

# Military Justice & Discipline

**W**ithout the glue that is proper discipline, the Army cannot function – that core tenet is ingrained in basic trainees from Day 1. While the commander is responsible for instilling discipline in the Soldiers he or she leads, the NCO aids in this effort by fostering greater teamwork, enhanced efficacy and stronger unity.

Yet, many Soldiers inaccurately equate military discipline solely with punishment, overlooking the reality that self-will, determination and a well-formed

understanding of the roles and responsibilities within the Army are all necessary components. To educate young NCOs in this broader view, the new Warrior Leader Course adds a detailed lesson on military justice and discipline, one that attempts to instruct students about the entire process.

“It’s a great addition,” said Staff Sgt. Dennis Henning, a small group leader at the Christopher R. Brevard NCO Academy at Fort Wainwright, Alaska, one of the pilot sites for the new POI. “Soldiers don’t know much about it unless they actually have gone through it – either they’ve given an Article 15 [nonjudicial punishment] or have had one given to them.”

Incorporating material from AR 600-20, *Army Command Policy*; the Uniform Code of Military Justice; and AR 27-10, *Military Justice*, the lesson begins with an analysis of the concept of command authority and the components of proper military discipline. It then guides students through the procedures used to correct or punish wayward Soldiers.

**COMMAND LEADERSHIP:** Commissioned and warrant officers are responsible for developing their unit’s discipline and cohesiveness. NCOs assist the commander with creating a good leadership climate, especially in ensuring loyalty,



The judge’s bench, foreground, and the accused’s seat, background right, are seen in the 4th Judicial Circuit courtroom at Fort Bliss, Texas. Between 50 and 75 courts-martial are held in the courtroom each year.

trust and confidence are abundant between the commander and Soldiers.

**MILITARY DISCIPLINE:** This is comprised of self-discipline, respect for authority and the embracing of the professional Army ethic with its supporting values. Commanders enforce discipline by developing a spirit of teamwork; through smartness of appearance and action; by showing mutual respect between senior and subordinate personnel; by prompt and willing execution of both the letter

and the spirit of the legal orders of their commanders; and by exhibiting fairness and equity for all Soldiers.

**PROHIBITED RELATIONSHIPS:** Soldiers must avoid any relationship that compromises or appears to compromise the integrity of the chain of command, causes actual or perceived partiality or unfairness, involves or appears to involve the improper use of rank or position for personal gain or creates an adverse impact on discipline, authority, morale or the ability to accomplish the mission. Such improper relationships are often misunderstood by students, Henning said. “It surprises students the most because most only think of fraternization as a male-female relationship. But, they don’t realize that a subordinate-superior relationship could also be inappropriate.”

**OPTIONS AFTER AN OFFENSE:** Students learn the detailed procedures involved in carrying out nonpunitive measures, imposing nonjudicial punishment (an Article 15) and referring serious incidents to a court-martial. While it is the commander’s responsibility to initiate and enforce such actions, the input of the NCOs who work with an accused Soldier are invaluable to an officer charged with determining his or her guilt and the appropriate punishment.



## OPTIONS DEPENDING ON THE OFFENSE

Depending on the gravity of the offense, commanders have several options at their disposal to enforce military discipline and justice within their ranks, according to AR 27-10, Military Justice. In commands led by an NCO — an NCO Academy, for example — officers are assigned to mete out the measures or punishment recommended by the command sergeant major.

### Nonpunitive measures:

- ✓ **For minor infractions:** Nonpunitive measures usually deal with misconduct resulting from simple neglect, forgetfulness, laziness, inattention to instructions, difficulty in adjusting to disciplined military life and similar deficiencies.
- ✓ **Not punishment:** These measures are primarily tools for teaching proper standards of conduct and performance and do not constitute punishment.
- ✓ **Examples:** Denial of pass or other privileges, counseling, administrative reduction in grade, administrative reprimands and admonitions, corrective training, bar to re-enlistment and military occupational specialty reclassification.

### Nonjudicial punishment (Article 15):

- ✓ **For minor UCMJ violations:** Generally, the term “minor” includes misconduct not involving any greater degree of criminality than is involved in the average offense tried by summary court-martial.

- ✓ **The next level:** The aim is to correct, educate and reform offenders whom the commander determines cannot benefit from less stringent measures.
- ✓ **Record preserved:** A Soldier’s record of service is protected from the stigma of a court-martial conviction.
- ✓ **Examples:** Correctional custody, restriction, extra duties, reduction in grade and forfeiture of pay.

### Courts-martial:

- ✓ **For serious UCMJ violations:** When a commander determines that more than an Article 15 is appropriate — that the proper sanction lies in a judicial forum — he or she can recommend the case be referred to a court-martial.
- ✓ **Summary court-martial:** Convened by a battalion commander under simplified procedures, this court can only try enlisted personnel. A field-grade officer presides.
- ✓ **Special court-martial:** Can be convened by a brigade commander. It can be presided by a military judge alone or with a panel of three officers. For this and a general court-martial, a federal conviction results if a Soldier is found guilty.
- ✓ **General court-martial:** Convened by a general officer, it can be presided by a military judge alone or by a judge and a panel of five officers. As the highest military trial court, it involves much more detailed and formal procedures.

## Article 15 procedures: The process in a nutshell

### PRELIMINARY INQUIRY

The commander initiates an informal investigation into the alleged offense to determine whether an offense was committed, whether the Soldier was involved and the character and military record of the Soldier. If he or she finds that an offense was committed and nonjudicial punishment is warranted, one of two options is available:

### SUMMARIZED PROCEEDINGS

Punishment is limited to, for example, 14 days of extra duty or restriction, an oral reprimand, or both.

### FORMAL PROCEEDINGS

Punishment can exceed the above. The Soldier can request counsel — a judge advocate or Army civilian lawyer.

### HEARING

The Soldier is notified of his or her rights, including being able to demand trial by a court-martial. At the hearing, evidence is presented and testimony is given by witnesses against the accused or in the Soldier’s defense. The commander then determines the Soldier’s guilt or innocence and either imposes punishment or ends the proceedings.

### APPEAL

The Soldier can appeal the decision to the commander’s higher authority, who usually acts in three to five days. The Soldier may feel the evidence doesn’t support a determination of guilt or may believe the punishment imposed is excessive. The higher authority may refer the appeal to a judge advocate for a legal opinion.