History. This publication is being revised to reflect changes to the military justice policies, guidance, or any prior documents on Fort Leonard Wood (FLW).

Summary. This Local regulation prescribes policies and procedures governing the administration of military justice for the general court-martial jurisdiction of Maneuver Support Center of Excellence (MSCoE) and FLW. This Regulation does not establish new procedural prerequisites for nonjudicial punishment (NJP) or trial by court-martial.

Applicability. This regulation applies to all organizations, units, detachments, tenants units and activities, and personnel 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 (GCMA) of the Commanding General (CG), U.S. Army, MSCoE and FLW. Other service components operating on FLW shall follow procedures for the administration of military justice promulgated by their service and respective chains of command.

Proponent and Execution Authority. The Proponent agency of this regulation is the Office of the Office of the Staff Judge Advocate (OSJA).

Supplementation. Local supplementation to this regulation is prohibited without prior approval of the Office of the OSJA, MSCoE and FLW.

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

Distribution. Electronic medium only and posted on the FLW Website.

* This regulation supersedes FLW Reg 27-10, dated 16 March 2016
Summary of Changes
To
FLW Reg 27-10, Military Justice

FLW Reg 27-10, 16 March 2016 has undergone major revisions

- Updates Rules for Courts-Martial references (throughout)
- Makes minor edits for clarity (throughout)
- Replaces “Trial Counsel” with “Military Justice Advisor” (throughout)
- Clarifies the roles and responsibilities of Judge Advocate Legal Services Personnel (chapter 1)
- Modifies and clarifies commanding general’s withholding policy (para 2-7)
- Incorporates policy on the issuance of General Officer Memorandum of Reprimand for certain categories of offenses (chapter 4)
- Expands and clarifies the reporting requirements to the commanding general (throughout)
- Modifies and clarifies victim services (chapter 5)
- Expands provisions regarding pretrial restraint (para 6-1)
- Added pretrial confinement (para 6-2)
- Expands and modifies witness attendance (para 6-4)
- Adds other considerations (chapter 7)
- Adds additional references (appendix A)
- Adds glossary (appendix B)
- Adds courts-martial convening authorities (appendix C)
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Chapter 1
Introduction

1-1. Purpose
This local regulation prescribes policies and procedures governing the administration of military justice within the general court-martial (GCM) jurisdiction on MSCoE and FLW. The policies and limitations are not intended to impose jurisdictional requirements or procedural prerequisites on court-martial or non-judicial 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 at Appendix B 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 16 March 2016, 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 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) and the legal personnel assigned to the U.S. Army Military Police School. 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 SJA will provide notice to the affected commanders prior to any movement of personnel.

c. 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 military justice advisor (MJA), 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, Unfavorable Information officer eliminations governed by AR 600-8-24, Officer Transfers and Discharges and enlisted separations processed pursuant to AR 635-200, Active Duty Enlisted Administrative Separation (other than enlisted separations process pursuant to AR 635-200, paragraph 5-11).

d. Special Assistant United States Attorney (SAUSA). The SJA 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 personnel 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.
e. Special Victim 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 SJA, but each attorney represents the interests of the individual client. The scope of the SVC’s representation is defined by statute and 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 individually, deliberately, and in strict compliance with applicable laws and regulations. An unlawful or unfair 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 Army, mission, individual Soldier, 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 commander’s 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 needs of justice to maintain good order and discipline. While superior commanders may withhold jurisdiction over certain offenses, superior commanders must never direct, or seek to influence, either directly or indirectly, any discretionary disposition decision 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 MOS unless the command first consults with their military justice advisor 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 military justice advisor. If, after consultation, the commander does impose conditions on liberty, such conditions must not be tantamount to confinement.

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 nobody 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 obtained and considered all relevant facts. Needless delays both detract from the fair administration of justice and jeopardize military readiness. This includes the timely processing of DA Form 4833, Commanders Report of Disciplinary or Administrative Action; it is expect that all commanders make it a priority when completion of the form is required.

1-7. Supporting Military Justice Advisor
   a. The SJA will designate a military justice advisor for each Special Court-Martial Convening Authority (SPCMCA) and their subordinate commanders. The designated judge advocate will serve as the primary military justice advisor for all military justice matters and legal actions arising from that SPCMAC and his or her subordinate commanders. Every SPCMAC and his or her subordinate commanders may also speak directly with the Deputy Staff Judge Advocate (DSJA) and SJA as needed.

   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 primary military justice advisor.

1-8. Processing of Actions and Access to the 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. Military justice advisors or their designated paralegal specialists/NCOs should have direct access to their supported commanders. The military justice advisor should normally hand-carry all legal actions directly to the commander, should brief the commander directly on the action, and should retrieve signed actions immediately for processing.

   d. Processing of any actions involving a Soldier in pretrial confinement or retained past their ETS date must be given the highest priority.

   e. Absent unusual and compelling circumstances, an officer who has temporarily assumed command of an organization will not unnecessarily delay legal actions pending the return of the commander.

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 military justice advisor, DSJA, or SJA.
1-10. Location, Supervision, and 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 his or her supervision is at the brigade legal office.

   b. Brigade legal 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 paralegal NCOs 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. If a paralegal must work at the OSJA either temporarily or permanently, the CPNCO will inform the respective brigade CSM to ensure there is no unnecessary degradation to the brigade legal mission and that a backfill has been identified, as needed. Military justice advisors will work primarily at the OSJA Military Justice Division but are expected to spend sufficient time at the brigade headquarters and subordinate units to provide appropriate legal support to commanders and to provide support to the brigade legal office.

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

   e. Military justice advisors are supervised and rated by the Chief of Military Justice and senior-rated by the SJA. Rating chains will be in accordance with AR 623-3.

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, Enlisted Promotions and Reductions, Chapter 10).


   f. Separation/Elimination. (AR 635-200 and AR 600-8-24).
2-2. Relationship of NJP to Nonpunitive Measures
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 go to TDS or consult with a civilian defense attorney:

   a. Documentation. The Soldier shall be provided a legible copy of the signed Article 15 (DA Form 2627, Record of Proceedings Under Article 15, UCMJ) 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 their 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 exercises 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, UCMJ, or prefer court-martial charges for the same act over which civilian authorities are exercising jurisdiction over the Soldier, without the prior consultation with their military justice advisor.

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 military justice advisor 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 Soldier’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, drill sergeants with multiple victims 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 (SPCMCs) 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 to the MSCoE and FLW SJA, and, if the allegation pertains to NCOs, a copy will be furnished to the MSCoE and FLW command sergeant major. If the information cannot be provided in 24 hours, provide an interim report with as much information as possible with a copy to the MSCoE and FLW SJA. At a minimum, the information provided should include: (1) Alleged misconduct (5Ws), (2) any potential victims, and (3) a general listing of services and resources provided and offered to the alleged victim.

b. Withheld to the SPCMCs: Allegations of trainer on trainee abuse, rape in violation of Article 120, sexual assault, in violation of Article 120, forcible 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 SPCMCs, O-6 commanders, who may delegate to their respective Summary Court-Martial Convening Authorities (SCMCAs), battalion commanders, on a case-by-case basis: 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 military justice advisor 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 AR 15-6 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 military justice advisor, SJA, and the MSCoE and FLW Director of Emergency Services (DES). The notification message will include the Soldier’s unit, date and time they were 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 military justice advisor, 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 Victim 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 Special Victim Counsel (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 co-located with the Client Services Division of 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.
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 Rule for Courts-Martial 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 military justice advisor.

   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 military justice advisor. Commanders must discuss the specifics of any proposed pretrial restraint or conditions on liberty, or any changes to existing conditions, with their military justice advisor 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, even moral restrictions such as limiting their movement, require consultation with their military justice advisor. 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 military justice advisor before implementation.

   d. When Directing Pretrial Restraint. Commanders should only order conditions on liberty in writing, after consultation with their military justice advisor, 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 military justice advisor, the commander must still provide written notice to the military justice advisor 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 military justice advisor 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. Any commander seeking pretrial confinement IAW R.C.M. 305 will:

1. Forward, through their military justice advisor, a summary of the alleged offense(s);

2. Complete a DA Form 5112, (Checklist for Pretrial Confinement) with assistance from their military justice advisor.

c. If pretrial confinement is approved. The command must:

1. Collect and Inventory the Soldier’s uniforms, clothing, and personnel effects.

2. Obtain and complete the Department of Defense (DD) Form 497 (Confinement Order).

3. Draft a Confinement Memorandum. The commander ordering pretrial confinement shall, within 24 hours after the imposition of the confinement, prepare a memorandum that contains, at a minimum, the name of the Soldier, the offenses charged or contemplated against the Soldier, and the name of the commander who ordered or authorized confinement under the provisions of RCM 305. The commander shall consult with their military justice advisor on the proper format of the memorandum.

4. Coordinate with their military justice advisor to ensure a TDS attorney is detailed to represent the Soldier.

5. Contact the Provost Marshall to coordinate processing the Soldier into confinement.

6. Transport the Soldier to the appropriate confinement facility under the provisions of AR 190-47, paragraph 10-19. The NCOIC, Military Justice Division, a designated paralegal NCO, or the unit’s military justice advisor will brief guards/escorts on their duties and responsibilities (ensuring, as necessary, instruction from military police on correct use of restraints).

7. Coordinate with the military justice advisor to obtain a neutral and detached officer (and Military Magistrate) review of the confinement under Rule for Courts-Martial 305(h)(2)(B). This review is not a decision to confine the Soldier, but rather a review of the commander’s decision to keep the Soldier in confinement pending trial. Compliance with Rule 305 is required. Therefore, the Chief, Military Justice Division will schedule a Magistrate’s hearing as soon as reasonably possible, and make every effort to set the hearing date no later than 48 hours after the imposition of confinement. If a Magistrate hearing cannot be scheduled within 48 hours after the imposition of confinement, the Chief, Military Justice Division will arrange for probable cause review by a neutral and detached officer as soon as reasonably possible and no later than 48 hours after the imposition of confinement. If the neutral and detached officer orders pretrial confinement to continue, the Chief, Military Justice Division will schedule a Magistrate’s hearing as soon as reasonably possible, and no later than seven days after the accused is ordered into pretrial confinement.

8. Any Soldier in pretrial confinement will be visited, at least once every calendar month, in person, by a member of his or her chain of command of the rank of E-7 or higher. The purpose of this visit is to ensure a check on the well-being of the Soldier and forward any complaints to the commander. The leader conducting the visit will not discuss the alleged misconduct which led to pretrial confinement.
6-3. Preparation of charge sheet
An accuser will coordinate and discuss potential court-martial charges with the supporting military justice advisor, general crimes attorney, or SVP before preferring charges against a Soldier.

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 their 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 his or her ETS date upon discovery of the allegation, the Soldier’s immediate permanent change of station commander will promptly inform their military justice advisor. If the Soldier receives orders to PCS or ETS at any time during the investigation, the commander will inform their 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 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. The accused’s command will designate at least two
Soldiers to conduct physical inspection of persons entering the courtroom.

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 withdrawn 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 military justice advisors 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. Charges. 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, they will immediately contact their 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
References

Section I
Required Publications

Manuals for Courts-Martial, United States (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), including RAR 3 issued 13 Sep 11.

AR 601-280 (Army Retention Program)

AR 635-200 (Active Duty Enlisted Administrative Separations), including RAR 3 issued 6 Sep 11.
Section II
Related Publication


Army Directive 2016-19 (Retaining a Quality Noncommissioned Officer Corps), 26 May 16.

Section III
Prescribed Forms (unless otherwise indicated, DA forms are available on the Army Publishing Directorate Website)

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

DA Form 2627 (Record of Proceedings under Article 15, UCMJ), (http://www.apd.army.mil)

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), 4 Mar 13.

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
Section 1

Glossary

CG
Commanding General

CMJ
Chief, Military Justice

CPNCO
Chief Paralegal Noncommissioned Officer
DSJA
Deputy Staff Judge Advocate

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

GCMCA
General Court-Martial Convening Authority

GLWACH
General Leonard Wood Army Community Hospital

MSCoE
Maneuver Support Center of Excellence

NJP
Non-Judicial Punishment (Article 15)

PTC
Pre-Trial Confinement

SAUSA
Special Assistant United States Attorney

SCMCA
Summary Court-Martial Convening Authority

SPCMCA
Special Court-Martial Convening Authority

SJA
Staff Judge Advocate

TDS
Trial Defense Service

UCI
Unlawful Command Influence

Section II
Special Abbreviations and Terms

CG – Commanding General and the MSCoE and FLW General Court-Martial Convening Authority.

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

Chief Paralegal NCO (CPNCO) – Senior NCO in the OSJA who is responsible for the overall management, training, and professional development of paralegals.
DSJA - Deputy Staff Judge Advocate.

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

GCMCA – General Court-Martial Convening Authority.

GLWACH – General Leonard Wood Army Community Hospital.

Command Legal Advisor – Judge Advocate assigned to provide legal advice to a respective commander at the SPCMCA level and his or her subordinate commanders.

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 (Article 15).

PTC – Pre-Trial Confinement.

SAUSA – Special Assistant United States Attorney. Judge Advocate appointed to prosecute misdemeanor level 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).

Staff Judge Advocate – Senior installation Judge Advocate and legal advisor to the CG/GCMCA.

Appendix C
Designation of Court-Martial Convening Authorities

a. Jurisdictional Alignment. Under the provisions of Articles 22(a)(5) and 22(a)(8) of the UCMJ, the Commander, MSCoE and FLW has the authority to convene courts-martial and serves as the GCMCA for all units and personnel assigned or attached to MSCoE and FLW for the administration of military justice, unless individual unit attachment or assignment orders specify otherwise.

b. Special and Summary Court-Martial Convening Authorities.

(1) The CG withholds the authority of subordinate commanders to convene special courts-martial (not authorized to adjudicate a Bad Conduct Discharge).

(2) The Special Court-Martial Convening Authorities (SPCMCAs) are:

   Commander, 1st Engineer (ENG) Brigade
   Commander, 14th Military Police (MP) Brigade
   Commander, 3d Chemical (CHEM) Brigade
Commander, US Army Medical Command (MEDDAC) (General Leonard Wood Army Community Hospital) (GLWACH)
Commander, US Army Dental Command (DENTAC)
Commander, US Army Garrison, Fort Leonard Wood

(3) The Summary Court Martial Convening Authorities (SCMCA) subordinate to the 1st Engineer Brigade and the SCMCA’s subordinate companies are:

(a) Commander, 35th ENG Battalion
Commander, Alpha Company
Commander, Bravo Company
Commander, Charlie Company
Commander, Delta Company
Commander, Echo Company

(b) Commander, 31st ENG Battalion
Commander, Alpha Company
Commander, Bravo Company
Commander, Charlie Company
Commander, Delta Company
Commander, Echo Company

(c) Commander, 169th ENG Battalion
Commander, Alpha Company (Panama City, FL)
Commander, Bravo Company
Commander, Charlie Company (Gulfport, MS)
Commander, Delta Company (Sheppard AFB, TX)
Commander, Foxtrot Company (Horizontal Skills Division)
Headquarters and Headquarters Company (HHC), 1st ENG BDE
Commander, 169th Sapper Company

(d) Commander, 554th ENG Battalion
Commander, Alpha Company
Commander, Bravo Company
Commander, Charlie Company
Commander, Delta Company
Commander, Hotel Company (Quarry Support Platoon)

(e) Commander, 5th ENG Battalion
Commander, HHC, 5th ENG Battalion
Commander, 50th Multi-Role Bridge Company
Commander, 509th Clearance Company
Commander, 515th Sapper Company
Commander, 595th Sapper Company
Commander, Forward Support Company
Commander, Engineer K9 Company
Commander, 94th Engineer Detachment (Mine Dogs)
Commander, 562d Engineer Detachment
(4) The SCMCAs subordinate to the 14th Military Police Brigade and SCMCAs subordinate companies are:

(a) Commander, 701st Military Police Battalion
   Commander, Headquarters and Headquarters Detachment (HHD), 701st MP BN
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company (Joint Base San Antonio-Lackland)
   Commander, Echo Company
   Commander, Foxtrot Company

(b) Commander, 787th Military Police Battalion
   Commander, HHD, 787th MP BN
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company
   Commander, Echo Company
   Commander, Foxtrot Company

(c) Commander, 795th Military Police Battalion
   Commander, HHD, 795th MP BN
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company (Joint Base San Antonio-Lackland)
   Commander, Echo Company
   Commander, 252d MP Detachment
   Commander, 180th MP Detachment
   Commander, HHC, 14th MP BDE

(d) Commander, 1st Battalion, 58 Infantry Regiment
   Commander, HHD, 1st Battalion, 58 Infantry Regiment
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company (Joint Base San Antonio-Lackland)
   Commander, Echo Company

(e) Commander, 43d Adjutant General Battalion – Attached
   Commander, HHC
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Fitness Training Unit
   Commander, Reception and Holding Unit United States Army
   Commander, Combat Training Company
   Commandant, MSCoE Noncommissioned Officer Academy (No command authority)
   Commander, 399th Army Band
   Commander, HHC, MSCoE
   Commander, 763d Explosive Ordinance Disposal Company (For administrative, not UCMJ, purposes)
(5). The SCMCAs subordinate to the 3d Chemical Brigade and SCMCAs subordinate companies are:

(a) Commander, 2d Battalion, 10th Infantry Regiment
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company
   Commander, Echo Company

(b) Commander, 3d Battalion, 10th Infantry Regiment
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company
   Commander, Echo Company
   Commander, HHC, 3-10 INF

(c) Commander, 1st Battalion, 48th Infantry Regiment
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company
   Commander, Echo Company
   Commander, Foxtrot Company

(d) Commander, 2d Battalion, 48th Infantry Regiment
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, Delta Company
   Commander, Echo Company
   Commander, Foxtrot Company

(e) Commander, 84th Chemical Battalion
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company
   Commander, HHD, 3d CHEM BDE

(d) Commander, 58th Transportation Battalion
   Commander, HHC
   Commander, Alpha Company
   Commander, Bravo Company
   Commander, Charlie Company

(6) The company subordinate to the Commander, MEDDAC is: Commander, Hospital Company, MEDDAC