United States Army Training Center & Fort Jackson Supplement 1 of Army Regulation 27-10

DEPARTMENT OF THE ARMY
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USATC&FJ Supplement 1 to
AR 27-10, Military Justice

Effective Date: 12 April 2012

Legal Service
Military Justice

1. **PURPOSE AND SCOPE.** This regulation supplements AR 27-10, Military Justice, 3 October 2011, to furnish guidance and establish responsibilities for the administration of military justice by United States Army Training Center and Fort Jackson (USATC&FJ) and subordinate commands attached to the USATC&FJ for UCMJ jurisdiction and administrative actions.

2. **APPLICABILITY.** This regulation applies to all personnel assigned or attached to USATC&FJ for UCMJ jurisdiction and administrative actions. Further supplementation of this regulation by subordinate commander is prohibited, unless expressly stated and subject to the following:

a. The Commander, United States Army Training Center and Fort Jackson (USATC&FJ) has been designated as a General Court-Martial Convening Authority (GCMCA) pursuant to Headquarters, Department of Army General Order Number 2010-03, dated 23 March 2010.

b. Subordinate units that are tenants of an installation other than Fort Jackson, South Carolina are subject to the General Court-Martial (GCM) jurisdiction of the installation commander. The Commanding General, USATC&FJ maintains concurrent GCM jurisdiction over all units and personnel of the command regardless of location.

3. **POLICIES.** AR 27-10, dated 3 October 2011, is supplemented, as follows, effective this date. This supplement supersedes USATC&FJ Supplement 1 to AR 27-10, Military Justice dated 25 January 2011, which is hereby rescinded.

Page 1, paragraph 1-1. Purpose. Add the following:

The policies and limitation herein are not intended to impose jurisdictional requirements or procedural prerequisites on court-martial or nonjudicial punishment proceedings, and are not intended to confer rights upon any accused. In the event that AR 27-10 is superceded or any provision of this regulation is rendered inoperable by regulation or law, unaffected parts of this document will remain in effect. The provisions of this supplement shall continue to remain applicable despite changes in page and paragraph numbers in the basic regulation.

Page 1, paragraph 1-4. Responsibilities. Add subparagraphs d-e.

d. The USATC&FJ Staff Judge Advocate (SJA) has primary responsibility for the assignment, MOS training, management, education, professional development, proper utilization and assignment authority of all legal personnel within USATC&FJ. This applies to all judge advocates (27A), civilian attorneys, legal administrators (270A), paralegal specialists (27D), paralegal NCOs (27D), civilian paralegals, legal assistants, and court reporters (27DC5).

e. Paralegal Specialist/NCOs, legal administrators, and judge advocates under AR 27-3 will not be assigned regular duties inconsistent with their military occupational specialty when such duties will delay the processing of legal actions. Such duties include assignment to long-term details that delay processing administrative separation or post-trial actions. Additionally, judge advocates, legal administrators, command/chief paralegal NCOs, senior paralegal NCOICs, and military justice NCOICs are exempt from all unit detail rosters because of the nature and potential conflict their details create with their legal duties.

Page 1. Chapter 1. Introduction. Add paragraph 1-5 and 1-6.

1-5. Assistance to Investigating and Summary Court Officers

Officers appointed as investigating officers pursuant to Article 32, Uniform Code of Military Justice (UCMJ), or as Summary Courts-Martial (SCM) officers, will contact the Administrative Law Division of the Office of the Staff Judge Advocate ((803) 751-7323 DSN 734) for advice concerning their duties within 24 hours after appointment.

1-6. Nomination of Potential Courts–Martial Panel Members to the GCMCA.

Upon request, the Special Courts-Martial Convening Authorities will personally nominate Soldiers from their commands for consideration as potentials courts-martial members for selection by the General Courts-Martial Convening Authority that, in their opinion, are best qualified in accordance with Article 25, Uniform Code of Military Justice.

Page 2, paragraph 2-4. Grants of immunity. Add subparagraph e.

e. The authority to issue grants or promises of immunity (see Rule for Courts-Martial 704, Manual for Courts-Marital, 2012) is limited to the Commanding General or General Court-Martial Convening Authority, USATC&FJ. No subordinate commander will solicit evidence or information during an investigation of any offense under the Uniform Code of Military Justice in exchange for any promise not to prosecute, or promise or inducement of favorable consideration on sentence. Any request for a grant of immunity will be forwarded by the Special Court-Martial Convening Authority to the Chief of Military Justice, Office of the Staff Judge Advocate, USATC&FJ.

Page 6, Paragraph 3-7. Who may impose nonjudicial punishment. Add subparagraph d(1-7).

d(1). Authority to issue administrative reprimands and impose nonjudicial punishment is reserved to the Commanding General or General Court-Martial Convening Authority, USATC&FJ, for any incident of misconduct in which the Soldier is a commissioned officer, warrant officer, or noncommissioned officer in the rank of Master Sergeant (E-8) and above. This authority extends to Drill Sergeants of any rank when the incident of misconduct involves trainee abuse as defined by TRADOC Regulation 350-6, paragraph 2-4.

d(2). Authority to issue administrative reprimands and impose nonjudicial punishment is reserved to the Special Court-Martial Convening Authority when the misconduct involves drugs, weapons, domestic violence, or sexual misconduct.

d(3). Notwithstanding paragraph d(2), above, Commanders will not impose nonjudicial punishment under Article 15, UCMJ, for any offense that is pending trial or that has been tried in any state or federal criminal court. Commanders may seek an exception from the GCMCA for nonjudicial punishment for a case tried by civilian authorities. Commanders should coordinate with their unit trial counsel to determine whether civilian authorities are exercising jurisdiction.

d(4). The Commander, US Army Soldier Support Institute (USASSI) retains the authority to issue administrative reprimands and impose nonjudicial punishment relating to all categories of personnel assigned to USASSI if the Commander is a General Officer.

d(5). All misconduct reserved by the GCMCA will be reported through the Office of the Staff Judge Advocate to the Commanding General or GCMCA for appropriate disposition, and will include the following: The investigative file or information concerning the alleged misconduct; the Officer Record Brief (ORB) or Enlisted Record Brief (ERB); record of previous disciplinary action, if any; chain of command recommendations as to disposition; and if applicable, a request for release of authority to dispose of the offense. All misconduct reserved by the GCMCA will be evaluated on its own merits as to initiation and appropriate filing, including chain of command recommendations and any matters submitted by the Soldier.

d(6). Local installation withholding policies of installations with area jurisdiction as defined by AR 27-10, Appendix E are not superseded by this supplement.

d(7). Company level commanders, regardless of rank, are limited to company grade officer punishments as depicted by AR 27-10, table 3-1.

Page 29, Paragraph 5-2b. Procedures for Courts-Martial. Add subparagraph 4.

4. When investigating an allegation of improper or illegal behavior, officer or enlisted, the immediate commander will promptly initiate suspension of favorable (flagging) action IAW AR 600-8-2. If flagging action will result in the Soldier being retained beyond the Soldier's ETS date, the immediate commander will notify the unit's judge advocate to request extension under AR 635-200, paragraph 1-22.

Page 33, Paragraph 5-15. Pretrial confinement. Add subparagraphs e-m

e. Pre-trial confinement is not authorized until the USATC&FJ SJA is notified and concurs with the efforts to place the accused in pre-trial confinement. This coordination will normally be accomplished by the trial counsel through the Chief of Military Justice.

f. The trial counsel will provide assistance and guidance to the commander on pre-trial confinement procedures.

g. The commander ordering pre-trial confinement IAW Rule for Courts-Martial (R.C.M) 305(h)(2)(B), will provide the trial counsel with all evidence of the alleged offenses. The commander ordering pre-trial confinement will complete DA Form 5112-R, Checklist for Pre-Trial Confinement, to include:

(1) Why the commander believes the accused committed an offense;

(2) Why confinement is necessary to ensure the accuser's presence at trial; or

(3) How confinement will prevent further serious misconduct by the accused; and

(4) Why restriction or other less severe forms of restraint are not sufficient.

h. A commander who places an accused in the status of arrest in quarters or restriction in any form pending charges will immediately notify the trial counsel. The notification will include: (1) the date restriction was imposed; and (2) the conditions of the restriction.

i. Any type of revocation of pass privileges, restriction, or arrest in quarters imposed by a commander should be in writing. If a commander imposes any pass revocation, restriction, or arrest in quarters orally or through a subordinate, the commander should issue a written order as soon as practicable.

j. Commanders should maintain contact with Soldiers in pre-trial confinement (military and civilian) to ensure their safety, welfare, and morale.

(1) Company level commanders should personally visit Soldiers placed in pre-trial confinement in a military facility during the first thirty (30) days of confinement. Thereafter, commanders, first sergeants, executive officers, or other members of the chain of command or supervisors, should personally visit Soldiers monthly. Commanders should contact the Soldier by telephone at least once a month.

(2) Company level commanders with Soldiers in local civilian pre-trial confinement should visit Soldiers at least once during the first thirty (30) days of confinement. Thereafter, company level commanders, first sergeants, executive officers, or other members of the chain of command or supervisors, should contact the Soldier by telephone at least once a month.

(3) Company level commanders with Soldiers in civilian pre-trial confinement outside the local area should telephonically contact their Soldiers at least once during the first thirty days of confinement. Thereafter, company level commanders, first sergeants, executive officers should continue to telephonically contact Soldiers at least once a month.

k. Guards. At least two guards will be assigned from the parent unit for each pretrial or post-trial prisoner to be transported. Both guards will be mature, responsible individuals, with no record of adverse incidents or personal friendship or involvement with the accused. They must be physically capable of restraining the prisoner. The senior guard will be a non-commissioned officer, and both guards will be senior in rank to the accused. At a minimum, one of the guards will be the same sex as the accused. If the accused is an officer, at least one of the guards will be an officer senior to the accused. Guards are responsible for maintaining control of the accused at all times, to include in the courtroom during trial, at the defense counsel's office, or in the latrine. The guards, however, will neither intrude upon the attorney-client relationship, nor the confidentiality expected between defense counsel and client.

l. Escorts for an accused. An accused not in pretrial confinement will be accompanied by two escorts enroute to the courtroom on the day of trial. Escorts will meet the qualifications for guards established in subparagraph k above, since they will immediately assume the duties of guards if an accused is sentenced to confinement. A Soldier is deemed to be in post-trial confinement at the moment the military judge or president of the court announces a sentence that includes confinement.

m. The unit commander will be notified by the unit trial counsel of the requirement and suspense to provide escorts/guards, to include the requirement for a briefing by the USATC&FJ Criminal Law Office prior to the scheduled trial date.

Page 34, Paragraph 5-16. Preparation of Charge Sheet. Add paragraph c and d.

c. All charges entered on DD Form 458 will be reviewed by the trial counsel and the Chief of Military Justice, before preferral.

d. Charges should ordinarily be preferred before a Soldier is placed in pre-trial confinement or restriction tantamount to confinement. If a Soldier is confined or restricted prior to preferral, the commander must prefer charges as soon as practicable, subject to paragraph c. above.

Page 35, Paragraph 5-19. Referral of charges. Add subparagraph c and d.

c. Convening authorities subordinate to the general courts-martial convening authority of the Commanding General, USATC&FJ are as indicated in Appendix A to this supplement.

d. The Commanding General, USATC&FJ, delegates to the SJA, DSJA, Chief of Military Justice, Legal Administrator, and Chief Paralegal NCO the authority to sign and execute block 14 of DD Form 458 referral action.

Page 36, Paragraph 5-21c. Preliminary produces. Add to subparagraph c.

c. The Commanding General, USATC&FJ, delegates to the SJA the authority to excuse no more than one third of the court-members prior to assembly in accordance with R.C.M 505(c).

Page 39, Paragraph 5-32. Convening authority action. Add subparagraph e.

e. The authority to sign the order directing post-trial confinement is delegated to any trial counsel, the Chief of Military Justice, the DSJA, and the SJA. The authority to sign orders promulgating convening authority action is delegated to the Chief of Military Justice, the DSJA, the Legal Administrator, and the Chief Paralegal NCO.

Page 106, Paragraph 19-9. Action by the person receiving the complaint. Add subparagraph c.

c. Any commissioned officer who receives an Article 138 complaint shall immediately contact the Administrative Law Division of the Staff Judge Advocate (803)751-7323 DSN 734) for a briefing.

Page 118, Paragraph 23-5. Misdemeanors. Add subparagraph g.

g. The Federal Magistrate Court and Fort Jackson. As allowed for in subparagraph f, an agreement has been coordinated with the United States Attorney's Office for the District of South Carolina and the Chief Judge of the Federal Magistrate Court for the District of South Carolina. The agreement delineates responsibilities for adjudicating petty traffic and misdemeanor offense, to include Driving Under the Influence (DUI) on Fort Jackson. In practice, Soldiers that receive citations for such offenses will be handled as follows:

(1) To ensure impartial judicial determination, disposition, and effective law

enforcement, and in implementation of Department of Defense Instruction 6055.4, dated 2 April 2010, commanders will not impose nonjudicial punishment, or prefer charges under the UCMJ, for on-post traffic offenses, including driving under the influence (DUI), without prior approval of the Commanding General, USATC&FJ. Requests to the Commanding General must originate with the Soldier's Special Courts-Martial Convening Authority, and be forward through the Office of the Staff Judge Advocate, USATC&FJ.

(2) Commanders will not impose nonjudicial punishment or prefer charges under the UCMJ for off-post misconduct over which a civilian agency has asserted criminal jurisdiction without first coordinating through the unit trial counsel to the Chief of Military Justice, USATC&FJ. This includes traffic related offenses and DUI.

4. The changes remain in effect until rescinded or further modified.

5. The proponent agency of this supplement is the Office of the Staff Judge Advocate, USATC&FJ. Send suggestions for improvements directly to the Office of the Staff Judge Advocate, ATTN: ATZJ-MJ, USATC&FJ, Fort Jackson, South Carolina 29207.

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Appendix A
Subordinate Courts-Martial Convening Authorities

The following are the Special Courts-Martial Convening Authorities (SPCMCA) subordinate to the general courts-martial convening authority of the Commanding General, USATC&FJ:

a. Commander, U.S. Army Soldier Support Institute;

b. Commander, 193d Infantry Brigade;

c. Commander, 165th Infantry Brigade;

d. Commander, 171st Infantry Brigade*;

e. Commander, U.S. Army Medical Department Activity (MEDDAC);

f. Commander, U.S. Army Dental Activity (DENTAC);

g. Commander, United States Army Garrison – Fort Jackson

* In the event that a battalion-sized unit assigned or attached to the USATC&FJ does not have a SPCMCA, 171st Infantry Brigade will serve as that Battalion's SPCMCA. Further, in the event that a Company-sized unit assigned or attached to the USATC&FJ does not have a Summary Court-Martial Convening Authority (SCMCA), 4th Battalion, 10th Infantry Regiment will serve as that Company's SCMCA. 4th Battalion, 10th Infantry Regiment will also exercise SCMCA and 171st Infantry Brigade will exercise SPCMCA over the US Army Drill Sergeant School, Training Support and Schools Directorate (TSSD), and the US Army Chaplain Center and School.