

Legal Services  
Military Justice

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**History.** This is a revised supplement in electronic format.

**Summary.** The purpose of this supplement is to provide guidance to commanders and staff on the conduct of military justice at the Joint Readiness Training Center and Fort Polk. It is intended to aid commanders in the fair and effective administration of military justice while protecting the rights of Soldiers. The supplement applies to all commanders and Soldiers subject to the Uniform Code of Military Justice, as well as civilian employees involved in the administration of military justice at the Joint Readiness Training Center and Fort Polk.

**Proponent and Exception Authority.** The proponent of this supplement is the Office of the Staff Judge Advocate. The proponent has the authority to approve exceptions to this supplement that are consistent with controlling law and regulation.

**Supplementation.** Further supplementation is prohibited unless approved by the OTJAG.

**Suggested Improvements.** Users of this regulation are invited to send comments and suggested improvements on DA Form 2028 (Recommended

Changes to Publications and Blank Forms) directly to the Office of the Staff Judge Advocate, AFZX-JA, 7090 Alabama Avenue, Fort Polk, Louisiana 71459-5344.

FOR THE COMMANDER:

RICHARD E. BLOSS  
COL, GS  
Chief of Staff

OFFICIAL:

/s/  
BOBBI STARK  
Director, Human Resources

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<https://polkintranet.nasw.ds.army.mil/Pages/Default.aspx>

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AR 27-10, 16 November 2005, is supplemented as follows:

**Chapter 1, Paragraph 1-1, Purpose.** Add the following at the end of the paragraph:

This supplement outlines policies and procedures for the administration of military justice within the Joint Readiness Training Center and Fort Polk. Commanders at all echelons should ensure that all officers and noncommissioned officers of their command are thoroughly familiar with its provisions. All provisions of this supplement are intended only for management purposes; as such, they are not intended to provide separate substantive rights to an accused, which are judicially enforceable, nor should they be so construed.

**Chapter 1, Paragraph 1-4, Responsibilities.** Add subparagraph d as follows:

d. Legal specialists/NCOs are responsible for information concerning regulatory requirements and administrative matters only; they are not qualified to provide legal opinions and will not be called upon to do so. The duties of a legal specialist/NCO are detailed in DA Pamphlet 611-21.

**Chapter 1, Paragraphs 1-5, Policies and 1-6, Assignment and Utilization of Legal Personnel.** (Added)

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\*This supplement supersedes JRTC & Fort Polk Supplement 1 to AR 27-10, 4 December 2001.

## **1-5. Policies.**

a. Nonjudicial punishment and courts-martial will be used only when administrative corrective measures have failed or would be inappropriate. Unnecessary use of nonjudicial punishment and courts-martial result in decreased efficiency, lowered morale and discipline, and an unjustified loss of vitally needed manpower. Alternatives to punitive action under the Uniform Code of Military Justice always should be considered. These include:

- (1) Corrective training, which may be administered during normal duty hours or during on-duty hours, and which must relate directly to the deficiency noted in the Soldier (Reference: AR 600-20).
- (2) Counseling (Reference: AR 635-200, para 1-16).
- (3) Verbal or written reprimand (Reference: AR 600-37).
- (4) Reduction in grade (Reference: AR 600-8-19, Chapter 6).
- (5) Bar to reenlistment (Reference: AR 601-280, Chapter 8).
- (6) Administrative separation (Reference: AR 635-200).

b. Illegal command influence or even the appearance of illegal command influence undermines public confidence in the Army and its commanders. The proper disposition of each case must be based solely on the facts and circumstances pertaining to the particular situation, and must result from the independent judgment of the commander possessing decision authority in the case. Commanders may not issue directives requiring that cases of a certain type, or involving a certain category of offenders, be recommended or referred for trial by court-martial, or prescribe specific punishments for particular offenses. These policies are equally applicable in the administration of nonjudicial punishment (Article 15, UCMJ).

c. Efficiency and economy in the use of personnel and funds require the separation from the service, without delay, of unfit, inept, or unsuitable personnel. Commanders are encouraged, where appropriate, to use the administrative discharge provisions of AR 635-200. In such cases, commanders will promptly initiate trial by court-martial. All administrative separation actions will be forwarded and disposed of promptly once initiated by a commander.

d. The Commanding General (CG) deals with military justice actions through the Staff Judge Advocate (SJA). All matters concerning military justice to be brought to the CG's attention will be routed through the SJA.

## **1-6. Assignment and Utilization of Legal Personnel.**

a. The SJA has responsibility for the assignment, reassignment, and utilization of all legal personnel within the Joint Readiness Training Center and all units assigned, attached, or permanently located at Fort Polk. Exceptions:

- (1) Legal personnel assigned to Operations Group as Observer/Controllers.
- (2) Legal personnel assigned to 4<sup>th</sup> Brigade, 10<sup>th</sup> Mountain Division (4-10). While also assigned to 4-10, the Brigade Trial Counsel (TC) will work at the Office of the Staff Judge Advocate (OSJA), Military Justice Section, while in garrison. During training exercises or operational missions, the Brigade TC will be supervised by the Brigade Judge Advocate. During garrison operations, the Brigade TC will be supervised by the OSJA Chief of Military Justice.

b. All legal personnel assigned or attached at Fort Polk will be utilized solely for the purpose of military legal matters (military justice, boards, etc.) and are exempt from all duty rosters.

c. Units with authorized legal personnel slots will coordinate with the SJA for appropriate legal support for exercises and deployments on a case-by-case basis.

## **Chapter 2, Paragraph 2-4, Grants of Immunity.** Add subparagraph e as follows;

e. Subordinate commanders shall take no action to create grants of immunity to prosecution. All requests for immunity must be coordinated with the SJA.

## **Chapter 2, Paragraph 2-8, U.S. Magistrate Court System.** (Added).

### **2-8. U.S. Magistrate Court System.**

a. Service members and civilians who commit certain specified traffic offenses (including driving a vehicle while intoxicated (DWI)) or criminal misdemeanors on Fort Polk are prosecuted in the U.S. Federal Court, Fort Polk Docket (see Appendix B).

b. United States Federal Court System objectives. This system provides:

- (1) Enforcement of federal laws on Army installations.
- (2) Uniform procedures for the collection of fines, the forfeiture of collateral in lieu of appearance or fines, the scheduling of mandatory hearings or voluntary hearings requested by defendants, and the keeping of records.

(3) A simple but sure method of accounting for fines, for collateral, and for violation notices issued.

(4) Convenience to the public, precluding the need for defendants to travel to Lake Charles, LA.

c. All civilians, while in a privately owned vehicle, or a government vehicle, cited for violation of vehicular traffic laws of the State of Louisiana on the Fort Polk military installation, will be issued a DD Form 1805, Violation Notice. This provision includes the offense of DWI. Service members cited for violation of the specific laws enumerated in Appendix B will be issued a DD Form 1408, United States District Court Violation Notice.

**Chapter 3, Paragraph 3-5, Reference to Superior.** Add subparagraph c as follows:

c. In those cases where punishment is to be imposed by the CG or an appeal is directed to him, supporting documentation (including for an appeal the Record of Proceedings Under Article 15, UCMJ (DA Form 2627)) will be submitted through the SJA, with the personal recommendations of each intermediate commander. Each case will contain sufficient information/documentation to enable the CG to make an informed disposition of the case.

**Chapter 3, Paragraph 3-7d, Who May Impose Nonjudicial Punishment.** Add subparagraphs (1) and (2) as follows:

(1) The exercise of administrative or military justice disciplinary authority over commissioned officers, warrant officers, and enlisted personnel, E-8 or above, is specifically reserved by the CG for all units at Fort Polk. All instances of misconduct or suspected misconduct involving commissioned officers, warrant officers, or enlisted personnel, E-8 or above, must be promptly reported to the SJA.

(2) Offenses involving wrongful use, possession, or distribution of controlled substances will be reported to the battalion command level or higher.

**Chapter 3, Paragraph 3-14, Preliminary Inquiry.** Add subparagraph c as follows:

c. This action should not be delayed for completed CID or MP reports. Necessary statements can be obtained although a completed report may not be available.

**Chapter 3, Paragraph 3-18c, Notification and Explanation of Rights.** Add the following at the end of the subparagraph:

The commander will ensure the accused has the opportunity to consult with counsel. If the accused requests counsel, the Senior Defense Counsel, United States Army Trial Defense Service, Fort Polk Field Office, will be notified. The accused will be provided with DA Form 2627 and all supporting statements and documents. Any questions concerning the accused's right to counsel should be referred to the unit's servicing judge advocate.

**Chapter 3, Paragraph 3-18, Notification and Explanation Rights.** Add subparagraph n as follows:

n. *Counseling.*

(1) When imposing a punishment under Article 15, UCMJ, unless immediate separation is contemplated (e.g., in accordance with AR 635-200, para 14-12), commanders will simultaneously prepare a DA Form 4856R, General Counseling Form, on the Soldier involved and, at a minimum, inform the Soldier of the following:

(a) The reason for the counseling.

(b) The fact that separation action may begin if misconduct continues.

(c) The types of discharge the Soldier may receive and the effect of each discharge (Reference: AR 635-200, para 1-16).

(2) Completed counseling statements will be maintained in the unit files in accordance with AR 350-21.

Commanders will monitor the subsequent performance of Soldiers receiving each counseling statement to determine whether administrative discharge under the provisions of AR 635-200 is appropriate.

**Chapter 5, Paragraph 5-2a, Courts-Martial Jurisdiction.** Add the following at the end of the subparagraph:

See Appendix A to this supplement.

**Chapter 5, Paragraph 5-15a, Pretrial Confinement.** Add subparagraphs (1) and (2) as follows:

a. *General.*

(1) Prior to trial, commanders will not take any action which might stigmatize an accused or which might discourage witnesses from testifying on behalf of an accused. Commanders will coordinate with their Trial Counsel before changing an accused Soldier's duties or placing any restrictions on an accused pending court-martial.

(2) Pretrial confinement may be imposed only when it is clearly necessary to ensure the accused's presence for trial or when there is a reasonable belief that the accused may commit serious criminal misconduct. A record of absences, breach of restraint, the serious nature of the charged offenses, or a pattern of criminal conduct may indicate the necessity for pretrial confinement. If such factors lead to the conclusion that the accused is likely to flee rather than stand trial or is a threat to the community, pretrial confinement may be considered. However, the commander must consider the use of lesser forms of restraint first (e.g., restriction). Based upon the overall past record of the accused, commanders will then make a determination whether those lesser restraints are inadequate.

**Chapter 5, Paragraph 5-15c, Pretrial Confinement.** Add subparagraphs (1) through (4) as follows:

*c. Entry into Pretrial Confinement.*

(1) Commanders seeking to place a Soldier into pretrial confinement will request approval from the appropriate Special Court-Martial Convening Authority (SPCMCA). The SPCMCA or designated representative will coordinate this request with their designated trial counsel. A Soldier will not be placed into pretrial confinement without the prior concurrence of the SJA or DSJA, obtained by the trial counsel. The authority of the SPCMCA to approve pretrial confinement will not be delegated.

(2) The unit commander will ensure that a Confinement Order, DD Form 2707, is completed prior to placing a Soldier into pretrial confinement.

(3) The unit commander of the pretrial confine will immediately prepare a DA Form 5112-R (Checklist for Pretrial Confinement), specifying the grounds supporting the decision to confine the Soldier. The original and two copies of the checklist, along with the sworn charge sheet (drafted by a trial counsel) and supporting documentation, will be delivered to the OSJA NLT the next duty day following imposition of pretrial confinement. The pretrial confinement memorandum, Appendix F, will be completed and forwarded with the checklist. The commander's memorandum will contain the language verifying that pretrial confinement was approved by SPCMCA, COL [name], with SJA concurrence by [name of concurring SJA or DSJA].

(4) The servicing trial counsel will coordinate with the Military Magistrate to ensure completion of timely magistrate review in accordance with AR 27-10, Chapter 9 and Rule for Courts-Martial (R.C.M.) 305.

**Chapter 5, Paragraph 5-15, Pretrial Confinement.** Add subparagraph e as follows:

*e. Rights of Confinee.*

(1) When a Soldier is placed in pretrial confinement, charges ordinarily will be preferred within 2 working days following confinement and read to the accused the same day.

(2) When a Soldier is placed in pretrial confinement, the unit commander or his representative will visit the pretrial confine within 48 hours and at least once weekly thereafter.

**Chapter 5, Paragraph 5-16, Preparation of Charge Sheet.** Add subparagraphs c through f as follows:

c. The immediate commander of an accused has the primary responsibility for promptly investigating an alleged offense, gathering the evidence, and ensuring court-martial charges are preferred when appropriate. A legal specialist/NCO is not an appropriate person to conduct the investigation or interview witnesses but may assist the commander in locating and obtaining documents. When a unit commander is conducting an inquiry, a similar investigation of the incident may be in progress by an investigative agency (e.g., MPI or CID). Commanders must avoid interfering with the investigation, but will not delay the inquiry pending the final report of any such agency. The evidence developed by such agencies is readily available to the unit commander or OSJA upon request and should be obtained at the earliest opportunity.

d. When trial by court-martial is determined to be appropriate, the commander will immediately contact the trial counsel for advice on the proper charges and appropriate level of disposition. The trial counsel will prepare the DD Form 458 (Charge Sheet). The commander will provide the trial counsel with all evidence and gather any additional evidence that may be required by the trial counsel for the drafting of proper charges.

e. The commander of an accused will take whatever action is required to ensure that the necessary witnesses in the case will be available in the command through the investigative stages and at the time of trial. The accused's commander will also ensure that the commanders of required witnesses are aware of the personnel needed and for what purposes. The ETS or PCS date, whichever is earlier, of witnesses will be listed in an allied paper to DD Form

458 (Charge Sheet). In addition, the commander will coordinate with the trial counsel prior to approving any absence (i.e., PCS, TDY, or ordinary leave of a witness). In the event a military witness is scheduled for ETS, or when a witness may be unavailable for trial, the unit commander of the witness will notify the trial counsel immediately.

f. All charge sheets forwarded from this command to the U.S. Army Desertion Information Point (USADIP) with the Military Personnel Records Jacket (MPRJ) of deserter personnel must include the hour and date of receipt by, and the signature of, the officer exercising summary court-martial jurisdiction on the reverse side of the charge sheet. If the Soldier is dropped from the roles after referral of charges, the unit commander will forward the original and two copies of properly completed charge sheets, with supporting documentation, to Personnel Services (DHR) to be included in the MPRJ.

**Chapter 5, Paragraph 5-17, Forwarding of Charges.** Add subparagraphs d through g as follows:

d. Commanders will ensure all Soldiers of their command take expeditious action on all matters relating to military justice. Failing to do so may prejudice the rights of the accused, defeat the ends of military justice, and constitute a bar to trial. The failure to take expeditious action may also be grounds for reversing a conviction.

e. The unit commander will ensure that the charges are read to the accused and that the accused is furnished a copy of the charge sheet the same day the charges are preferred. Once charges are preferred, the immediate commander will notify the trial counsel immediately. After charges are preferred, commanders at all levels will ensure that the case is forwarded through command channels in an expeditious manner. Once preferred, charges must be processed as expeditiously as possible and will be hand carried between headquarters. In no event will charges be delayed unnecessarily at any intermediate headquarters.

f. Ordinarily not later than the following duty day after receipt of charges, SPCMCA's will initiate appropriate administrative or nonjudicial action, refer the case to trial by summary court-martial, appoint an investigating officer under Article 32, UCMJ, return the file to the subordinate commander for disposition, dismiss the charges, or forward the file with recommendations to the CG, through the SJA.

g. Article 32 Investigation.\

(1) If it appears that trial by general court-martial is warranted, the SPCMCA will appoint a field grade officer (if none are available, a senior O-3, or in high profile cases, request appointment of a judge advocate), to conduct an investigation under the provisions of Article 32, UCMJ, and R.C.M. 405(a). The investigating officer will not be a court panel member. In addition, the SPCMCA will detail a trial counsel designated by the OSJA to be a government representative in the Article 32 Investigation. When an officer is designated to conduct an Article 32 Investigation, the investigation will be that officer's principal duty until completed. The investigation should not, except in rare cases, require more than 3 working days to complete. The 3 working days do not include defense requested delays granted by the investigating officer. Defense requested delays exceeding 2 weeks must be approved by the SPCMCA. On the same day as notification of appointment, an investigating officer will consult directly with an attorney from the Administrative Law Division, OSJA, concerning their duties.

(2) Upon receipt of the completed Article 32 report, the SPCMCA will ordinarily take appropriate action within 2 working days.

**Chapter 5, Paragraph 5-24, Arraignment and Pleas.** Add subparagraphs a and b as follows:

a. *Escorts.* At least two escorts will be assigned from the parent unit for each pretrial or post-trial prisoner to be transported or when an accused is being court-martialed. Both escorts will be mature, responsible individuals, with no record of adverse incidents or personal friendship or involvement with the accused. One of the escorts must be a NCO, and if the accused is a NCO, then the escort NCO must be equal to or higher in rank to the accused. They must be physically capable of restraining the prisoner. At least one of the escorts will be the same sex as the accused. Escorts will be briefed by the trial counsel or Criminal Law NCOIC and a Civil Liaison representative prior to beginning duties.

b. *Bailiff.* One NCO in the rank of SSG or above, and senior to the accused, will be provided for the duties of Bailiff from the parent unit for each session of the accused's court-martial. First Sergeants are responsible for having the NCO report to the trial counsel 1 day prior to the accused's court-martial for a briefing.

**Chapter 12, Promulgating Orders.** Add subparagraph d as follows:

d. General and special courts-martial promulgating orders and summary court-martial results of trial may be read at the next formation after receipt and posted on the unit bulletin board for up to 30 days. The convicted Soldier's

**JRTC & FP Suppl 1 to AR 27-10**

Social Security Number will be omitted from the reading and deleted from the posted promulgating order and results of trial.

**Add attached Appendixes A, B, and C.**

**APPENDIX A**

**COURT-MARTIAL JURISDICTION TABLE**

1. GENERAL/BCD SPECIAL COURT-MARTIAL JURISDICTION. The Commander, Joint Readiness Training Center and Fort Polk, has the authority within this command to convene general courts-martial and special courts-martial empowered to adjudge a bad conduct discharge for all Soldiers assigned or attached to Fort Polk.

2. SPECIAL AND SUMMARY COURTS-MARTIAL JURISDICTION. Commanders of the units designated below located at Fort Polk are special and summary courts-martial convening authorities. However, authority to convene special courts-martial is withheld to the Commander, Joint Readiness Training Center and Fort Polk. Requests from special court-martial convening authorities to convene a special court-martial will be forwarded through the Staff Judge Advocate to the Commanding General.

- a. 4<sup>th</sup> Brigade, 10<sup>th</sup> Mountain Division (Light)
  - (1) 2d Battalion, 30<sup>th</sup> Infantry
  - (2) 2d Battalion, 4<sup>th</sup> Infantry
  - (3) 3d Squadron, 89<sup>th</sup> Cavalry
  - (4) 94<sup>th</sup> Brigade Support Battalion
  - (5) Brigade Special Troops Battalion
  - (6) 5<sup>th</sup> Battalion, 25<sup>th</sup> Field Artillery
  
- b. 1<sup>st</sup> Maneuver Enhancement Brigade
  - (1) 83d Chemical Battalion
  - (2) 88<sup>th</sup> Brigade Support Battalion
  - (3) 46<sup>th</sup> Engineer Battalion
  - (4) 519<sup>th</sup> Military Police Battalion
  
- c. Operations Group
  - 1<sup>st</sup> Battalion, 509<sup>th</sup> Infantry Regiment (Airborne)
  
- d. U.S. Army Garrison
  - 5<sup>th</sup> Aviation Battalion
  
- e. Medical Department Activity (MEDDAC)
  
- f. Dental Activity (DENTAC)
  
- g. 115<sup>th</sup> Combat Support Hospital
  
- h. 162d Infantry Brigade (FSF-TT)
  - (1) 1<sup>st</sup> Battalion, 353d Regiment
  - (2) 2d Battalion, 353d Regiment
  - (3) 3d Battalion, 353d Regiment
  - (4) 4<sup>th</sup> Battalion, 353d Regiment
  - (5) 5<sup>th</sup> Battalion, 353d Regiment
  - (6) 6<sup>th</sup> Battalion, 353d Regiment

3. All Soldiers not specifically assigned to one of the aforementioned jurisdictions will be assigned to U.S. Army Garrison (USAG).

APPENDIX B

FEDERAL MAGISTRATE COURT PROSECUTIVE GUIDELINES FOR SOLDIERS

La.R.S	OFFENSE	MINIMUM PENALTY	MAXIMUM PENALTY
14.98	DWI Breathalyzer over .08	*10 days/ \$300 (First offense)  *10 days confinement may be suspended in certain circumstances  1 month/ \$750 (Second offense)	6 months/ \$1,000 (Sentence may be suspended if certain conditions are attached to probation- see statute)  -Applies to both 1 <sup>st</sup> and 2 <sup>nd</sup> offense
14.98.1	DUI (Under Age Driving Under the Influence) Under 21 years of age Breathalyzer .02- .08	\$100 + Substance Abuse and Driver Improvement Program (First Offense) 10 days/ \$150 (Second Offense)	\$250 + Substance Abuse and Driver Improvement Program (First Offense) 3 months/ \$500 (Second Offense)
14.99	Reckless operation of a vehicle	Any combination under the authorized maximum penalty. (First Offense) 10 days/ \$25 (Second Offense)	90 days/ \$200 (First Offense) 6 months/ \$500 (Second Offense)
14.100	Hit & Run (with no death or serious bodily injury)	C(1)(a) - Any combination under the authorized maximum penalty.  C(1)(b) - 10 days/Any fine under \$500	C(1)(a) - 6 months/\$500  C(1)(b) - 6 months/\$500  i. evidence that operator consumed alcohol or used drugs or controlled substance prior to accident; ii. the consumption of the alcohol, drugs, or controlled substances contributed to accident; iii. the driver failed to stop, give identity, or render aid...
Traffic Violations	After graduation from 12 point system	As set forth under the La.R.S.	1 month/ \$175 (though typically restricted to \$50 by judicial precedent) (La.R.S. 32-57)
32.402	Driving with no Drivers License Issued	\$100	6 months/ \$500
32.415	Operating Vehicle with Suspended License	Any combination under the authorized maximum penalty.	6 months/ \$500 (La.R.S. 32-427)
32.861	Driving Without Valid Insurance	Any combination under the authorized maximum penalty.	\$500 (La.R.S. 32-865)

\* All matters are referred to the U.S. Attorney's Office by way of the Installation Commander or his designee.

JRTC & FP Supplement to AR 27-10

APPENDIX C

REQUEST FOR LEGAL ACTION (FP FORM 754-E)

REQUEST FOR LEGAL ACTION <i>(The proponent of this form is SJA)</i>					
UNIT			DATE		
AS INDICATED BY CHECK REQUEST THE FOLLOWING ACTION BE TAKEN					
<input type="checkbox"/>	NONJUDICIAL ACTION	<input type="checkbox"/>	ADMINISTRATIVE/OTHER ACTION		
<input type="checkbox"/>	Field Grade Article 15	<input type="checkbox"/>	Letter of Reprimand		
<input type="checkbox"/>	Company Grade Article 15	<input type="checkbox"/>	Administrative Discharge		
<input type="checkbox"/>	Summarized Article 15	<input type="checkbox"/>	Admin Reduction Board		
<input type="checkbox"/>	Vacation of Suspension	<input type="checkbox"/>	Other <i>(Specify)</i>		
<input type="checkbox"/>	Other <i>(Specify)</i>	<input type="checkbox"/>	COURT-MARTIAL		
INDIVIDUAL INFORMATION					
SOLDIERS NAME		SOLDIERS RANK	SSN	RACE	SEX
UNIT		PEBD/BASD			
SUMMARY OF ACTION/OFFENSE(S):					
Signature of Commander <i>(or authorized individual)</i>			Commander's signature block <i>(rank, branch, position)</i>		
FOR BRIGADE LEGAL CENTER					
Date received at Legal Center		Paperwork complete by Legal Center			
Date unit first contacted	Date picked up by unit		Date returned by unit		

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