

20 March 2025

Legal Services

MILITARY JUSTICE

History. This major revision replaces the existing AR 27-10 supplement dated 1 February 2021. All previous supplements are hereby rescinded.

Summary. This local regulation prescribes policies and procedures for all units within the general court-martial convening jurisdiction of the Maneuver Support Center of Excellence (MSCoE) and Fort Leonard Wood (FLW). This supplement clarifies local command policies and expectations for the administration of military justice. It does not establish new procedural prerequisites for nonjudicial punishment (NJP) or trial by court-martial and should be used in conjunction with Army Regulation 27-10, dated 20 March 2024.

Applicability. This regulation applies to all personnel, units, and organizations either directly subject to the general court-martial convening authority, or that are otherwise assigned or attached for the purposes of adverse

administrative actions to the general court-martial convening authority (GCMCA) of the Commander (CG), U.S. Army, MSCoE and FLW. Other service components operating on Fort Leonard Wood shall follow procedures for the administration of military justice promulgated by their respective chains of command.

Supplementation. Local supplementation to this regulation is prohibited without prior approval of the Office of the Staff Judge Advocate (OSJA) of MSCoE and FLW.

Proponent and Exemption Authority. The proponent for this regulation is the OSJA.

Suggested improvements. Users are invited to submit comments and concerns via DA Form 2028 (Recommended Changes to Publications and Blank Forms) through command channels to the OSJA, Fort Leonard Wood, Missouri 65473.

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Major General, USA
Commanding

SUMMARY of CHANGE

FLW 27-10

Legal Services and Military Justice

This revision, dated 13 February 2025—

- Adds Chapter 2 providing for Command Designation and Alignment for UCMJ jurisdictional authorities
- Adds Chapter 3 providing procedures for Command Investigations and provides for Drill Sergeant Removal Program in Appendix C
- Adds Chapter 4 providing procedures for Administrative Investigations into Formal Sexual Harassment Complaints
- Adds Chapter 5 providing procedures for Requests for Legal Reviews
- Adds Chapter 6 providing procedures for Financial Disclosure Management
- Removes all references to Military Justice Advisor (MJA) and replaces with Trial Counsel (TC) throughout the regulation.
- Incorporates responsibilities and authorities of the Special Trial Counsel. See paragraphs 1-5(a.), 1-6(b.), 7-7, 10-2, and definitions.
- Updates all references to the latest edition, Manual for Courts Martial (2024).
- Provides commander's actions do not qualify as unlawful command influence (UCI). See para. 1-6(c.).
- Generally, updates the processing of military justice actions. See para. 1-8.
- Updates Location, Supervision, and Evaluation of Legal Personnel to clearly establish OSJA operations as a consolidated legal office. See para. 1-10.
- Adds procedural requirements for initiating Article 15, nonjudicial punishment. See para. 7-2.
- Updates Commanding General (CG), MSCoE and FLW, withholding policy to specifically include the authority to approve or modify findings of administrative investigations and disposition of Senior Leader Misconduct. See para. 7-7.
- Adds requirement for mandatory initiation of administrative separation or officer elimination for Soldiers convicted of Sexual Assault or a substantiated Sexual Harassment complaint. See para. 7-8.
- Adds Chapter 8 to address policy and procedures for Searches, Seizures, and Inspections.

- Adds Chapter 9 to provide guidance and procedures regarding Military Magistrates and Investigative Subpoenas.
- Adds contact information for legal assistance for Soldiers who have received a General Officer Memorandum of Reprimand (GOMOR). See para. 11(a.)
- Adds that Victim Witness Liaison (VWL) contact information can be obtained through the servicing Trial Counsel. See para. 12-2(a.).
- Updates the office location of the Special Victims' Counsel from third floor to first floor of the OSJA. See para. 12-4(b.).
- Adds that before implementing any form of pretrial restraint, commanders must first consult with the SJA through the servicing Trial Counsel. See para. 13-1(b.).

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Chapter 1

Introduction

1-1. Purpose

This local regulation is intended to improve the administration of military justice across the MSCoE and FLW by prescribing sound policies and procedures for resolving potential misconduct. While this regulation clarifies the Commanding General's (CG) expectations, the policies and limitations detailed herein do not create jurisdictional or procedural prerequisites for courts-martial or nonjudicial punishment proceedings. This regulation outlines policies and procedures related to the implementation of the Manual for Courts-Martial, United States, 2024 (MCM) and Army Regulation (AR) 27-10, dated 20 March 2024. Any failure to comply with this regulation shall not affect the validity of any action, nor shall it confer any claim or right to individual Soldiers.

1-2. References

Appendix A lists required and related references.

1-3. Abbreviations and Terms

The glossary explains abbreviations and terms used in this regulation.

1-4. Effective Date

This local regulation is effective immediately and will remain in effect until changed, revised, or rescinded by this headquarters. FLW Regulation 27-10, dated 1 February 2021 is rescinded.

1-5. Responsibilities

a. The Commanding General (CG), MSCoE and FLW is the General Court-Martial Convening Authority (GCMCA) for all units and personnel assigned or attached to MSCoE and FLW.

b. Assignment of Legal Personnel. The MSCoE and FLW Staff Judge Advocate (SJA) exercises sole authority over the assignments of all uniformed legal personnel on FLW, regardless of the unit of assignment, excepting only those personnel assigned to the Trial Defense Service (TDS) and the Office of the Special Trial Counsel (OSTC). Legal personnel include all Soldiers with Military Occupational Specialties (MOS) of 27A (Judge Advocate), 270A (Legal Administrator), or 27D (Paralegal Specialist/Paralegal Noncommissioned Officer). The Staff Judge Advocate (SJA) will provide notice to the affected commanders prior to any movement of personnel.

c. Use of Legal Personnel. Paralegals, court reporters, judge advocates, legal administrators, and paralegals will not be assigned duties inconsistent with their military occupational specialty (MOS) when such duties will delay the processing of legal actions. Judge advocates, legal administrators, paralegals, court reporters, and paralegal NCOs should be exempt from all unit detail rosters because of the nature and potential conflict these details create with their legal duties. Commanders will exempt from detail rosters judge advocates, legal administrators, paralegals, court reporters, and paralegals who are assigned to their units. The SJA is the final authority for determining whether duties outside of legal duties would be inconsistent with a legal MOS; would cause conflicts with legal duties and obligations; or would tend to unduly delay the processing of legal actions.

d. **Personnel Authorized to Process Legal Actions.** Only legal personnel with a MOS of 27A (Judge Advocate), 270A (Legal Administrator), or 27D (Paralegal Specialist/ Paralegal Noncommissioned Officer), or certain certified civilian legal technicians working directly under the supervision of a Judge Advocate, may prepare or process a legal action. No other Soldier or Civilian outside of this prescribed MOS group or position will prepare or process any legal action. The term “legal action” includes actions related to courts-martial, all types of NJP, letters or memoranda of reprimand, admonition, or censure issued under the procedures of AR 600-37, officer eliminations governed by AR 600-8-24, enlisted separations processed pursuant to AR 635-200 (other than enlisted separations process pursuant to AR 635-200, para. 5-10), and drill sergeant removals for misconduct pursuant to AR 600-78, chapter 3 or all other actions identified as legal by the SJA.

e. **Special Assistant United States Attorney (SAUSA).** The OSJA will coordinate with the United States Attorney’s Office for the Western District of Missouri to ensure that a SAUSA is available to perform federal magistrate court duties for the United States District Court. This designated attorney will prosecute misdemeanor offenses committed by civilians on FLW and handle alcohol-related driving offense privilege reviews. The SAUSA will coordinate with the Assistant U.S. Attorney (AUSA) for any potential felony prosecutions.

f. **Special Victims’ Counsel (SVC).** The SVC is a specially appointed and trained attorney who forms attorney-client relationships with qualifying individuals. Special Victims Counsel are supervised by the Chief, Client Services, but each SVC represents the interests of their individual client. The scope of the SVC’s representation is defined by statute, implementing regulations, and policy determinations made by the SVC Program Manager.

1-6. General Policies

a. **Commander’s Role.** Maintaining good order and discipline is a primary command responsibility. Every commander has a duty to ensure all allegations of misconduct are handled carefully, deliberately, and in strict compliance with the applicable laws and regulations. An unfair or unlawful approach to military justice will adversely impact unit morale and effectiveness. Commanders should therefore address all allegations in a timely manner by resolving them at the lowest level appropriate to the seriousness of the case and the maintenance of good order and discipline, after considering the needs of the mission, the Army, society, and a commitment to justice.

b. **Individualized Case Resolution.** One of the most important and difficult decisions entrusted to a commander involves properly deciding how to dispose of an allegation of misconduct. Each accused Soldier deserves to have his or her case adjudicated based on the specific facts of the allegation and has the right to due process. Additionally, each victim must be provided with available resources and treated with dignity and respect. Commanders must carefully consider the non-exclusive factors set forth in Rule for Courts-Martial 306 before deciding how to proceed in any case, and with any allegation except in those offenses over which a Special Trial Counsel has exercised authority and has not deferred. Commanders shall not predetermine punishments prior to adjudicating a case.

c. **Unlawful Command Influence (UCI).** Inflexible command policies potentially lead to UCI. Each commander’s decision regarding disposition of an allegation must represent his or her own independent judgment influenced only by lawful considerations such as the seriousness of the allegation, the weight and nature of the available evidence, and the requirement to maintain

good order and discipline. While a superior commander may withhold jurisdiction over certain offenses, he or she must never direct, or seek to influence, either directly or indirectly, any discretionary disposition of a subordinate commander.

(1) Commanders may:

(a) Personally dispose of a matter at the level authorized for that offense and for that commander.

(b) Forward the matter to a superior or subordinate commander for disposition.

(c) Withdraw subordinate commander authority on a particular case or particular types of cases.

(d) Counsel and mentor subordinate commanders on military justice philosophies, and factors to consider when determining appropriate punishment.

(2) Commanders may not:

(a) Publish policy letters that establish or suggest a range of appropriate punishments for certain offenses.

(b) Direct a particular disposition or return UCMJ actions to subordinate commanders and direct reconsideration and suggest appropriate disposition.

d. Treatment of Soldiers pending UCMJ proceedings. Consistent with the duty to resolve each case individually, a commander may not punish a Soldier accused of misconduct prior to the completion of NJP or UCMJ Proceedings. Any treatment intended to humiliate, ridicule, shame, or otherwise compromise the dignity and respect due a Soldier is unlawful and unacceptable. Soldiers who are not in pretrial confinement shall continue to perform duties commensurate with their grade and military occupational specialty unless the command first consults with their Trial Counsel (TC) and then determines that legitimate governmental interests are best served by having the Soldier perform other appropriate duties. Commanders may place appropriate conditions on liberty only after consulting with their TC. If, after consultation, the commander does impose conditions, such conditions must not be tantamount to confinement or arrest.

e. Fairness of proceedings. Commanders shall ensure that any proceeding to dispose of misconduct shall be fair and shall take into consideration all known and relevant information. A commander must ensure that no one intimidates, discourages, or negatively affects, directly or indirectly, the willingness and ability of witnesses to provide evidence on behalf of a Soldier or the Government. This guidance applies equally to witnesses providing information at a court-martial, administrative board, or NJP proceeding. To ensure full and fair adjudication of potential misconduct, commanders must encourage all who possess relevant information, favorable or unfavorable, to provide that information.

f. Timely disposition. Commanders should dispose of allegations of misconduct in a timely manner at the lowest appropriate level as soon as the commander has collected all relevant facts reasonably available to discovery. Needless delays both detract from the fair

administration of justice and jeopardize military effectiveness. This includes processing final actions on DA Form 4833 when required.

1-7. Supporting Trial Counsel (TC)

a. The SJA will designate a judge advocate to serve as a TC for each Special Court-Martial Convening Authority (SPCMCA) and their subordinate commanders. The designated judge advocate will serve as the primary Trial Counsel for disciplinary actions arising from that SPCMCA and his or her subordinate commanders.

b. Only judge advocates are authorized to provide legal advice to commanders and their staffs concerning military justice matters. Commanders will not initiate any military justice action without first coordinating with their respective Trial Counsel.

1-8. Processing of Actions and Access to Command

a. Trial Counsel or their designated paralegals have direct access to their supported commanders. The legal personnel will deliver all legal actions directly to the commander and retrieve signed actions expeditiously for processing.

b. NJP and courts-martial will be used only when administrative corrective measures have failed or would be inappropriate. Unnecessary use of NJP and courts-martial results in decreased efficiency, lowered morale and discipline, and an unjustified loss of manpower.

c. Commanders should always consider alternatives to punitive action under the UCMJ. Such alternatives include corrective training, which may be administered during normal duty hours or during non-duty hours, must relate directly to the deficiency noted in the Soldier's counseling, and should continue only until the training deficiency is overcome while treating the Soldier with dignity and respect. Brief physical exercises are an acceptable form of corrective training for minor acts of indiscipline so long as such exercise does not violate the Army's policies prohibiting hazing, bullying, and unlawful punishment. Commanders shall consult with their servicing judge advocate if they have questions about corrective training.

d. Processing Time. All actions will be processed expeditiously and unnecessary administrative processing will be eliminated at all levels of command. To this end, the following procedures apply:

(1) Legal documents will be processed uniformly and using the most expeditious means. They will first be uploaded into Military Justice Online and then hand carried when this is most efficient. TCs or their paralegal specialists/NCOs will bring legal actions directly to commanders for action and will not leave the actions with the S1, XO, or any other staff section for processing unless otherwise directed by the Commander.

(2) Processing of actions involving an accused in pretrial confinement or retained beyond his or her normal ETS will be given highest priority.

(3) Absent unusual and compelling circumstances, an acting commander will not hold a legal action pending the return of the commander.

(4) With exception to some courts-martial actions, all military justice actions require personal action/signature by the commander. In all cases, the person signing a document must have the authority to sign in his or her own capacity. Acting commanders must sign as such and attach a copy of assumption of command orders prior to forwarding.

(5) Plea agreements and Chapter 10 requests. When an accused submits a plea agreement or a request for discharge in lieu of court-martial pursuant to AR 635-200, chapter 10, commanders, including the Summary Court-Martial Convening Authority (SCMCA) and Special Court-Martial Convening Authority (SPCMCA), will expeditiously forward the request with recommendations for the GCMCA to the Military Justice Division (MJD).

1-9. Prohibition on Practicing Law or Providing Legal Advice

Paralegals, legal technicians, or other personnel who are not judge advocates whose duties include working on legal matters are prohibited from engaging in the practice of law or providing substantive legal advice. Questions regarding what actions constitute the practice of law shall be directed to the TC, DSJA, or SJA.

1-10. Location, Supervision, Evaluation of Personnel

a. MSCoE and FLW operate a consolidated legal office. Uniformed paralegals work at the installation legal office. Whether legal technicians work primarily at the installation legal office or unit footprint and will be decided on a case-by-case basis based upon discussion between the Brigade Commanders and the Staff Judge Advocate. TCs will work primarily at the OSJA Military Justice Division but are expected to spend sufficient time at their supported units to provide adequate principled and expert counsel.

b. Paralegal Soldiers in a legal office are supervised by a legal NCOIC. The NCOIC is rated by the assigned TC and senior-rated by the Chief of Justice. All civilian legal technicians will be supervised and rated by their respective Trial Counsel. Rating chains will be in accordance with AR 623-3, Evaluation Reporting System.

c. Trial Counsel are supervised and rated by the Chief of Justice and senior-rated by the SJA. Rating chains will be in accordance with AR 623-3, Evaluation Reporting System.

Chapter 2

Designation of Courts-Martial Convening Authorities

2-1. Under the provision of Article 22(a)(8), UCMJ and Department of the Army General Order 2010-03, Commander, MSCoE and FLW has the authority to convene general courts-martial and serves as the GCMCA for all units assigned or attached to MSCoE and FLW.

2-2. Special Courts-Martial Convening Authorities. Pursuant to Article 23, UCMJ, the Commanders of units and organizations listed below are special courts-martial convening authorities (SPCMA), and may exercise SPCMA level administrative and punitive actions, unless otherwise withheld by the Commander, MSCoE and FLW.

(1) 1st Engineer Brigade. In addition to personnel assigned or attached for UCMJ purposes to 1st Engineer Brigade, the Commander of 1st Engineer Brigade also exercises, for administrative and UCMJ purposes, SPCMA authority over the following units and their

subordinate organizations: 554th Engineer Battalion, 169th Engineer Battalion, 31st Engineer Battalion, 35th Engineer Battalion, U.S. Army Engineer School, U.S. Army Prime Power School, and the 5th Engineer Battalion;

(2) 14th Military Police Brigade. In addition to personnel assigned or attached for UCMJ purposes to 14th Military Police Brigade, the Commander of the 14th Military Police Brigade also exercises, for administrative and UCMJ purposes, SPCMA authority over the following units and their subordinate organizations: 701st Military Police Battalion, 787th Military Police Battalion, 795th Military Police Battalion, U.S. Army Military Police School, and the 43d Adjutant General Battalion;

(3) 3rd Chemical Brigade. In addition to personnel assigned or attached for UCMJ purposes to 3rd Chemical Brigade, the Commander of 3rd Chemical Brigade also exercises, for administrative and UCMJ purposes, SPCMA authority over the following units and their subordinate organizations: 1st Battalion, 48th Infantry Regiment, 2nd Battalion, 10th Infantry Regiment, 3d Battalion, 10th Infantry Regiment, 58th Transportation Battalion, U.S. Army CBRN School, and the 84th Chemical Battalion;

(4) Commander, U.S. Army Garrison, Fort Leonard Wood;

(5) Commander, U.S. Army Medical Department Activity Fort Leonard Wood; and,

(6) Commander, U.S. Army Dental Health Activity Fort Leonard Wood.

2-3. Summary Courts-Martial Convening Authorities. The Commanders of units and organizations listed below are summary courts-martial convening authorities (SCMA) pursuant to Article 24, UCMJ, for the exercise of administrative and punitive actions not otherwise withheld by higher authorities.

(1) 554th Engineer Battalion

(2) 169th Engineer Battalion,

(3) 31st Engineer Battalion,

(4) 35th Engineer Battalion,

(5) 5th Engineer Battalion,

(6) 701st Military Police Battalion,

(7) 787th Military Police Battalion,

(8) 795th Military Police Battalion,

(9) 43d Adjutant General Battalion,

(10) 1st Battalion, 48th Infantry Regiment,

(11) 2nd Battalion, 10th Infantry Regiment,

(12) 3d Battalion, 10th Infantry Regiment,

(13) 58th Transportation Battalion, and

(14) 84th Chemical Battalion

2-4. Any Soldiers assigned to or located in the general area of MSCoE and Fort Leonard Wood not already accounted for in this regulation are attached to MSCoE Headquarters and Headquarters Company, 795th Military Police Battalion (SCMA), 14th Military Police Brigade (SPCMCA) for UCMJ purposes and alignment.

2-5. Any element below battalion-level must be designated by Headquarters, Department of the Army, U.S. Army Training and Doctrine Command, U.S. Army Forces Command, or the Commanding General, Maneuver Support Center of Excellence and Fort Leonard Wood as requiring or possessing a commander before such element be authorized to exercise any UCMJ authorities.

2-6. The jurisdictional arrangement articulated here is for information purposes. This alignment is subject to change or adjustment based on the needs of the Army and MSCoE and FLW. An up-to-date copy of the current jurisdictional alignment is maintained by the Chief, Military Justice for MSCoE and FLW. Commanders, judge advocates, and other interested parties are encouraged to confirm relevant jurisdictional authorities prior to taking administrative or punitive action.

Chapter 3

Command Investigations

3-1. Preliminary Inquiries (Commander's Inquiry)

a. Upon receipt of information that a Soldier has committed an offense triable by court-martial, the Soldier's immediate commander will, pursuant to AR 600-20, paragraph 5-11, make or cause to be made a preliminary inquiry sufficient to make an appropriate initial disposition. This is sometimes referred to as a "commander's inquiry." The inquiry may range from an examination of documentary evidence or an investigative report to a more extensive investigation depending on the offense(s) alleged and the complexity of the case.

b. The investigation may be conducted by members of the command or, in more complex or serious cases, military and civilian law enforcement officials. Commanders at all levels will report alleged criminal incidents to the installation law enforcement in accordance with AR 190-45. If a commander has any doubt whether to refer a case to installation law enforcement, the commander should contact their servicing Trial Counsel.

c. If conducted by a member of the command, the inquiry can identify and record witnesses' statements. The inquiry will not make findings regarding whether an offense has been committed unless the provisions of AR 15-6 are used.

3-2. Administrative Investigations Pursuant to AR 15-6

a. If an allegation is not within the investigative purview of law enforcement and a commander's inquiry pursuant to AR 600-20 is not sufficient or appropriate to make an appropriate disposition of the case, an appointing authority will consider whether an investigation pursuant to AR 15-6 is appropriate.

b. Unless an investigation is mandatory (e.g., formal sexual harassment complaint, formal equal opportunity complaint, loss of controlled items), appointing authorities will consult with their servicing Trial Counsel prior to appointing an investigating officer to conduct a preliminary inquiry or administrative investigation pursuant to AR 15-6. The Trial Counsel will provide advice regarding the appropriateness of an administrative investigation and whether a preliminary inquiry would be helpful to assist in determining the scope of a subsequent investigation.

c. Unless required by law or regulation, appointing authorities should only appoint investigating officers to conduct an administrative investigation pursuant to AR 15-6 if, considering the source and nature of the information and the totality of the circumstances, there is sufficient credible and attributable information to raise a question of fact that would cause a reasonable commander to inquire further. To be credible, the information must be based on more than mere speculation and not clearly contradicted by known and material facts. To be attributable, the evidence or information must be able to be authenticated.

d. Appointing authorities will appoint investigating officers (IO) who, in their opinion, are best qualified for the duty by reason of their education, training, experience, length of service, demonstrated sound judgment, and temperament. IOs must be impartial, unbiased, objective, and can complete the investigation in a timely manner. Only commissioned officers, warrant officers, and permanently assigned DA civilian employees GS-11 or above can serve as IOs. IOs will be senior to the respondent of the investigation. However, equivalencies between military rank and DA civilians are a guide and the appointing authority decides seniority of the DA Civilian as it relates to investigative officers. Below is a equivalency guide for reference.

<u>Military Grade</u>	<u>Civilian Grade Equivalent</u>
O-6	GS-15
O-5	GS-14
O-4	GS-13
O-3	GS-12
O-2	GS-11
WO-5	GS-12
WO-4	GS-12
WO-3	GS-11

e. If an appointing authority wants pre-appointment legal support and legal advice to the investigating officer from Administrative Law Division, the Trial Counsel or the appointing authority will e-mail all relevant facts and existing documentation regarding the basis for the investigation (e.g., Sexual Harassment Complaint, Equal Opportunity and Harassment Complaint Form, Sworn Statement, Statement of Medical Examination and Duty Status), any command guidance on the scope of the investigation, and the name and unit of the proposed investigating officer to the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-

law@army.mil. The Chief, Administrative Law will detail an administrative law attorney to be the legal advisor. The legal advisor will draft an appointment order and e-mail it to the appointing authority copying the unit Trial Counsel. Appointing authorities will promptly review and, after making any appropriate modifications, sign the appointment order. The appointing authority will promptly provide a copy of the appointment order to the legal advisor and the investigating officer.

f. Unless required by law or regulation, appointing authorities will appoint investigating officers from within the same brigade-sized unit. The Chief of Staff, Staff Judge Advocate, or Chief, Administrative Law may approve exceptions to this requirement.

3-3. Army Adverse Information Program

Upon completion of an administrative investigation, the Chief, Administrative Law or the soldier's Commander will refer all potentially adverse information to commissioned officers and notify them of their right to respond in accordance with AR 600-37 and AR 15-6. Upon receipt of any material in response to adverse information, the Administrative Law Division will package the materials as an exhibit to the report of proceedings. If the subject officer elects not to respond or fails to do so within the period authorized, the Administrative Law Division will attach a memorandum stating the officer elected not to respond or did not respond within the period authorized.

3-4. Approval of AR 15-6 Investigations

a. Once a Brigade Legal Section has received a report of investigation, it will promptly deliver it to the approval authority. The approval authority will approve the investigation, with appropriate additions, deletions, or modifications or direct further investigation or corrections. If the approval authority needs approval from a superior commander to approve the investigation, they will request that approval and they will take action on the investigation approval to take action.

b. The approval authority will e-mail a copy of the DA 1574-1 to the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-law@army.mil within 72 hours of it being completed. The approval authority will also ensure the investigating officer provides a digital copy of the report to the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-law@army.mil.

3-5. Filing and Record Keeping of the Report.

a. The approval authority will file and keep the original report as required by AR 15-6, paragraph 3-19.

b. The Administrative Law Division will file a digital copy of the report in the Case Tracking System.

3-6. Drill Sergeant Removal Program.

See Appendix C.

Chapter 4

Administrative Investigations into Formal Sexual Harassment Complaints

4-1. Exception to Policy for Trainee-on-Trainee Complaints.

When both the complainant and the subject of a formal sexual harassment complaint are "trainees" as defined by the glossary of TR 350-6, the appointing authority can appoint an investigating officer from same brigade-sized element of the subject, provided the investigating officer is from a different battalion than the subject. This constitutes an exception to policy in accordance with Army Directive 2022-13 and AR 600-52, paragraph 2-8c.

4-2. Independent Sexual Harassment Investigators

Special court-martial convening authorities will maintain, at minimum, the following numbers of specially trained sexual harassment investigators.

14th Military Police Brigade	
RANK	TOTAL #
COL / GS-15	1
LTC / GS-14	1
MAJ / GS-13	4
CPT / GS-12	4

3d Chemical Brigade	
RANK	TOTAL #
LTC / GS-14	1
MAJ / GS-13	3
CPT / GS-12	3

1st EN Brigade	
RANK	TOTAL #
LTC / GS-14	1
MAJ / GS-13	3

CPT / GS-12	3
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MEDDAC	
RANK	TOTAL #
LTC / GS-14	1
MAJ / GS-13	2
CPT / GS-12	2

Units will report the names of specially trained sexual harassment investigators to the Deputy Chief of Staff. Investigators will report any periods of leave, any TDY, and any PCS, ETS, or retirement to the Deputy Chief of Staff.

If an appointing authority is required to appoint an investigating officer from outside of their brigade-sized unit to conduct a formal sexual harassment investigation, the appointing authority will consult with the Deputy Chief of Staff to identify an appropriate investigating officer.

4-3. Appeal Procedure.

If a subject or complainant appeals the results of a formal sexual harassment investigation, the unit Sexual Assault Response Coordinator will e-mail the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-law@army.mil the following within 72 hours:

- (1) DA 7746 completed through Part V.
- (2) Appeal matters.
- (3) Memorandum with results of the investigation provided to the subject and complainant.
- (4) Proof that the subject was notified of the results of the investigation and informed of his appeal rights.
- (5) Any written 14-day updates to the subject and the complainant.

4-4. Approval of Extensions for Formal Sexual Harassment Administrative Investigations when there is a Concurrent Criminal Investigation

a. Army Regulation 600-52, paragraph 2-12i. provides that administrative investigations into formal sexual harassment complaints will be completed within fourteen (14) days, unless there is a written exception from the GCMCA. When an administrative investigation into a formal sexual harassment complaint is initiated, there is often a concurrent criminal investigation. It is important that the administrative investigation does not interfere with the criminal investigation.

b. **Coordination with Criminal Investigations.** If there is a criminal investigation that is being conducted concurrently with an administrative investigation, the investigating officer for the administrative investigation will coordinate with the criminal investigator to ensure the conduct of the administrative investigation does not interfere with the criminal investigation. If the criminal investigator requests the investigating officer not interview an individual for a certain amount of time, the investigating officer will comply with that request.

c. **Extension of Suspense Dates.** If an investigating officer for a formal sexual harassment complaint is complying with, or has complied with, a request from a criminal investigator to not interview a relevant individual, I hereby extend the suspense for that administrative investigation until 14 calendar days from the time the criminal investigator states that the individual may be interviewed.

d. **Documentation.** Investigating officers will include a copy of this memorandum as An enclosure to the report for any investigation that this memorandum serves as the basis for an extension. Investigating officers will also describe any requests by criminal investigators not to interview individuals in their report. Further, investigating officers will ensure they regularly contact the criminal investigator during any extensions granted pursuant to this policy to prevent unnecessary delay, and will document these efforts in the chronology of investigation.

Chapter 5

Requests for Legal Reviews

a. Requests for legal reviews should contain a minimum of the 5Ws to include key dates, parties involved, the authority for the proposed action and the point of contact. Organizations are the subject matter experts in their respective areas of expertise and should be prepared to identify and discuss the authority that supports the action. For acquisitions, ensure the reference(s) authorizing the Army to acquire the requested goods or services are included.

b. **Review Process:** Prior to a legal review being provided, actions should be staffed through all relevant and impacted organizations. This is to ensure that the OSJA legal review reflects the actual information presented to the Approval Authority, as any changes to actions may impact analysis contained within the legal review. Within MSCOE and Garrison, staffing comments are generally included on FLW FORM 1416, JUL 2014.

c. **Prior to Pre-Legal Review Discussions:** The OSJA is available to discuss issues as part of staff coordination to develop viable plans and early engagement is encouraged. However, actual legal reviews will not be provided unless the criteria described in the above paragraphs is met.

d. Requests for legal reviews should generally be submitted no later than five (5) business days prior to the date the legal review is needed. Complex or novel issues may take up to ten (10) business days. Failure to provide the minimum information may result in delay or return of action to the proponent staff section to resolve discrepancies.

Chapter 6

Financial Disclosure Management

- a. Organizations with OGE 450 financial disclosure filers must have at least one Financial Disclosure Management Point of Contact (POC).
- b. The POCs are responsible for adding or deleting subordinate organization units, adding new filers who enter the organization, removing filers who leave the organization, and assigning or changing supervisors.
- c. POCs will record initial or annual ethics training in FDM throughout the year as it occurs.
- d. Individuals will coordinate with the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-law@army.mil for POC access to Financial Disclosure Management.

Chapter 7

Command Authority and NJP

7-1. Applicability of NJP

Commanders should take punitive action under the UCMJ only when administrative corrective measures have failed or would be inappropriate to address misconduct and acts of indiscipline. Commanders should always consider alternatives to punishment under the UCMJ. A non-exclusive list of alternatives include:

- a. Corrective training. Commanders can always administer corrective training during normal duty hours and it can be administered during non-duty hours if the timing directly relates to a noted deficiency. AR 600-20, Army Command Policy.
- b. Counseling. AR 635-200, para. 1-16.
- c. Oral or Written Administrative Reprimands. AR 600-37.
- d. Reductions in Grade. AR 600-8-19, Chapter 10.
- e. Bars to Continued Service. Army Directive 2016-19.
- f. Separation/Elimination. AR 635-200 and AR 600-8-24.

7-2. Initiating Action Under Article 15, UCMJ

- a. Article 15 packets will be prepared by the servicing brigade legal office. Requests for preparation of Article 15s must be accompanied by sufficient supporting evidence (e.g., military police reports, Criminal Investigation Division reports, commander's inquiry reports, AR 15-6 investigations, witness statements, blood/urine/breath test results, and any other relevant evidence), a report to suspend favorable personnel actions (FLAG), and an up-to-date Soldier Talent Profile.

b. Soldier Copy. After the first reading, the Soldier will be provided his or her own legible copy of the signed Article 15 (DA Form 2627) with all supporting documentation and evidence. It is the command's responsibility to provide all evidence in the Article 15 packet assembled by the brigade legal section.

c. TDS Copy. All Article 15 packets must be submitted to TDS no later than 24 hours in advance of the Soldier's TDS visit. Units can submit hard copy packets directly to the TDS office or via email at Ft.LeonardWoodTDS@army.mil. The Soldier must have their own copy with them when they come to TDS.

7-3. Who may impose NJP

a. The CG has the authority to withhold from subordinate commanders the authority to dispose of certain types of allegations and misconduct by certain offenders.

b. Traffic offenses for which U.S. District Court Violation Notices are issued are reserved for disposition in the U.S. District Court for the Western District of Missouri or by the CG. Subordinate commanders may not take punitive action for these offenses.

c. Concurrent Jurisdiction. Commanders exercising jurisdiction over a Soldier being prosecuted by civilian authorities may not impose NJP under Article 15, UMCJ. Commanders will not prefer court-martial charges or non-judicial punishment for the same act over which civilian authorities are exercising jurisdiction over the Soldier without consulting with their Trial Counsel.

7-4. Rules and limitations

Fort Leonard Wood does not have an approved correctional custody facility. Commanders may not adjudge correctional custody as a punishment under Article 15, UCMJ.

7-5. Action by a Judge Advocate

a. Appeals that require review by a judge advocate before appellate authority action under the provisions of AR 27-10 shall be forwarded to the supporting Trial Counsel within 24 hours of the Soldier's election to appeal. Any written appellate statement or supporting documents must be included with the original NJP file for the judge advocate's review.

b. The imposing commander may comment on any point raised in the accused's appellate matters. In cases where the CG is the appellate authority, the imposing commander will provide a written comment regarding the appeal.

7-6. Authority to Take Adverse Action

Nothing in this regulation should be construed as an attempt to require a certain outcome in any particular case or class of cases. Each commander must continue to exercise independent judgment in disposing of allegations of misconduct as he or she sees fit.

7-7. Withholding

a. Special Trial Counsel has exclusive authority to make the initial determination whether a reported offense is a covered, known, or related offense. Special Trial Counsel will exercise authority over covered offenses and may exercise authority over known or related offenses (see UCMJ, Article 24a(c)(2)). Once a Special Trial Counsel has exercised authority over an offense, only a Special Trial Counsel may dispose of that offense IAW Rule for Courts-Martial (RCM) 306A, unless a Special Trial Counsel defers the offense.

b. For all other offenses, and in accordance with RCM 306, 401, and 601, the authority to dispose of alleged UCMJ offenses committed by commissioned officers, warrant officers, sergeants major, first sergeants in the grade of E-7 and above, and Soldiers serving as a SHARP representative is withheld to the CG, MSCoE and FLW.

c. The authority to approve or modify findings of administrative investigations into senior leader misconduct as defined in preceding paragraph is withheld to the CG, MSCoE and FLW. The CG may, on a case-by-case basis, return administrative investigations to subordinate commanders to approve or modify findings at the request of commander or when approval at a lower level is appropriate.

d. The authority to determine whether approved findings from an administrative investigation constitute "adverse information" against a commissioned officer, under the Army's adverse information program, is withheld to the CG, MSCoE and FLW. This withholding only applies to whether the findings constitute "adverse information" and does not alter existing approval authorities for administrative investigations.

e. The CG may, on a case-by-case basis, return actions to a subordinate commander for disposition at the request of the commander or when the CG determines that such disposition at a lower level is appropriate.

f. Subordinate Commanders (SPCMCAs) will report to the CG, via e-mail, the general nature of allegations against a senior leader NLT 24 hours from receipt of the allegation, with copy furnished IAW the MSCoE CCIR guidelines.

g. Withheld to the SPCMCAs: The following offenses are withheld to the SPCMCA when not withheld by the Office of the Special Trial Counsel. Allegations of rape or sexual assault in violation of Article 120, UCMJ and all attempts to commit such offenses, in violation of Article 80 where OSTC has deferred the case or elected to not exercise authority. All violations or attempted violations of Articles 120(a), (b), and 120b, UCMJ, or their functional equivalent in former versions of the UCMJ. This includes forcible sodomy and sodomy of someone under the age of 16 in violation of Article 125, UCMJ (2012 and older). All offenses under Article 120, UCMJ where the alleged offender is a trainer or cadre and the alleged victim is a trainee. This withholding applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the subject or the alleged victim.

h. Withheld to the SPCMCAs, O-6 commanders, who may delegate to their battalion commanders: The following offenses may be delegated when not withheld by the Office of the Special Trial Counsel. Any violations of Article 120c (other sexual misconduct), allegations of domestic violence, stalking, and alleged crimes committed against child victims (non-sexual

offenses). This withholding applies to all other alleged offenses arising from or relating to the same incident(s), whether committed by the subject or the alleged victim.

i. Commanders may request delegation of authority to dispose of any actions withheld by this regulation. Such requests will be in writing, routed through the SJA, and will articulate the justifications for the request and the command's proposed plan of action. Commanders will consult with their Trial Counsel prior to making such requests.

h. This withholding policy does not prohibit commanders from suspending favorable actions, removing personnel from administrative duties related to the misconduct, suspending clearances required by other regulations, initiating investigations for non-sexual offenses, or other collateral administrative actions deemed necessary. Additionally, nothing in this withholding policy prohibits a commander from initiating an investigation (if MPI or CID are not investigating the case), preferring charges and forwarding those charges through the chain of command, with recommendations, and, when appropriate, directing a preliminary hearing.

7-8. Mandatory Initiation of Separation

Administrative separation will be initiated under AR 635-200 for enlisted Soldiers who are found guilty of a sexual assault offense by a civilian court, at a court-martial where a punitive discharge is not adjudged, or by nonjudicial punishment under Article 15, UCMJ. This includes non-penetrative offenses. For minor substantiated complaints of sexual harassment, commanders are not required to initiate separation with approval from separation authority and in consultation with the SJA. For all other substantiated allegations of sexual harassment or where the accused solicited sexual favors in return for favorable treatment, advancement, or to stop negative treatment, in violation of Article 134, UCMJ, administrative separation will be initiated for a Soldier. Commanders will coordinate with the Special Trial Counsel before initiating separation proceedings for sexual harassment that violate Article 134, UCMJ. For officers meeting any of the above criteria, the chain of command will promptly recommend to the Commander, MSCoE and FLW, whether the officer should be required to show cause for retention on active duty. The chain of command will consider the seriousness of these offenses along with the officer's service record in making their recommendations.

Chapter 8 Searches, Seizures, and Inspections

8-1. Policy

Under the UCMJ, Commanders and military magistrates have limited authority to authorize searches and seizures. Commanders should inspect their units to ensure the security, military fitness, and good order and discipline of his or her unit or organization. Before authorizing a probable cause search, seizure, and/or inspection, commanders will first consult their unit's assigned servicing judge advocate except when exigent circumstances preclude such consultation. Exigent circumstances are emergency situations where the delay necessary to get a warrant would result in the removal, destruction, or concealment of the evidence. Probable cause, which is a reasonable belief that the person, property, or evidence sought is located in the place or on the person to be searched, is still required.

8-2. Commander Authorized Searches and Seizures

Upon a finding of probable cause, commanders may authorize the search of people or places they control on the military installation. This excludes privatized on- post housing. A military or federal judge or a military or federal magistrate may authorize searches of or apprehensions at privatized on- post housing. Commanders may authorize probable cause urinalyses of Soldiers. Commanders will consult with their servicing judge advocate before authorizing a search except in exigent circumstances as defined above.

8-3. Inspections

An inspection is an examination of the whole or part of a unit, organization, installation, vessel, aircraft, or vehicle, including an examination conducted at entrance and exit points, conducted as an incident of command, the primary purpose of which is to determine and to ensure the security, military fitness, or good order and discipline of the unit, organization, installation, vessel, aircraft, or vehicle. They are typically called "Health and Welfare Inspections," but urinalysis conducted in accordance with the command are also inspections. Inspections must be conducted in a reasonable fashion and, if applicable, must comply with Military Rule of Evidence 312. Commanders should conduct regular inspections of their personnel and the places they control. Before conducting an inspection, other than a urinalysis, Commanders will consult with their servicing judge advocate. Commanders may not inspect on- post privatized housing.

Chapter 9 Military Magistrates and Investigative Subpoenas

9-1. Overview

Military magistrates are experienced legal officers who are directly supervised by a military judge. Military judges may also perform military magistrate duties. All military magistrates are permitted to issue search and seizure or apprehension authorizations based upon probable cause. In addition to this authority, military magistrates review the propriety of holding military personnel in continued pretrial confinement.

9-2. Authority.

The Chief, Military Justice will provide law enforcement agents and each unit's legal representative with an on-call military magistrate schedule. This roster will provide the scheduled times and contact information of the designated magistrate, ensuring law enforcement agents and Fort Leonard Wood-based units have 24/7 access to a military magistrate.

9-3. Search and Seizure Authorization Procedures.

a. Unless exigent circumstances exist, requests for search and seizure authorizations with be accompanied by:

(1) DA Form 3744 (Affidavit Supporting Request for Authorization to Search and Seize or Apprehend); and

(2) DA Form 3745 (Search and Seizure Authorization).

b. Only in exigent circumstances will magistrates issue search and seizure authorizations based on verbal requests. Verbal requests must include sworn verbal testimony. Within 24 hours, requesters will follow up all verbal search and seizure authorizations with completed DA Forms 3744 and 3745.

c. Magistrates may not advise law enforcement on how to establish probable cause. If a magistrate does not find probable cause, the requester should ask his or her servicing Trial Counsel for guidance about additional investigative steps that might establish probable cause.

9-4. Pretrial Confinement Procedures

a. Before ordering a Soldier to pretrial confinement, the commander must, first, consult with the SJA through his/her servicing Trial Counsel. When a Soldier is ordered into pretrial confinement, the Trial Counsel must provide the military magistrate with the confinement order and any documentation supporting pretrial confinement by 1200 hours on the day following confinement.

b. Trial Counsel will also provide the military magistrate a copy of:

(1) The 48-hour probable cause determination in accordance with RCM 305(j)(1) if already completed;

(2) The commander's 72-hour review in accordance with RCM 305(i)(2)(C); and,

(3) The preferred charges.

c. If these documents are not immediately available, the Trial Counsel will forward them to the military magistrate as soon as reasonable.

9-5. Delegation of Approval Authority for Investigative Subpoenas

Pursuant to Articles 46(d)(1)(C) and 46(d)(2), UCMJ, RCM 703(g)(3)(E)(vi), and AR 27-10, paragraph 5-16c, the Commander, MSCoE and Fort Leonard Wood, authorizes counsel for the Government to issue investigative subpoenas duces tecum upon approval by the MSCoE and Fort Leonard Wood SJA.

Chapter 10 Civilian Confinement

10-1. Generally

This command is committed to both ensuring proper accountability for, and supporting the overall welfare of, Soldiers detained in civilian confinement.

10-2. Command Responsibilities

a. Commanders will immediately report confinement of members of their command by civilian authorities via e-mail to their supporting TC, SJA, and the MSCoE and FLW Director of Emergency Services (DES). The notification message will include the Soldier's unit, date and time he or she was placed into confinement, location of confinement, a summary of the charges

and/or allegations upon which the Soldier is being held, and the status of the case. The command will continue to forward updated situation reports every 30 days, or upon each change in status of the case, until the Soldier is released, acquitted, or convicted and sentenced. Commanders will maintain regular communication with all members of their commands confined in either military or civilian confinement.

b. In any case where a Soldier is being held in civilian confinement and faces administrative separation or elimination under AR 635-200 or AR 600-8-24, the initiating commander is responsible for assisting the FLW TDS office in arranging that Soldier's counseling and, in consultation with qualified TDS counsel, to include arrangements for TDS counsel to travel to the confinement facility for consultation if necessary. This does not include facilitating a separation board be held at a confinement facility.

c. Following any civil conviction, regardless of whether or not the conviction results in confinement, the commander will consult with the supporting Trial Counsel and the supporting Military Personnel Office (MILPO), to determine, IAW AR 635-200 and AR 600-8-24, what action, if any, to take based upon the conviction. In any case where a Soldier is convicted of a civil offense and the sentence imposed will require the Soldier to serve six additional months of confinement or more, the command should consult with the Trial Counsel about reassigning the Soldier to a Personnel Control Facility (PCF) IAW AR 600-62, United States Army Personnel Control Facilities and Procedures for Administering Assigned and Attached Personnel.

d. Within 24 hours of the discovery of allegations against a Soldier of sexual assault, domestic violence, or child abuse, regardless of location of the offense or jurisdiction, commanders will notify their Trial Counsel, who will then promptly notify the Special Trial Counsel.

Chapter 11

General Officer Memoranda of Reprimand (GOMOR)

A general officer memorandum of reprimand (GOMOR) will be initiated for all driving under the influence (DUI) and driving while intoxicated (DWI) offenses as well as refusals to take a blood alcohol content (BAC) or breathalyzer test involving Soldiers assigned or attached to MSCoE and FLW.

a. Within 72 hours of initiation, a copy of the GOMOR imposed by the Commander, MSCoE and FLW, will be sent through the chain of command to the Soldier for acknowledgment and the opportunity to respond IAW AR 600-37. The Soldier will be afforded the opportunity to consult with counsel provided by the government and will return the acknowledgement and additional matters, if any, within seven (7) calendar days to the unit commander. Soldiers may seek legal advice and counsel from the Legal Assistance Office at (573) 596-0629. Requests for extensions to submit matters for up to (7) calendar days may be granted by the Chief of Justice, Deputy Staff Judge Advocate, and Staff Judge Advocate (SJA). Extensions beyond 7 calendar days must be submitted through the SJA to the Commander, MSCoE. The chain of command will recommend that the GOMOR be filed in either the unit file, the Soldier's Army Military Human Resource Record (AMHRR), or that the GOMOR be rescinded. The Soldier's matters and the command recommendations will be submitted through the MJD, to the Commander, MSCoE and FLW, for a filing determination.

b. The command will ensure the Soldier is flagged IAW AR 600-8-2.

c. When a Soldier leaves the chain of command or supervision after a Commander or supervisor has announced the intent to impose a reprimand, but before the reprimand has been imposed, the action may be processed to completion by the losing command.

Chapter 12

Victim Services

12-1. General

a. The FLW Victim/Witness Assistance Program provides assistance and guidance for the treatment of persons who are victims of offenses under the UCMJ and persons requested as witnesses in proceedings conducted pursuant to the UCMJ.

b. Objectives. The objectives of the program are to mitigate the physical, psychological, and financial hardships suffered by victims and witnesses of offenses investigated by law enforcement agencies, to foster the full cooperation of victims and witnesses within the military criminal justice system, and to ensure victims and witnesses are fully advised of their rights under the UCMJ and AR 27-10, and all other applicable statutes and regulations.

c. Policy. All persons working with and in support of the military justice system must ensure victims of and witnesses to crimes under the UCMJ are treated with dignity and respect. All victims will be treated with the appropriate level of care and professionalism and the full spectrum of available resources and services will be provided. Special treatment consideration will be given when the victim is a child, or the case involves sexual misconduct or domestic abuse.

12-2. Victim/Witness Liaison

a. The Victim/Witness Liaison (VWL) for FLW is located within the OSJA. The VWL is the point of contact through which victims and witnesses may obtain services and information regarding the status of a pending case. VWL contact information can be obtained from the servicing Trial Counsel.

b. Military law enforcement and investigative personnel will promptly inform all victims about the VWL program and provide assistance in contacting the VWL if needed.

12-3. Victim Services

a. The VWL will provide victims a Victim Information Packet and keep the victim fully informed with information as required by law, regulation, and policy.

b. The VWL will assist victims in obtaining financial, legal, and other social services, as appropriate, by providing the victims with information concerning the sources of such services and, if necessary, by arranging for appointments with relevant service agencies.

12-4. Special Victims' Counsel

a. The Special Victim Counsel Program (SVCP) was developed to strengthen the

Army's support of victims of sexual assault and to enhance their rights within our military justice system, while neither causing unreasonable delay nor infringing upon the rights of an accused Soldier. The role of the SVC is to zealously represent the client's interests throughout the military justice process within the limits of established case law, statute, and regulation.

b. The SVC at FLW is located on the first floor of building 315 in the OSJA. Victims will be advised of their right to be represented by an SVC and will be provided a description of the role of the SVC and an explanation that the SVC is available and may be requested at any time throughout the duration of the justice process. It is not necessary for the victim to sign an acknowledgment or waiver of services.

c. Victims of domestic violence may be entitled to SVC representation. They should seek assistance at the FLW legal assistance office to determine eligibility.

Chapter 13

Procedures for Courts-Martial

13-1. General (Pretrial Restraint)

a. Generally. Pretrial restraint consists of any moral or physical restraint on a person's liberty imposed before or during the disposition of a potential UMCJ action. The imposition of pretrial restraint is an extreme measure. Only if there is reason to believe that a Soldier will not appear at trial, pretrial hearing, and preliminary hearing or will commit additional serious misconduct should a commander consider imposing conditions on liberty. The commander must then carefully consider all factors IAW RCM 304 before actually ordering any pretrial restraint. When restraint is used, a commander must utilize the minimum restraint needed to reasonably assure the Soldier's presence for trial and to prevent additional misconduct, in consultation with the TC.

b. Authority to impose Pretrial Restraint. The imposition of any form of pretrial restraint or pretrial confinement may trigger time limitations on bringing a Soldier to trial. Accordingly, commanders will not impose any form of pretrial restraint without prior coordination and consultation with the Staff Judge Advocate through their Trial Counsel. Commanders must discuss the specifics of any proposed pretrial restraint or conditions on liberty, or any changes to existing conditions, prior to implementation.

c. Conditions on Liberty as Form of Pretrial Restraint. Whenever a commander seeks to impose conditions on liberty not directed as a punishment upon a finding of guilty by a court-martial or under the provisions of Article 15, UCMJ, such restrictions constitute a condition on liberty. All restrictions on liberty require consultation with their Trial Counsel. Actions such as placing a Soldier on "line-of-sight" restriction, increasing sign-in procedures, and revocation of pass privileges are all considered forms of pretrial restraint subject to the requirement of discussion with a TC before implementation.

d. When Directing Pretrial Restraint. Commanders should only order conditions on liberty in writing, after consultation with their TC, and will utilize the minimum necessary level of restraint necessary to ensure the Soldier's presence at trial, pretrial hearing, or preliminary hearing or to prevent additional misconduct.

13-2. Pretrial Confinement

a. Generally. Pretrial confinement is the most restrictive level of pretrial restraint and imposes additional requirements on its use. Pretrial confinement beyond 7 days is legally permissible only when a magistrate finds probable cause to believe the Soldier committed an offense triable by court-martial and all lesser forms of restraint are inadequate to assure the Soldier's presence for trial, assure the safety of the community, or prevent additional serious criminal misconduct. Pretrial confinement is never authorized to ensure a Soldier's presence at an administrative separation board or to relieve the command of the burden of implementing viable and adequate lesser restrictions on liberty.

b. Prerequisite Actions. Commanders will not order pretrial confinement unless and until the TC confirms that the Chief of Justice has reviewed and approved the command intent to place an accused in pre-trial confinement. The Chief of Justice will also inform the SJA, and receive the SJA's concurrence, prior to a Soldier being ordered into pretrial confinement.

c. Soldiers in pretrial confinement. Commanders will maintain contact with Soldiers in pretrial confinement to ensure their safety, welfare, and morale. Commanders will comply with confinement facility requirements and/or the following, which is more stringent:

(1) Company Commanders will personally visit Soldiers ordered to pretrial confinement during the first seven (7) days of confinement. Thereafter, at least once every 30 days, commander or a unit representative will visit the Soldier. A commander's representative for subsequent visits must be at a minimum an E6 and must also be senior in grade to the confined Soldier.

(2) Company Commanders with Soldiers in a civilian pre-trial confinement facility more than 100 miles from Fort Leonard Wood, will contact their Soldier telephonically at least once during the first 7 days of confinement. Thereafter, at least once every 30 days, commander or a unit representative will visit the Soldier. A commander's representative for subsequent visits must be at a minimum an E6 and must also be senior in grade to the confined Soldier.

13-3. Preparation of Charge Sheet

An accuser shall not prefer charges against a Soldier without coordinating and discussing potential court-martial charges with the supporting TC.

13-4. Witness Attendance

a. Paperwork. The Military Justice Division of the OSJA will process all requests for subpoenas, invitational travel orders, payment vouchers, and travel arrangements for all witnesses, civilian and military, required to testify at courts-martial or Article 32 preliminary hearings on FLW. The Military Justice Division of the OSJA will also process all requests from other installations for witnesses located at or near FLW.

b. Release from Duty and Proper Uniform. Commanders will release court-martial witnesses in their command from all other military duties and provide adequate transportation so that the witness may attend the trial or proceeding. Commanders will ensure that all witnesses under their command are in the designated uniform prior to appearing at any court-martial or preliminary hearing.

c. **Witness Transportation.** The accused Soldier's unit is responsible for providing licensed, military drivers and adequate transportation resources for the movement of witnesses before, during, and after a court-martial or proceeding. The Military Justice Division will notify the accused Soldier's commander of all necessary information to execute this task. The Military Justice Division will provide all necessary training for the personnel identified to drive witnesses no later than seven (7) days before trial or the proceeding. The driver(s) will be responsible for transporting witnesses to and from the transportation terminal before and after trial, to and from lodging to the courtroom each day, and to and from meal locations during each day.

d. **Duty Location During Proceedings.** Commanders will not approve passes, ordinary leave, or temporary duty (TDY) orders for potential court-martial witnesses (including witnesses for Article 32 preliminary hearings) without prior notice to, and coordination with, the supporting Trial Counsel. Commanders should also inform their Trial Counsel prior to a witness taking emergency leave.

e. **Administrative Holds.** If the PCS or extended TDY of a witness appears likely before trial, the commander will consider requesting, well in advance, an administrative hold through the Military Justice Division to the supporting Military Personnel Division (MPD). The request should name the case for which the testimony is needed and the date and place of the witness' prospective reassignment. If it appears that a military witness will ETS, the witness's commander will immediately notify the supporting Trial Counsel. After consulting personally with his or her military justice advisor, the Chief of the Military Justice Division, or the SJA, the commander will determine, on a case-by-case basis, which victims or potential witnesses will be authorized to depart the FLW commuting area.

f. **FLAGS on Suspects/Accused.** The commander of the accused Soldier will submit DA Form 268, (Report to Suspend Favorable Personnel Actions (FLAG)) and take action under the provisions of AR 600-8-2, Suspension Favorable Personnel Actions, whenever any military member is pending charges or under investigation. This is a critical step, particularly when the Soldier is a member of the Army National Guard (ARNG) or United States Army Reserve (USAR), or if the Soldier is pending retirement, permanent change of station, release from active duty, or expiration of term of service. Commanders will also promptly notify the appropriate ARNG or USAR liaison of all misconduct committed by Reserve Component (RC) Soldiers under their command which may result in some form of adverse administrative or punitive action under the provisions of TRADOC Regulation 350-6, Enlisted Initial Entry Training Policies and Administration. The commander will also ensure that the unit security manager is promptly notified of the reason for the flag, to ensure that, in appropriate cases, the Soldier's access to classified information is suspended.

g. **Accused Soldiers Approaching Expiration of Service (ETS).** In addition to flagging an accused Soldier per AR 600-8-2, commanders must also ensure Soldiers do not inadvertently ETS from service while pending charges. Upon receipt of information that a Soldier may have engaged in the commission of a serious offense, as defined in AR 635-200, paragraph 14-12, commanders will verify whether or not the Soldier is approaching his or her ETS date. If the Soldier is within 120 days of their ETS date upon discovery of the allegation, the Soldier's immediate permanent change of station commander will promptly inform his or her Trial Counsel. If the Soldier receives orders to PCS or ETS at any time during the investigation, the commander will inform his or her Trial Counsel.

Chapter 14

Other Considerations

14-1. Meaningful Participation

a. The accused Soldier's commander will ensure that the Soldier is present for all scheduled meetings with defense counsel and all scheduled hearings or proceedings during the case. Unit activities will not interfere with the rights of a Soldier to be present with his or her defense counsel for trial, pretrial hearings, and preliminary hearings.

b. Escorts and vehicles to transport a Soldier from confinement to the courtroom shall be provided by the Soldier's unit. The commander shall ensure that the Soldier arrives at the location at least sixty minutes before any scheduled hearing, or at an earlier time if requested by defense counsel.

14-2. Uniform at Trial Proceedings

a. The accused Soldier's commander will ensure that he or she is in the correct, complete, clean, and properly tailored uniform at all court-martial, pretrial hearings, and preliminary hearings.

b. Defense counsel who anticipate needing assistance in assembling the proper uniform for an accused Soldier will notify the Trial Counsel as early as possible.

c. Upon referral of charges, commanders should establish the location of the uniforms and insignia the accused Soldier will need for trial proceedings.

14-3. Support Personnel

The OSJA is not staffed to provide the logistical support for trial proceedings. The accused's commander shall provide the following necessary personnel in support of each official hearing during the trial process:

a. Drivers. The commander of the accused Soldier is responsible for the transportation of witnesses and the accused Soldier. The commander shall consult with the Trial Counsel on the timing and location of transportation requirements.

b. Bailiffs. The accused Soldier's commander shall identify at least two senior NCOs or Officers to serve as bailiffs at every court-martial. Bailiffs will not be witnesses, the unit escort, or a guard for the accused Soldier. Bailiffs should neither have an interest in the case nor a close association with the accused Soldier or a victim of the charged offense. The Bailiffs will wear the duty uniform of the Court and shall report to the hearing site at least one hour before each proceeding. Bailiffs should expect to remain on duty until at least thirty minutes after the last hearing of the day.

c. Escorts. The accused's command shall designate at least two Soldiers to escort the accused Soldier at each hearing. In the cases of an enlisted accused, at least one escort will be an officer or noncommissioned officer senior to the accused. In cases of an officer accused, at least one escort will be an officer senior to the accused.

d. Courtroom Security. Courtroom security must be provided in accordance with AR 27-10, Chapter 7; Rules of Practice Before an Army Courts-Martial; and the judge's instructions or orders. When used, courtroom security officers will be military law enforcement personnel or United States Marshals attired as the judge directs (which may include their regular uniform, carrying a loaded sidearm and other equipment designated by the Provost Marshal where the trial is held).

e. Confinement Transportation. Should the Soldier be convicted and sentenced to any term of confinement, the command will provide at least two escorts, a driver, and a vehicle to transport the Soldier to confinement. Prior to trial, the unit will also ensure the accused Soldier has all items required for confinement should the Soldier be sentenced to confinement.

f. Training. The command is responsible for coordinating with the Military Justice Division for training of all personnel at least seven days prior to any hearing in which the Soldiers will assist.

Chapter 15

U.S. District Court (Magistrate Court)

15-1. Court Procedures

a. Magistrate Court shall dispose of offenses charged by the issuance of a United States District Court Violation Notice (Formerly known as a Central Violation Bureau Notice or CVB), the filing of information or the filing of a federal criminal complaint by the U.S. Attorney.

b. Appearance. If a defendant is unable to appear in U.S. District Court due to some compelling reason (e.g., extended TDY, emergency leave, civilian confinement, etc.), the defendant, or the defense attorney if one has been retained, should contact the OSJA's Magistrate Court Clerk before the scheduled court date to formally request a delay. The Magistrate Court Clerk will assist the defendant in preparing a written request to the clerk of the U.S. District Court, Western District of Missouri, asking that the court date be rescheduled. The Magistrate Court Clerk will submit the request and notify the defendant of the new court date. A Soldier who fails to appear in U.S. District Court when lawfully ordered to do so may be punished under the UCMJ or face adverse administrative action.

c. Warrants. U.S. Marshals are authorized to execute warrants for the arrest of individuals who fail to appear in U.S. District Court. If a Commander is presented with a warrant, he or she will immediately contact his or her servicing military justice advisor. Commanders will not release Soldiers to arresting officers without consultation with their military justice advisor. Military duties will not supersede or interfere with the execution of a federal warrant.

d. Reserve Soldiers. Commanders having administrative control over Reserve Component Soldiers who are prosecuted in U.S. District Court for offenses other than minor traffic offenses will notify the individual's Reserve Component unit of the offense charged and the scheduled court appearance date.

e. Cooperation with Proceedings. Commanders and military witnesses shall treat Magistrate Court proceedings with the level of care and cooperation they would extend to counsel of both sides during a court-martial. When notified and requested by the SAUSA, the accused's commander shall detail an escort for all hearings.

15-2. Effect of Proceedings on Military Actions. Trial of an offense in Magistrate Court precludes UCMJ punishment for the same act. It does not preclude adverse administrative actions such as memoranda of reprimand, administrative reduction, or involuntary administrative separation.

Appendix A Resources

Section I Required Publications

Manual for Courts-Martial, United States (2024) (MCM)

Memorandum, Secretary of Defense, 20 April 2012, subject: Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Offenses

AR 25-50 (Preparing and Managing Correspondence)

AR 27-10 (Military Justice)

AR 600-8-19 (Enlisted Promotions and Reductions)

AR 600-37 (Unfavorable Information)

AR 600-200 (Army Command Policy)

AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag))

AR 600-8-24 (Officer Transfers and Discharges)

AR 600-52 (Sexual Harassment/Assault Response and Prevention)

AR 601-280 (Army Retention Program)

AR 635-200 (Active Duty Enlisted Administrative Separations)

Section II Related Publications

Army Directive 2022-13 (Reforms to Counter Sexual Harassment/Assault in the Army)

Army Directive 2016-19 (Retaining a Quality Noncommissioned Officer Corps)

Section III Prescribed Forms

DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag))

DA Form 2627 (Record of Proceedings under Article 15, UCMJ)

DA Form 5112 (Checklist for Pretrial Confinement)

DD Form 497 (Confinement Order)

DA Form 4833 (Commander's Report of Disciplinary or Administrative Action)

DA Pam 27-7 (Guide for Summary Court-Martial Trial Procedure)

DA Pam 27-17 (Procedural Guide for Article 32 Preliminary Hearing Officer)

DoD Instr 6490.04 (Mental Health Evaluations of Armed Forces Members)

10 U.S.C. § 815 (Article 15, UCMJ. Commanding Officer's Nonjudicial Punishment)

10 U.S.C. § 822 (Article 22, UCMJ. Who Can Convene a General Court-Martial)

10 U.S.C. § 832 (Article 32, UCMJ. Preliminary Hearing)

10 U.S.C. § 837 (Unlawfully Influencing Action of Court)

Rule for Courts-Martial 305 (Pre-Trial Confinement)

FLW Regulation 190-5 (Motor Vehicle Traffic Supervision on Fort Leonard Wood)

Appendix B

Glossary

CG – Commanding General.

Chief, Military Justice – Officer in charge of the military justice section of the Office of the Staff Judge Advocate.

DSJA - Deputy Staff Judge Advocate. The deputy to the Staff Judge Advocate.

FLW/FLWMO – Fort Leonard Wood or Fort Leonard Wood, Missouri. Used interchangeably.

GCMCA – General Court-Martial Convening Authority. An officer who can convene a General Court-Martial.

GLWACH – General Leonard Wood Army Community Hospital.

MSCoE – Maneuver Support Center of Excellence.

NCOIC, Military Justice – Noncommissioned Officer in Charge, Military Justice. NCOIC for the military justice section of the Office of the Staff Judge Advocate and advisor to the Chief, Military Justice.

NJP – Non-Judicial Punishment. Another word for Article 15.

PTC – Pre-Trial Confinement.

SAUSA – Special Assistant United States Attorney. Judge Advocate detailed to prosecute minor offenses committed on Fort Leonard Wood in federal court.

SCMCA – Summary Court-Martial Convening Authority. Commander authorized to convene a summary court-martial. Typically a battalion commander (O-5).

SPCMCA – Special Court-Martial Convening Authority. Commander authorized to convene a special court-martial not authorized to adjudge a bad-conduct discharge. Typically a brigade level commander (O-6).

Special Trial Counsel -- Special Trial Counsel are detailed to prosecute and operate independently of the military chains of command of both the victims and the accused in cases involving covered, known, and related offenses.

Speedy Trial – Constitutional right of an accused to have his or her court-martial adjudicated in an appropriate and expeditious manner. The actual time depends on many factors.

Trial Counsel – Judge Advocate assigned to give legal advice to a given unit.

Appendix C

Standard Operating Procedure for Drill Sergeant Removals for Misconduct

C-1. General.

a. *Purpose.* These Standard Operating Procedures are designed to assist Commanders and their staff to process the suspension and removal of currently serving Drill Sergeants for misconduct.

b. *Governing Regulation.* Army Regulation 600-78 (Army Suitability, Fitness, and Credentialing Program) governs whether Soldiers are suitable to serve as Drill Sergeants. It lists offenses that disqualify Soldiers from serving as Drill Sergeants and prescribes a procedure for removing them from the Drill Sergeant Program.

c. *Point of Contact.* The point of contact for these Standard Operation Procedures is the Chief, Administrative Law at (573) 596-2118.

C-2. Roles and Responsibilities.

a. Brigade Commanders.

(1) Suspend and temporarily reassign Drill Sergeants.

(2) Decide whether to remove or reinstate Drill Sergeants.

(3) Notify Drill Sergeants of suspension, removal, and reinstatement decisions.

b. Brigade Legal Sections.

(1) Trial Counsel will provide advice and support to the chain of command in the suspension, removal, and reinstatement of Drill Sergeants.

(2) Forward Drill Sergeant suspension, removal, and reinstatement documents to the Administrative Law Division, Drill Sergeant Program Manager, and Brigade S1 Section.

c. Chief, Administrative Law.

(1) Provide technical supervision of the Drill Sergeant removal notification process when misconduct is involved.

(2) Provide opinions on the legal sufficiency of Drill Sergeant removal packets.

(3) Staff Drill Sergeant removal packets that require Commanding General action to the Staff Judge Advocate for Commanding General action.

(4) Provide a representative to the monthly Enlisted Manning Meeting.

d. Drill Sergeant Program Manager.

(1) Provide functional review of Drill Sergeant removal packets.

(2) Forward Drill Sergeant removal and reinstatement packets to the TRADOC Drill Sergeant Program Manager.

(3) Submit a quarterly report on Drill Sergeant removals to TRADOC in accordance with the TRADOC Drill Sergeant Removal SOP.

(4) Initiate and publish Skilled Qualification Identifier (SQI) withdrawal orders for the "X" identifier (Format 310) and ensure they are uploaded to iPERMS.

e. Battalion S1 Section. Initiate and publish Special Duty Assignment Pay (SDAP) termination orders within IPPSA when a Drill Sergeant is assigned to a non-Drill Sergeant position for more than 90 days or removed.

C-2. Disqualifying Offenses

a. *Types.* The following offenses potentially disqualify a Drill Sergeant from service as a Drill Sergeant.

Type I Offenses (any time)	Type II Offenses (over a Soldier's military career)	Type III Offenses (within 5 years from nomination to be a Drill Sergeant)
<p>Military or Civilian Criminal Conviction or Field Grade Article 15 for:</p> <ul style="list-style-type: none"> Possessing, receiving, or viewing child pornography (Article 134 UCMJ). Rape or sexual assault (Article 120 or 134 UCMJ). Any offense punishable under UCMJ Articles 80, 120, 120b, 128, 134, and 130; similar civilian offenses (rape, sexual assault, aggravated sexual contact, abusive sexual contact, stalking, sexual abuse of a child); or any attempt to commit such acts (Article 80, UCMJ). Inappropriate relationships and prohibited activities between recruits and recruiters and between trainers providing entry-level training and trainees (DoDI 1304.33/Article 93a, UCMJ). Domestic violence or child abuse as described by DoDI 6400.06 (Article 128 UCMJ), child abuse, or any violent crime under the UCMJ. A requirement to be registered as a sex offender. 	<ul style="list-style-type: none"> Sexual harassment to include influencing, threatening a person's career, pay, or job (Article 93, or 132 UCMJ). Prostitution or pandering (Article 134 UCMJ). Fraternization (Article 134 UCMJ). Participation in extremist organizations and activities by Army personnel inconsistent with the responsibilities of military service (as defined in AR 600-20). Special, general court-martial conviction that results in any civilian criminal felony convictions. Criminal offense involving a child. Extramarital sexual conduct or inappropriate relationship (Article 134). Wrongful broadcast or distribution of intimate visual images (Article 117a UCMJ). Wrongful use possession, distribution, importation, or exportation of a controlled 	<ul style="list-style-type: none"> Relief for cause noncommissioned officer evaluation report or officer evaluation reports in current grade. Previous separation from any service for any Type III offense. Initial enlistment waivers for derogatory information (not related to an offense listed in Type II) Assault (other than categories listed in Type I). Larceny, fraud, or robbery (Articles 121, 124, or 122, UCMJ). Burglary (Article 129). Prohibited activities related to recruiting efforts, future Soldiers, or initial entry trainees that fall under DoDI 1304.33. Prohibited activities with military recruits or trainees that fall under DoDI 1304.33 (Article 93a UCMJ).

Previous separation from any Service for any Type I offense listed above.	<p>substance (Article 112a UCMJ).</p> <ul style="list-style-type: none"> • Initial enlistment waivers for derogatory information related to any Type I offense. • Type I offenses for which a Soldier was not convicted in a court of law or did not receive an Article 15 or higher UCMJ action. <p>Alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that suggests that the Drill Sergeant would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the Drill Sergeant or others.</p>	
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b. *Adverse Information.* For Drill Sergeant removal actions requiring adverse information that a disqualifying offense was committed: Adverse information is defined as any substantiated finding or conclusion from an officially documented investigation or inquiry or any other credible information of an adverse nature. To be credible, the information must be resolved and supported by a preponderance of the evidence. Conduct may be considered regardless if it resulted in formal charges or administrative or legal action. Conduct that may have resulted in dismissal, expungement, or a finding of not guilty by a court or other entities in the civilian or military justice system may still be considered for suitability and fitness adjudications using the preponderance of evidence standard, but will be adjudicated as a Type II or Type III offense.

C-3. Suspension Process.

a. *Company/Battalion Commander Actions.* Upon receipt of information that a Drill Sergeant has committed a disqualifying offense or upon notification that there is adverse information that the Drill Sergeant has committed a disqualifying offense, a unit commander will:

(1) Immediately inform the Brigade Legal Section and, through the chain of command, the Brigade Commander, and forward them supporting documents regarding the investigation or offense.

(2) Promptly flag the Soldier if required by AR 600–8–2.

(3) Promptly report credible derogatory information in accordance with AR 380–67 and subsequent guidance from DCS, G–2.

(4) Promptly initiate an investigation, if appropriate. Commanders must conduct a preliminary inquiry sufficient to make an appropriate initial disposition or investigative decision. Commanders must report alleged criminal incidents to the installation law enforcement in accordance with AR 190–45. Unless required by law or regulation, commanders should not appoint investigating officers to conduct an administrative investigation pursuant to AR 15–6 if, considering the source and nature of the information and the totality of the circumstances, the

information is not sufficiently believable to lead a reasonable person to believe the facts or the facts in question are true.

b. *Legal Support.* The Brigade Legal Section will immediately prepare a Drill Sergeant suspension memorandum and forward it to the Brigade Commander. The Trial Counsel will review the suspension memorandum and provide any applicable advice to the chain of command.

c. *Brigade Commander Actions.* The Brigade Commander will immediately suspend and temporarily re-assign the Drill Sergeant from performing Drill Sergeant duties and remove the Drill Sergeant from the initial entry training environment.

d. *Notification to MSCOE and Brigade S1.* Once the Brigade Commander has suspended a Drill Sergeant, the Brigade Legal Section will forward the suspension memorandum and supporting documents regarding the investigation or offense to MSCOE Administrative Law and Drill Sergeant Program Manager at usarmy.leonardwood.mscoe.list.drill-sergeant-removals@army.mil and the Brigade S1 section. The Drill Sergeant Program Manager will then forward the packet to the TRADOC Drill Sergeant Program Manager. This does not replace any CCIR requirements.

e. *Reinstatement.* If the investigation or inquiry concludes there is not credible information that the Drill Sergeant has committed a disqualifying offense, the Brigade Commander will reinstate the Drill Sergeant and notify the Drill Sergeant via memorandum. The Brigade Commander will notify the Drill Sergeant and Brigade Legal Section will forward the reinstatement memorandum to the MSCOE Administrative Law and Drill Sergeant Program Manager at usarmy.leonardwood.mscoe.list.drill-sergeant-removals@army.mil and the Brigade S1 section. The Drill Sergeant Program Manager will forward the packet to the TRADOC Drill Sergeant Program Manager.

C-4. Removal Process.

a. *Substantiated Disqualifying Offense.*

(1) Once there is adverse information sufficient to substantiate that a Drill Sergeant has committed a disqualifying offense, the Brigade Legal Section will prepare a memorandum for the Brigade Commander to notify the Drill Sergeant of the intent to remove them from the Drill Sergeant Program. This can be combined with the suspension from the Drill Sergeant Program if the Drill Sergeant has not already been suspended. The Trial Counsel will review the intent to remove memorandum prior to action by the Brigade Commander.

(2) The Administrative Law Division will also provide the Brigade Commander a redacted copy of the disqualifying information and a Privacy Act Notice.

(3) The Brigade Commander, or their designee, will provide the Drill Sergeant the intent to remove memorandum and the redacted copy of the disqualifying information and brief them about their rights and the timeline to submit a rebuttal.

b. *Drill Sergeant Response.* The Drill Sergeant will have 14 days from notification to

elect whether to submit a rebuttal or appeal.¹ If the Drill Sergeant fails to elect to submit matters within 14 days, they will waive the right to any appeal or rebuttal.

c. *Notification to MSCOE and Brigade S1.* Once the Drill Sergeant has made their election or 14 days has elapsed, the Brigade Legal Section will send a copy of the intent to remove memorandum, the evidence that was provided the Soldier, a Soldier Talent Profile, and the Privacy Act Notice to the MSCOE Administrative Law and Drill Sergeant Program Manager at usarmy.leonardwood.mscoe.list.drill-sergeant-removals@army.mil and the Brigade S-1 section. If the Drill Sergeant failed to make an election within 14 calendar days, the Brigade Legal Section will also provide a memorandum documenting the failure to do so. If Drill Sergeants elect to submit an appeal/rebuttal, they will have 45 days to submit it.

d. *Legal Review.* Once the Drill Sergeant submits a rebuttal and/or appeal or 45 days has elapsed, the Administrative Law Division will review the removal packet for legal sufficiency and provide a written legal opinion to the Brigade Legal Section.

C-5. Adjudication Process.

a. *Brigade Commander Action.* The Brigade Legal Section will forward the entire case file, including the rebuttal and the legal review to the Brigade Commander along with a removal and appeal recommendation or reinstatement memorandum.

(1) If the Brigade Commander determines that a Type I or a Type II offense has occurred, the Brigade Commander must remove the Drill Sergeant.

(2) If the Brigade Commander determines that a Type III offense has occurred, the Brigade Commander may remove or reinstate the Drill Sergeant.

(3) If the Brigade Commander determines that a Type I, Type II, or Type III offense has not occurred, the Brigade Commander must reinstate the Drill Sergeant.

(4) If the Brigade Commander removes the Drill Sergeant for a Type II or Type III offense, they will also complete an appeal recommendation memorandum.

(5) The Brigade Commander, or their designee, will provide the Drill Sergeant the removal or reinstatement memorandum.

b. *Notification to MSCOE and Brigade S1.* Once the Drill Sergeant has been provided the removal or reinstatement memorandum, the Brigade Legal Section will send a copy of the memorandum as well as the appeal recommendation memorandum, if applicable, to the MSCOE Administrative Law and Drill Sergeant Program Manager at usarmy.leonardwood.mscoe.list.drill-sergeant-removals@army.mil and the Brigade S1 section.

c. *MSCOE Action.*

(1) If the Brigade Commander reinstates the Drill Sergeant, the Drill Sergeant Program manager will forward the entire packet to the TRADOC Drill Sergeant Program Manager.

¹ Drill Sergeants disqualified because of Type II or Type III offenses may appeal their removal to the Deputy Commanding General, TRADOC.

(2) If the Brigade Commander removes the Drill Sergeant the Administrative Law Division will review the removal packet for legal sufficiency and provide a written legal opinion.

(3) If an eligible Drill Sergeant elects to appeal their removal, the Administrative Law Division will provide the packet to the Staff Judge Advocate to obtain a recommendation from the Commanding General. Once the Commanding General has made a recommendation, the Administrative Law Division will forward the packet to the Drill Sergeant Program Manager who will then forward it to the TRADOC Drill Sergeant Program Manager.

(4) If a Drill Sergeant does not elect to appeal or is not eligible to do so, the Administrative Law Division will forward the packet to the Drill Sergeant Program Manager who will then forward to the TRADOC Drill Sergeant Program Manager.

(5) The Drill Sergeant Program Manager will inform the Administrative Law Division at usarmy.leonardwood.mscoe.list.ad-law@army.mil and the Brigade S1 Section of TRADOC action.