

Effective 1 February 2021

## Legal Services

### MILITARY JUSTICE

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**History.** This major revision replaces the existing AR 27-10 supplement dated 20 May 2019. All previous supplements are hereby rescinded.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 and Fort Leonard Wood (MSCoE and 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.

**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.

**Distribution:** This publication is available online at <https://home.army.mil/wood/index.php/about/regs> and is approved for public release.

  
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Commanding

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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 CG's expectations, the policies and limitations detailed herein do not create jurisdictional or procedural prerequisites for courts-martial or nonjudicial punishment proceedings. 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 20 May 2019 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, subject to individual unit or Soldier orders stating otherwise.

b. The Assignment of Legal Personnel. The Staff Judge Advocate (SJA) exercises sole authority over the assignments of all legal personnel on FLW, regardless of the unit of assignment, excepting only those personnel assigned to the Trial Defense Service (TDS). 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 will SJA provide notice to the affected commanders prior to any movement of personnel.

c. Use of Legal Personnel. To ensure prompt and efficient processing of legal actions, commanders shall not assign legal personnel to perform duties inconsistent with, or in conflict with, their principal legal duties unless, in the opinion of their supervising judge advocate, such additional duties will not unduly delay the processing of legal actions. Paralegal specialists, paralegal NCOs, legal administrators, and judge advocates are exempt from all unit detail rosters because of conflicts such details may create with their legal duties. Commanders are informed that it is also generally inappropriate to assign legal personnel to positions such as Equal Opportunity Representative, Unit Victim Advocate, Charge of Quarters (CQ), Casualty Notification,

Emergency Response Cell, Courtesy Patrol, AR 15-6 investigating officers, or other long-term details. The SJA is the final authority for determining which duties: 1) are inconsistent with a legal MOS; 2) would tend to cause conflicts with legal duties and obligations; or 3) would tend to unduly delay the processing of legal actions. Any request for an exception to this policy should be directed through the Deputy Staff Judge Advocate (DSJA) to the SJA.

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 27A, 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, and enlisted separations processed pursuant to AR 635-200 (other than enlisted separations process pursuant to AR 635-200, para. 5-11).

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 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. The SVC is supervised by the Chief, Client Services, but each attorney represents the interests of the 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. When alleged misconduct does occur a commander has a duty to ensure each case is 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. 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 that his or her own independent judgement influenced only by lawful considerations such as the seriousness of the allegation, the weight and nature of the available evidence, and the needs of justice 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.

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 military justice advisor (MJA) 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 MJA. 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 in order to ensure full and fair adjudication of the misconduct.

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. The military is a transient profession and 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 Military Justice Advisor (MJA)**

a. The SJA will designate an MJA for each Special Court-Martial Convening Authority (SPCMCA) and their subordinate commanders. The designated judge advocate will serve as the primary MJA for all military justice matters and legal 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 MJA.

#### **1-8. Processing of Actions and Access to Command**

To prevent unnecessary delays, all legal actions will be processed expeditiously. To this end, the following procedures shall apply:

a. Legal actions will generally not be routed through other staff sections, to include the S-1, prior to the completed distribution phase.

b. Legal documents will be processed using the most expeditious means possible, to include hand carrying actions when this is most efficient.

c. MJAs 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.

#### **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 MJA, DSJA, or SJA.

#### **1-10. Location, Supervision, Evaluation of Personnel**

a. Location. Many 27Ds are assigned to brigades. Accordingly, the primary place of duty for the paralegal NCOIC and the paralegals under their supervision is at the brigade legal office.

b. Brigade level sections are responsible for military justice matters only, and only within their capabilities. Where the brigade's military justice needs exceed those capabilities, brigade paralegals are responsible for coordinating with the Chief Paralegal NCO (CPNCO) and the SJA for support.

c. Paralegal specialists and Noncommissioned officers may work at the OSJA if required by the mission. Any proposed movement of a paralegal from the brigade legal office must be first coordinated and approved by the CPNCO and SJA. MJAs 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.

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

e. MJAs are supervised and rated by the Chief of Military Justice and senior-rated by the SJA, Brigade. Rating chains will be in accordance with AR 623-3, Evaluation Reporting System.

## **Chapter 2**

### **Command Authority and NJP**

#### **2-1. Applicability of NJP**

Commanders should only use punitive action under the UCMJ 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. Verbal or Written 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.

#### **2-2. Relationship of nonjudicial punishment to nonpunitive measures (para 1g, part V, MCM, 2019)**

When NJP is initiated through formal (non-summarized) Article 15 action, the commander will ensure that all Soldiers are escorted to the FLW TDS office and have adequate time to consult with their military or civilian defense attorney.

a. Documentation. The Soldier shall be provided a legible copy of the signed Article 15 (DA Form 2627) and all supporting documentation and evidence. It is a command responsibility to provide all evidence in the Article 15 packet assembled by the brigade legal section.

b. Counsel Waivers. A Soldier facing NJP may, after receiving counseling regarding his or her rights, waive further consultation with defense counsel. Any decision to waive detailed consultation must be knowing and voluntary, and may not be made without the Soldier first attending the initial NJP counseling provided by the TDS office or a civilian defense attorney.

### **2-3. 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 will not impose NJP under Article 15, UMCJ, or prefer courts-martial charges for the same act over which civilian authorities are exercising jurisdiction over the Soldier, without the prior consultation with their MJA.

### **2-4. 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.

### **2-5. 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 MJA 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.



## **2-6. 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.

## **2-7. Senior Leader Misconduct**

In accordance with Rule for Courts-Martial 306, the authority to dispose of alleged UCMJ offenses committed by commissioned officers, warrant officers, sergeants major, first sergeants in the grade of E-8, master sergeants, and Soldiers serving as a SHARP representative is withheld to the CG, MSCoE and FLW.

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.

a. 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.

b. Withheld to the SPCMCAs: Allegations of trainer on trainee abuse, rape or sexual assault in violation of Article 120, sodomy in violation of Article 125, and all attempts to commit such offenses, in violation of Article 80. 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). 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.

c. Withheld to the SPCMCAs, O-6 commanders, who may delegate to their battalion commanders: 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.

d. Commanders may request delegation of authority to dispose of any actions withheld by the CG. Requests shall be provided to the SJA who will forward to the CG for action. 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 MJA prior to making such requests.

e. 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, conducting a preliminary hearing.

## **Chapter 3**

### **Civilian Confinement**

#### **3-1. Generally**

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

#### **3-2. Command Responsibilities**

a. Commanders will immediately report any confinement of members of their command by civilian authorities via e-mail to their supporting MJA, 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 by, 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, whether or not the conviction results in confinement, the commander will consult with the supporting military justice advisor and the supporting Military Personnel Office (MILPO), to determine, IAW AR 635-200 and AR 600-8-19, 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 military justice advisor 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 MJA, who will then promptly notify the Special Victims' Prosecutor.

## **Chapter 4**

### **General Officer Memoranda of Reprimand (GOMOR)**

A general officer memorandum of reprimand (GOMOR) will be initiated for all DUI and DWI offenses and refusals to take a blood alcohol content (BAC) test involving Soldiers assigned or attached to MSCoE and FLW. A copy of the GOMOR imposed by the CG, 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 (Unfavorable Information). The Soldier will return the acknowledgment and additional matters, if any, within 7 calendar days through the chain of command to the MSCoE and FLW OSJA, Military Justice Division. Unless an extension is granted, units will ensure expeditious processing of GOMORs within 7 days of service to the Soldier. These matters will be submitted to the CG for a filing determination. The chain of command will make a recommendation on the filing of the GOMOR, or that the GOMOR be withdrawn and destroyed.

## **Chapter 5**

### **Victim Services**

#### **5-1. General**

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

b. Objectives. The objectives of the program is 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.

## **5-2. 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.

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.

## **5-3. 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.

## **5-4. 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 third floor of building 315, in the OSJA. Victims will be advised of their right to be represented by an SVC and who 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 6 Procedures for Courts-Martial**

### **6-1. 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 305 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 MJA.

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. These timelines vary depending on the triggering event. Accordingly, commanders should not impose any form of pretrial restraint without prior coordination and consultation with their MJA. Commanders must discuss the specifics of any proposed pretrial restraint or conditions on liberty, or any changes to existing conditions, with their MJA 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 MJA. 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 MJA before implementation.

d. When Directing Pretrial Restraint. Commanders should only order conditions on liberty in writing, after consultation with their MJA, 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. Additionally, if a commander imposes pretrial restraint after consultation with their MJA, the commander must still provide written notice to the MJA of both the date restraint begins and the exact conditions imposed.

## **6-2. 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 adequately 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 elimination 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 MJA confirms that the Chief of Military Justice has reviewed and approved the command intent to place an accused in pre-trial confinement. The Chief of Military

Justice will also inform the SJA prior to a Soldier being ordered into pretrial confinement.

### **6-3. Preparation of Charge Sheet**

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

### **6-4. 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 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 military justice advisor. Commanders should also inform their military justice advisor 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 military justice advisor. 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.

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 ensure that the Soldier is not 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 MJA. If the Soldier receives orders to PCS or ETS at any time during the investigation, the commander will inform his or her command legal advisor.

## **Chapter 7**

### **Other Considerations**

#### **7-1. 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.

#### **7-2. 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.

### **7-3. 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 military justice advisor on the timing and location of transportation requirements.

b. Bailiffs. The accused Soldier's commander shall identify at least two Soldiers who outrank the accused Soldier to serve as bailiffs at every court-martial. The bailiff will neither be a witnesses, nor the unit escort, nor a guard for the accused Soldier. A bailiff should neither have an interest in the case nor a close association with the accused Soldier or a victim of the charged offense. In the cases of an enlisted accused, the bailiff will be an officer or noncommissioned officer senior to the accused. In cases of an officer accused, the bailiff will be an officer senior to the accused. 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, 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 three escorts/drivers 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 8**

### **U.S. District Court (Magistrate Court)**

#### **8-1. Offenses**

a. Traffic Offenses. Authority to impose NJP or to initiate UCMJ action for traffic offenses for which a U.S. District Court Violations Notice is pending is withheld from all subordinate commanders. These Violation Notices will be adjudicated through the Magistrate Court process.

b. Requests for Exception. Commanders may request an exception to adjudicate a traffic related offense. Requests should be submitted through the chain of command to the SJA who will forward the request to the CG. Commanders shall consult with their MJA prior to making such a request.

c. The Effects of Trial. 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.

#### **8-2. 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.

## **Appendix A Resources**

### **Section I Required Publications**

Manual for Courts-Martial, United States (2019) (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 601-280 (Army Retention Program)

AR 635-200 (Active Duty Enlisted Administrative Separations)

### **Section II Related Publications**

Army Directive 2013-21 (Initiating Separation Proceedings and Prohibiting Overseas Assignment for Soldiers Convicted of Sex Offenses)

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. Also the General Court-Martial Convening Authority.

**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. Commander who can convene a General Court-Martial.

**GLWACH** – General Leonard Wood Army Community Hospital.

**Military Justice Advisor** – Judge Advocate assigned to give legal advice to a given unit. Typically an O-3. Always a Judge Advocate.

**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.

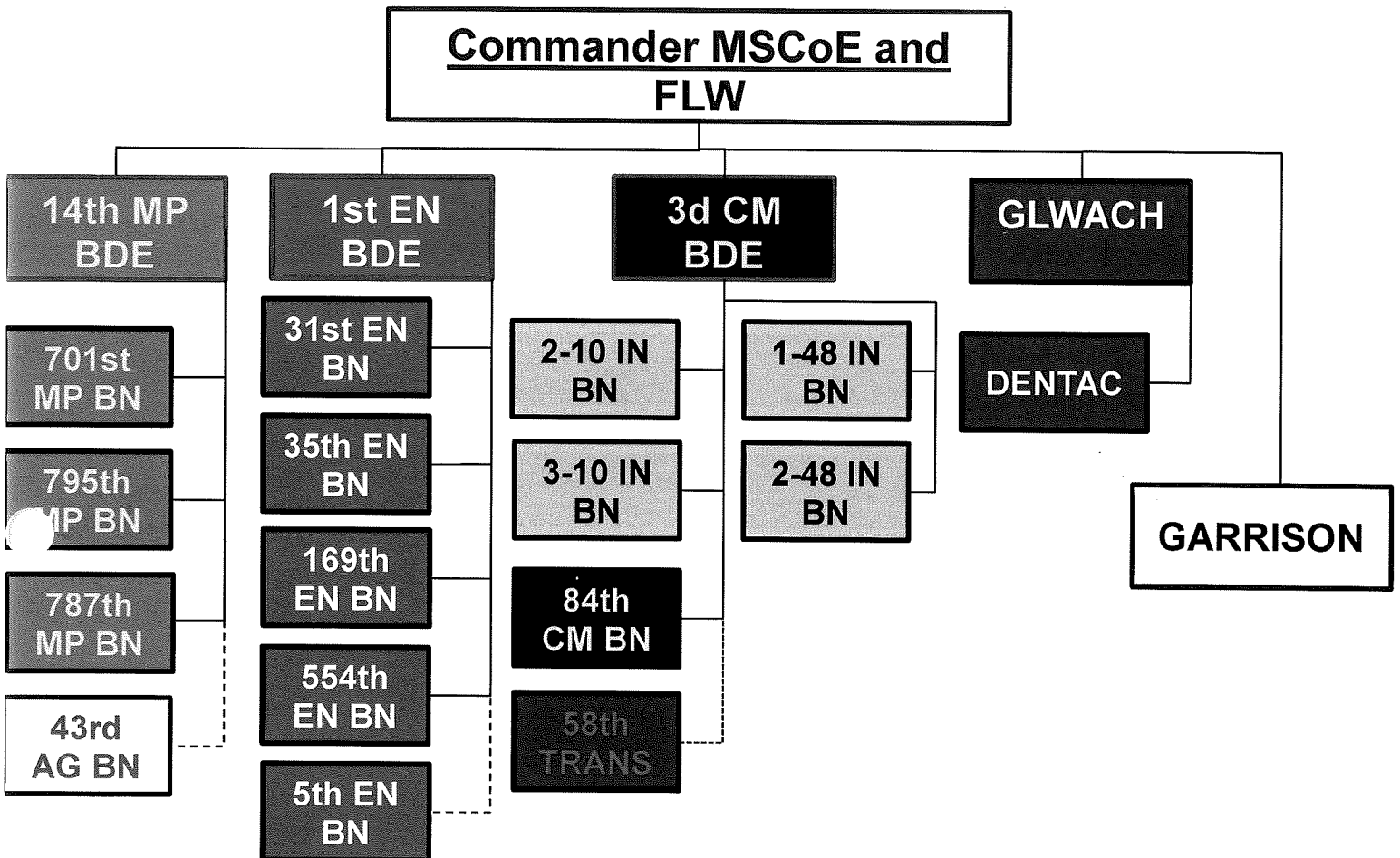
**SCMCA** – Summary Court-Martial Convening Authority. Commander authorized to convene a summary court-martial. Typically a battalion commander (O-5).

**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).

**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.

**Appendix C**  
**Designation of Court-Martial Convening Authorities**

MSCoE and Fort Leonard Wood UCMJ Jurisdictional Alignment. Any changes to this must be submitted to the OSJA in order to be incorporated into this regulation.





DEPARTMENT OF THE ARMY  
U.S. ARMY MANEUVER SUPPORT CENTER OF EXCELLENCE AND FORT LEONARD WOOD  
OFFICE OF THE STAFF JUDGE ADVOCATE  
316 MISSOURI AVENUE, BLDG 315  
FORT LEONARD WOOD, MISSOURI 65473-8932

ATZT-JA-MJ

11 January 2021

MEMORANDUM FOR BG James Bonner, Commander, Maneuver Support Center of Excellence, Fort Leonard Wood, MO

SUBJECT: Fort Leonard Wood Regulation 27-10 Summary of Changes

1. Below are a summary of the changes from Fort Leonard Wood (FLW) Regulation 27-10, dated 20 May 2019.

- a. Updated Table of Contents.
- b. Updated terminology to reflect AR 27-10 and Publication 1-1 throughout.
- c. Fixed spacing and grammar throughout.
- d. Updated Appendices and Glossary
- e. Defined current SPCMCAs and procedures for updating force organization changes.
- f. Updated CG withholding authority to remove drill sergeant misconduct involving multiple victims, and more accurately reflect the CCIR policy.
- g. Updated victim services chapter to reflect changes to the SVC Program.
- h. Updated court room security section to reflect changes to the Rules for Practice before Army Courts-Martial; specifically, requiring MPs or U.S. Marshalls to serve as security.

2. The point of contact for this memorandum is the undersigned at (573) 596-2333 or jonathan.h.mathis.mil@mail.mil.

MATHIS.JONAT  
HAN.HARTFOR  
D.1268836914

Digitally signed by  
MATHIS.JONATHAN.HAR  
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Date: 2021.01.11  
13:55:11 -06'00'

JONATHAN H. MATHIS  
MAJ, JA  
Chief of Justice



DEPARTMENT OF THE ARMY  
U.S. ARMY MANEUVER SUPPORT CENTER OF EXCELLENCE  
AND FORT LEONARD WOOD  
OFFICE OF THE STAFF JUDGE ADVOCATE  
316 MISSOURI AVENUE, BLDG 315  
FORT LEONARD WOOD, MISSOURI 65473-8932

ATZT-JA-AL

21 December 2020

MEMORANDUM FOR Staff Judge Advocate, MSCoE, Fort Leonard Wood, MO 65473

SUBJECT: Legal Review of MSCoE and Fort Leonard Wood Regulation 27-10

1. References.

- a. Army Regulation (AR) 600-20 (Army Command Policy), 24 July 2020.
- b. AR 27-10 (Legal Services Military Justice), 11 May 2016.
- c. TRADOC Regulation (TR) 350-6 (Enlisted Initial Entry Training Policies and Administration), 9 August 2019.

2. I have reviewed the updated MSCoE and Fort Leonard Wood Regulation 27-10. The updated regulation is in compliance to the above references and therefore legally sufficient.

3. The point of contact for this memorandum is the undersigned at, [amber.l.bunch.mil@mail.mil](mailto:amber.l.bunch.mil@mail.mil).

A handwritten signature in cursive script, reading "Amber L. Bunch", is positioned above the typed name.

AMBER L. BUNCH  
CPT, JA  
Administrative Law Attorney