- Protect Soldiers' Rights
- Determine/Recommend Disposition of Case
- Keep Sexual Assault Victims Informed



DISPOSITION OF OFFENSES— COMMANDER'S OPTIONS



- Take No Action (after investigation)
- Take Administrative Actions
- Impose Nonjudicial Punishment - Article 15
- Courts-Martial



ADMINISTRATIVE ACTIONS

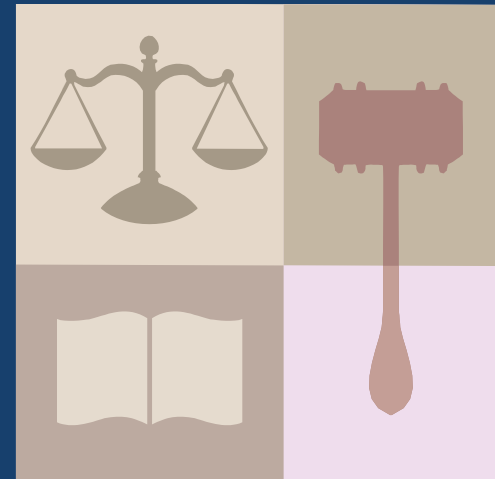
- Counseling (AR 600-20)
- Corrective Training (AR 600-20)
- Administrative Reprimands (AR 600-37)
- Bar to Reenlistment (AR 601-280)
- FLAG (AR 600-8-2)
- MOS Reclassification (AR 614-200)
- Revoke Security Clearance (AR 380-67)
- Relief from Duties
- Adverse NCOER/OER
- Removal from Special Status
- Rehabilitative Transfer
- Administrative Reductions (AR 600-8-19)
- Administrative Separations (AR 635-200)



ADMINISTRATIVE ACTIONS

ADMINISTRATIVE REPRIMAND

- Documents misconduct or poor performance in a Soldier's official files
 - Formal Procedures (Soldier entitled to notice and opportunity to rebut)
 - Assisted by Legal Assistance (or TDS in some cases)
- Filing Options
 - Local File
 - AMHRR (General Officer directed)



ADMINISTRATIVE ACTIONS

ADMINISTRATIVE SEPARATIONS

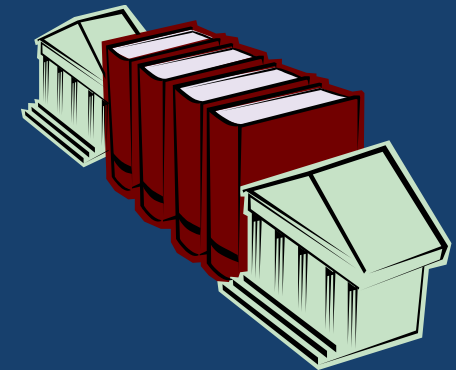
Soldier's Rights:

- Notice and Opportunity to Respond
- Attorney (TDS Consultation/Board Representation)
- Hearing Before a Separation Board if:
 - > 6 Years of Service
 - Other Than Honorable Discharge Initiated



Characterization of Service (Options):

- Honorable (No misconduct; Entitled to all benefits)
- General (Minor misconduct; Entitled to most benefits)
- Other than Honorable (More serious misconduct; Forfeits most benefits)



Standard of Proof:

- "Greater weight of the evidence"
- Preponderance of the evidence (51%)

ADMINISTRATIVE ACTIONS

TYPES OF INVOLUNTARY SEPARATIONS

Chapter 5 - Convenience of the Government

- 5-8: Parenthood
- 5-13: Personality Disorder
- 5-17: Other designated physical or mental condition

Chapter 7 - Defective/Fraudulent Entry

Chapter 9 - Alcohol/Drug Abuse Rehab. Failure

Chapter 13 - Unsatisfactory Performance

Chapter 14 - Misconduct

- 14-12a: Minor Disciplinary Infractions
- 14-12b: Pattern of Misconduct
- 14-12c: Serious Misconduct

Chapter 18 - Failure to Meet Body Fat Standards

PUNITIVE DISPOSITION OPTIONS

- Nonjudicial Punishment (Article 15)
- Summary Court-Martial
- Article 19 Special Court-Martial
- Special Court-Martial
- General Court-Martial



NONJUDICIAL PUNISHMENT

- Imposed by commanding officer (company commander, field grade commander, or general officer).
- Intended to be prompt means to correct Soldier behavior and dispose of minor offenses.
- Limited punishment options.
- Soldier always has right to demand trial by court-martial.
- Burden of proof: beyond a reasonable doubt.

ARTICLE 15 SOLDIERS' RIGHTS

- Notice of the Alleged Offense and Intent to Initiate Article 15
- Remain Silent
- Examine Evidence
- Present a Defense
- Confront Witnesses
- Demand Trial by Court-Martial
- Appeal to a Superior Authority



ARTICLE 15 SOLDIERS' RIGHTS (FORMAL ARTICLE 15)

- Consult With Counsel
- Call Witnesses
- Have a Spokesperson Present
- Ask For an Open Hearing



ARTICLE 15

PUNISHMENT OPTIONS

- Admonishment/Reprimand
- Forfeiture of Pay
- Restriction
- Extra Duty
- Reduction in Rank
- Correctional Custody



Amount of punishment depends on rank of accused and rank of commander.

ARTICLE 15

ENLISTED TYPES & PUNISHMENTS

<u>Types</u>	<u>Summarized</u>	<u>Company</u>	<u>Field Grade</u>
Forfeiture	No	7 Days Pay	1/2 of 1 Mo. For 2 Mo.
Reduction	No	1 Grade (E1-4)	E1-E4: Total E5-E6: 1 Grade
Restriction	14 Days		14 Days 60 Days*
Extra Duty	14 Days		14 Days 45 Days

ARTICLE 15

OFFICER TYPES & PUNISHMENTS

Company Grade

Written reprimand/
admonition

30 days restriction

Field Grade

admonition

30 days restriction

General Officer

admonition

30 days arrest in
quarters

Forfeiture of 1/2 of 1
month's pay for 2
months

ARTICLE 15 APPEALS

Procedure:

- Written Appeal (Generally due within 5 days of imposition of punishment)
- Submitted Through Imposing Commander

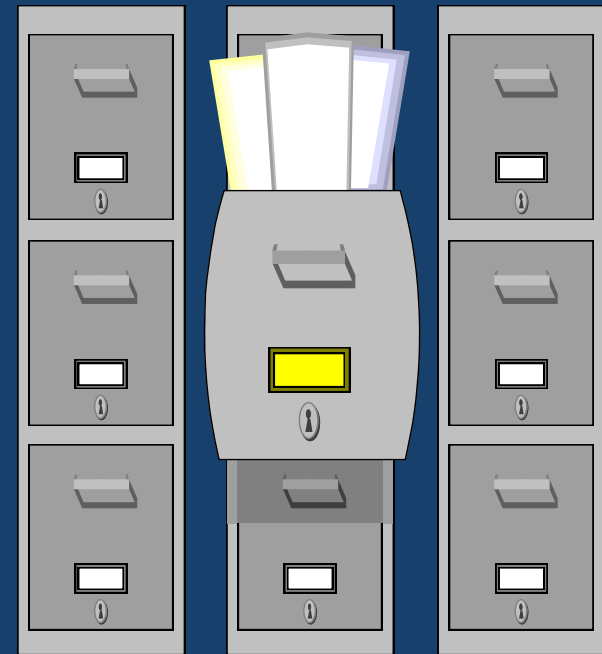
Appellate Authority:

- Next Higher Level Commander
- Can Take Any Action



ARTICLE 15 FILING

- Summarized: kept in unit (local) file for two years or until Soldier is transferred
- Formal: Depends largely upon pay grade of accused
 - E-4 and below: Filed Locally
 - E-5 and above: Filed in AMHRR
 - Guilty of any sex-related offense: Filed in AMHRR



COURTS-MARTIAL

Types:

- Summary Court-Martial
- Article 19 Special Court-Martial
- Special Court-Martial
- General Court-Martial



SUMMARY COURTS-MARTIAL

Soldier's Rights:

- No Right to Representation (Counsel)
- May Refuse SCM
- Cross-Examine Witnesses/Call Witnesses

Procedure/Jurisdiction:

- Summary Courts Officer (usually a MAJ)
- Cannot Try Officers
- Rules of Evidence Apply
- Maximum Punishment:
 - Forfeiture of 2/3 of 1 month's pay for 1 month **AND**
 - E-4 & below: 30 days confinement, reduction to E-1
 - E-5 & above: 2 months restriction, 1 grade reduction



ARTICLE 19 SPECIAL COURTS-MARTIAL

Soldier's Rights:

- Right to Representation (Counsel)

Procedure/Jurisdiction:

- Military Judge alone (no panel)
- Maximum Punishment
 - NO Bad Conduct Discharge
 - 6 months confinement (enlisted only)
 - 2/3 forfeiture (pay only) for 6 months
 - Reduction to E-1 (enlisted only)
- Acc may decline Art 19 SPCM (and demand Art 16 SPCM with a panel), if max punishment of offense \geq 2 yrs, or offense requires sex offender registration.
 - Acc may not refuse Art 19 SPCM for Article 112a (use or possession).



SPECIAL COURTS-MARTIAL

Convening Authority:

- Special Courts-Martial Convening Authority (SPCMA Commander)

Soldier's Rights:

- Right to Representation (Counsel)

Procedure/Jurisdiction:

- 3 Panel Members and/or Judge
- Maximum Punishment
 - Bad Conduct Discharge (enlisted only)
 - 12 months confinement (enlisted only)
 - 2/3 forfeiture (pay only) for 12 months
 - Reduction to E-1 (enlisted only)



GENERAL COURTS-MARTIAL

Soldier's Rights:

- Right to Representation
- Article 32 Preliminary Hearing
- Officer/Enlisted Panel

Maximum Punishment

- Confinement up to maximum authorized by law
- Total forfeiture of all pay/allowances
- Reduction to E-1
- Bad Conduct/Dishonorable Discharge
- Dismissal (Officers)



ARTICLE 138, UCMJ

- *Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint, and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon.” Article 138, UCMJ*

Questions? Contact your Brigade Judge Advocate

