



STATE OF NEW JERSEY
DEPARTMENT OF DEFENSE
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V
NJARNGR 27-1
NJANGR 111-1

NJARNG REGULATION
NO. 27-1*
NJANG REGULATION
NO. 111-1*

2 April 1979

LEGAL SERVICES (ARMY)
MILITARY JUSTICE (AIR)

Courts Martial and Non-Judicial Punishment

1. References:

- a. MCM 1969 (Rev)
- b. UCMJ
- c. 32 USC 326 et seq.
- d. NJSA 38A: 10-1 et seq.
- e. AR 27-15
- f. DA Pam 27-1 - M. J. Guide
- g. DA Pam 27-10 - Special Courts-Martial
- h. DA Pam 27-15 - Non-Judicial Punishment
- i. DA Pam 27-173 - Trial Procedures
- j. AFR 111-9

2. Purpose: To establish guidelines and policies for the exercises of the disciplinary powers of commanders and the exercise of court martial jurisdiction.

3. Applicability: All members of the New Jersey Organized Militia are subject to these and all other applicable Regulations pertaining to Military Justice while serving within the State of New Jersey, serving outside the State of New Jersey and while going to or from such out-of-state service.

4. Definitions:

a. Unless otherwise clearly indicated by the context in which used, all words, terms and phrases used in this and all other applicable Regulations

* This regulation supersedes NJARNGR 27-1/NJANGR 111-1, w/C1 & C2, 18 Aug 71

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pertaining to Military Justice shall have and shall be construed to have the same scope and meaning as such words, terms and phrases have when used in the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial (1969 Revised).

b. "Inherent disciplinary powers of commanders," "non-punitive measures" and "administrative measures" are used interchangeably and include all actions which may be properly taken before resort to Art. 15, UCMJ and/or Courts-Martial.

c. "Day" shall mean a period of time for which an individual is entitled to receive an amount equal to one day's pay.

5. Policy: Military discipline will be exercised promptly and fairly. Resort to the inherent disciplinary power of commanders to counsel, admonish and reprimand and to take action under Art. 15, UCMJ and to prefer charges for trial by Court Martial will not be postponed or deferred because of the availability of administrative procedures relating to active duty or discharge. Resort to trial by courts-martial or to non-judicial punishment under Art. 15, UCMJ will not be made for minor offenses until non-punitive measures have been tried without satisfactory result. Minor offenses which have been corrected after being brought to the attention of the individual concerned will not be noted on his records, but will be considered as closed incidents.

6. Authority: New Jersey Statutes (NJSA 38A: 10-1, et seq.) are the statutory authority for Military Justice in New Jersey. They make active service Military Justice forms and procedures applicable to the New Jersey organized militia. As a result, the United States Code (32 USC 326 et seq.) the UCMJ and Regulations are applicable to New Jersey.

7. Non-Judicial Punishments:

a. Non-judicial punishment under Art. 15, UCMJ may be resorted to in cases of minor offenses in which administrative measures are considered inadequate or inappropriate.

b. The practice and procedures for imposition of punishment under Art. 15, UCMJ shall, except as herein limited, conform to and be in accordance with the provisions of Regulations applicable to the active services.

c. Maximum punishments which may be imposed under Article 15, UCMJ upon commissioned officers and warrant officers for each offense are:

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| (1) Restriction, with or without suspension from duty | 10 days |
| * (2) Arrest in quarters | 5 days |
| * (3) Forfeiture of pay | 5 days |
| * (4) Detention of not more than 10 days pay for not more than six months. | |

* (Punishments under para 7c(2), (3) and (4) above may be imposed only by a Special Courts-Martial convening authority as specified in paragraph 9a hereof; or, in the NJANG by an officer in the grade of O5 or above.)

d. Maximum punishments which may be imposed under Art. 15, UCMJ upon enlisted personnel by an officer in the grade of O3 or below for each offense are:

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|---|--------|
| (1) Restriction, with or without suspension from duty | 5 days |
| (2) Extra duty | 5 days |
| (3) Forfeiture of pay | 1 day |
| (4) Detention of not more than 5 days pay for not more than six months. | |
| (5) Reduction of E-4 or below | |

e. Maximum punishments which may be imposed under Art. 15, UCMJ upon enlisted personnel by an officer in the grade of O4 or above.

- | | |
|--|----------|
| (1) Restriction, with or without suspension from duty | 10 days |
| (2) Extra duty | 10 days |
| (3) Forfeiture of pay | 5 days |
| (4) Detention of not more than 10 days pay for not more than six months. | |
| (5) Reduction of E-4 or below | 3 grades |
| (6) Reduction of E-5 or below | 1 grade |
| (7) Correctional custody, E-3 and below | 4 days |

f. Punishments other than those authorized in paragraphs 7c, 7d or 7e are prohibited.

g. Offenses punishable under the UCMJ do not constitute inefficiency. Reduction for inefficiency will not be used in lieu of non-judicial punishment in derogation of the rights of the accused.

h. An individual may not be punished under Art. 15, UCMJ over his objection and demand for trial by court martial. A commander intending to impose punishment under Art. 15, UCMJ will affirmatively advise the accused of his rights to demand trial by court martial.

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i. Restriction and extra duty may be combined to run for any period not in excess of the maximum duration for extra duty. Other penalties involving deprivation of liberty may not be combined. Forfeiture of pay and detention of pay may not be combined.

j. Any punishment under Art. 15, UCMJ involving arrest in quarters, correctional custody, forfeiture of more than 1 day's pay, reduction in grade from the 5th or higher pay grade, extra duty for more than 5 days, restriction for more than 5 days or detention of more than 5 day's pay, whether or not suspended, shall be forwarded to the Staff Judge Advocate of the Commander listed in paragraph 9a hereof, or such other legal officer as said assigned Staff Judge Advocate may designate, for review, and the punishment imposed shall not be executed until approved by the commander of the officer imposing such punishment.

k. Prescribed forms will be prepared in triplicate in all cases. Forms will be distributed as follows:

- (1) Unit of assignment
- (2) Staff Judge Advocate
- (3) Individual concerned

l. Appeals will be processed and records will be retained in accordance with the provisions of AR 27-15 or AFR 111-9, as applicable.

m. The authority to impose a reduction-in-grade shall not depend on the authority to promote to that grade.

8. General Courts-Martial:

a. General Courts-Martial may be convened only by the Governor as Commander-in-Chief of the Organized Militia.

b. General Courts-Martial shall be composed and shall have the powers and jurisdiction, except as herein limited, as General Courts-Martial in the active services.

c. No member of a General Courts-Martial shall be a member of or assigned or attached to the unit to which the accused is assigned or attached.

d. Military Judge, trial counsel, defense counsel and reporter shall be detailed to a General Courts-Martial in accordance with the provisions of the UCMJ.

e. Maximum punishments which may be imposed by General Courts-Martial for any single offense are:

- (1) Fine \$200
- (2) Forfeiture of pay and allowances Total
- (3) Confinement 200 days
- (4) Restriction or extra duty 200 days
- (5) Reprimand
- (6) Dismissal or dishonorable discharge
- (7) Reduction of enlisted personnel to the lowest enlisted grade.

(8) Any of these punishments may be combined, except that combination of punishments under Sections (1), (3) and (4) of this subparagraph shall not exceed an aggregate of 200 days and dollars.

(9) Punishment imposed for any offense shall not exceed the maximum punishment for that offense as set forth in the table to maximum punishments, MCM.

(10) Punishment under section (6) of this subparagraph shall not be executed until approved by the Governor.

9. Special Courts-Martial:

a. Special Courts-Martial may be convened for units under their command by:

- (1) The Governor as Commander and Chief of the Organized Militia.
- (2) The Chief of Staff, NJDOD
- (3) The Chief of Staff, HHD, NJARNG
- (4) Assistant Chief of Staff, Air, NJANG - For all Air National Guard units.
- (5) Commanding General, 50th Armored Division

b. Special Courts-Martial shall not have jurisdiction to try a commissioned officer.

c. The provisions of paragraphs 8b, 8c, 8d and 8e(9) shall be applicable to and shall govern Special Courts-Martial.

d. Maximum punishments which may be imposed by Special Courts-Martial for any single offense are:

- (1) Fine \$100

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(2) Forfeiture of pay and allowances 2/3 of one month's pay for not more than six months.

- (3) Confinement 100 days
- (4) Restriction or extra duty 100 days
- (5) Reprimand
- (6) Bad Conduct Discharge
- (7) Reduction to lowest enlisted grade

(8) Any of these punishments may be combined, except that combinations of punishments under sections (1), (3) and (4) of this subparagraph shall not exceed an aggregate of 100 days and dollars.

10. Summary Courts-Martial:

a. Summary Courts-Martial for the trial of violations of Article 86, UCMJ may be convened for units under their command by:

- (1) All convening authorities, listed in 9a.
- (2) NJARNG: Commanding Officer of Brigades, Division Artillery, Support Command, Command & Control Headquarters (CAC), Battalion, Squadron.
- (3) NJANG: Commander of Wing, Group; any Commander in the grade of O5 or above.

b. Summary Courts-Martial for the trial of offenses other than violations of Article 86, UCMJ may be convened for units under their command by those convening authorities listed in paragraph 9a, and in the NJANG, the commander of any Wing or Group.

c. No person may be tried by Summary Courts-Martial over his objection.

d. A Summary Courts-Martial shall consist of one officer who shall be a captain or higher grade or a member of the Judge Advocate General's Corps or an officer serving as a legal officer. Except as herein limited, a Summary Courts-Martial shall have the same powers and jurisdiction as a Summary Courts-Martial in the active services.

e. Summary court officers must be certified by the appropriate Staff Judge Advocate, as competent to perform such duties.

f. Maximum punishments which may be imposed by Summary Courts-Martial for any single offense are:

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| (1) Fine | \$25.00 |
| (2) Forfeiture of pay and allowance - 2/3 of one month's pay for not more than one month. | |
| (3) Confinement | 25 days |
| (4) Restriction or extra duty | 25 days |
| (5) Reduction to lowest enlisted grade | |
| (6) Reprimand | |
| (7) Any of these punishments may be combined, except that combination of punishments under sections (1), (3) and (4) of this subparagraph shall not exceed an aggregate of 25 days and dollars. | |
| (8) Confinement may not be imposed upon persons above E-4. | |

g. The provisions of paragraphs 8b, 8c, and 8e (9) shall be applicable to and shall govern Summary Courts-Martial.

h. The Staff Judge Advocate of the command of the convening authority or higher authority may, in his discretion, detail counsel and a reporter to a Summary Courts-Martial.

11. Administration:

a. The provisions of this chapter shall be applicable to all courts-martial and to proceedings under Article 15.

b. A warrant for arrest, either pre-trial or past trial, shall be issued only with the prior written approval of The Chief of Staff, New Jersey Department of Defense.

c. A sentence to confinement shall be executed only with the prior written approval of The Chief of Staff, New Jersey Department of Defense.

d. In any case where the offense charged is also an offense against a civil authority, the appropriate convening authority delegated in paragraph 9a may, upon request of the civil authorities, order the person charged to be turned over to the civil authorities for trial.

e. Fines collected as a result of the approved sentence of a court martial shall be paid to the commanding officer of the unit of which the accused is a member for deposit to the credit of the unit fund. The unit commander shall forward to the convening authority a true copy of the unit fund voucher on which such collection is made for attachment to the original Record of Trial.

f. Any sentence, except a sentence involving confinement, dismissal, dishonorable or bad conduct discharge, may be ordered executed by the convening authority at the time it is approved.

g. Civilian witnesses subpoenaed to appear before military courts shall receive the same fees as are provided by law for witnesses in civil courts. Prior to issuing any subpoena, convening authorities below Department of Defense level must obtain from this headquarters, ATTN: CF Division, approval for State funds, to include funding citations, for the estimated number of mandays involved.

h. Any person tried by a civil court and acquitted or convicted shall thereafter not be subject to trial by court martial for the same offense.

i. In any instance where trial by Special or Summary Courts-Martial requires verbatim record of testimony, convening authorities below Department of Defense level, prior to engaging a reporter, must obtain from this headquarters, ATTN: CF Div, approval for state funds, to include funding citations, for the estimated cost of this service.

j. The convening authority shall, when approving and ordering executed a sentence to confinement, specify the place of confinement subject to the following:

(1) Where the accused is a resident of New Jersey, confinement shall be in the municipal or county jail of the municipality or county in which the accused has his residence.

(2) Where the accused is a non-resident of New Jersey, confinement shall be in the municipal or county jail of the municipality or county in which the unit of which the accused is a member has its inactive duty station.

k. Pre-trial confinement shall be in the municipal or county jail of the municipality or county in which the accused is apprehended.

l. Correction custody shall be served in the civil section of a municipal or county jail subject to the rules as to place of confinement stated in paragraph 11j hereof.

12. Record of Trial: The record of trial shall consist of the charge sheet, the verbatim or summarized record of testimony, if any, true copies of all documentary evidence and certified copies of records of previous convictions, if any.

a. After appropriate action by the convening authority and completion of appropriate entries on personnel records and record of trial, the original and copies will be forwarded to the headquarters of the appropriate convening authority stated in paragraph 9a for review.

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b. After review and final action by the convening authority in paragraph 9a, the record of trial will be distributed as follows:

- (1) Original - SJA of NJDOD
- (2) Copy - Convening Authority
- (3) Copy - Accused

13. If any section or portion of any section of this regulation shall be held to be invalid for any reason by any court of competent jurisdiction, such invalidation shall not affect the validity or enforceability of any other section or portion thereof, and each provision of this regulation shall be deemed to be separate and severable.

(CAO)

FOR THE GOVERNOR:

OFFICIAL:



FRANK S. CAPRARIO
Colonel, NJARNG Retired
Adjutant General

WILFRED C. MENARD, JR.
Major General, NJARNG
The Chief of Staff

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