

Legal Services
Military Justice

History. This regulation is a major revision. Portions affected by this revision are listed in the summary of change.

Summary. This regulation prescribes additional policies and procedures governing the administration of military justice for the general court-martial jurisdiction of the Commander, III Corps and Fort Hood.

Applicability. This regulation applies to all organizations, units, detachments, tenant units and activities, and personnel assigned or attached to units within the geographical limits of Fort Hood. This regulation also applies to the 1st Cavalry Division (1CD) and 4th Infantry Division (4ID)

unless otherwise indicated. All references herein to the masculine gender denote both male and female personnel and are intended solely to promote readability.

Supplementation. Local supplementation of this regulation is prohibited without prior approval of Staff Judge Advocate (SJA).

Suggested Improvements. The proponent of this regulation is the SJA. Users are invited to send comments and suggest improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Headquarters, III Corps and Fort Hood, ATTN: AFZF-JA, Fort Hood, Texas 76544-5001.

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Chapter 1

Overview

1-1. Purpose

This regulation prescribes policy and procedures governing the administration of military justice within the general court-martial (GCM) jurisdiction of the Commander, III Corps and Fort Hood, 1st Cavalry Division, and 4th Infantry Division. The policies and limitations herein are not intended to impose jurisdictional requirements or procedural prerequisites on court-martial or non-judicial-punishment proceedings. Failure to comply with this regulation does not affect the validity of any action or confer rights upon any accused not otherwise existing.

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. Summary of change

Specifically, this revision dated 10 November 2008 –

- Discusses Forces Command approval for the creation of rear provisional units.
- Outlines the administration of military justice for III Corps and Fort Hood units and personnel, and withholding and delegation policies over senior leaders and certain types of offenses.
- Discusses the general Federal Magistrate procedures and jurisdiction over driving under the influence and driving while intoxicated on the Fort Hood installation.
- Addresses the requirement to initiate a general officer memoranda of reprimand for all driving under the influence, driving while intoxicated, and refusals to take a blood alcohol test.
- Highlights the requirements for victim witness assistance.
- Contains a summary of III Corps and Fort Hood court-martial procedures and requirements for court-martial duty.
- Discusses the III Corps and Fort Hood Office of Staff Judge Advocate's technical supervision of all legal personnel on Fort Hood and duty requirements.

- Discusses court-martial policies and procedures for III Corps and Fort Hood.
- Highlights the availability and procedures for Soldiers to consult with Trial Defense Service.
- Addresses the procedures for administrative separation boards and boards of inquiry.
- Reinforces the monthly reporting by legal personnel assigned to Special Court-Martial Convening Authorities.

Chapter 2 Jurisdiction

2-1. III Corps and Fort Hood General Court-Martial Convening Authority (GCMCA) jurisdiction

The military justice relationship of Fort Hood units may change due to mission or organization. See appendix B for the current III Corps and Fort Hood General Court-Martial Convening Authority (GCMCA) jurisdiction. All commanders must understand their military justice responsibilities, subordinate and superior Article 15, Uniform Code of Military Justice (UCMJ) (Nonjudicial punishment) authorities, and courts-martial convening chains of authority. Commanders should submit questions and recommended changes to their servicing Chief, Criminal Law.

2-2. Creating rear provisional units

Since most deploying commands will leave behind pending courts-martial and administrative separations, it is critical that rear commanders have the proper authority to exercise military justice. Therefore, the unit may need to establish a provisional unit properly designated in accordance with (IAW) Army Regulation (AR) 220-5 (Designation, Classification, and Change of Status of Units), paragraph 2-5a. For units assigned to Forces Command (FORSCOM), the FORSCOM commander has withheld authority to create provisional units. The unit's servicing Chief, Criminal Law should work with his or her counterparts in G-1 and G-3/5/7 (force structure) to ensure the rear (provisional) unit has authority from the FORSCOM commander, an activated unit identification code (UIC), is reported to the Center of Military History (DAMH-FPO), and has proper orders establishing the rear (provisional) unit and military justice authority for adverse administrative and UCMJ actions. Commanders desiring to establish a rear (provisional) unit and obtain FORSCOM commander approval must coordinate with their servicing Chief, Criminal Law not later than (NLT) 120 days before the date needed to establish the rear (provisional) unit (i.e., date of deployment). There are specific rules for deploying Reserve Component (RC) and Army National Guard (ARNG) units requiring a derivative unit identification code (DUIC) and maintaining UCMJ authority during mobilization and demobilization. Before exercising UCMJ

authority on Fort Hood, RC and ARNG commanders should coordinate with the III Corps and Fort Hood Chief, Criminal Law. Divisional rear (provisional) units will fall under the III Corps and Fort Hood GCMCA.

2-3. Not assigned or attached Soldiers or units

Non-divisional units and Soldiers not assigned or attached to a separate and detached III Corps and Fort Hood unit will be attached to Headquarters and Headquarters Company (HHC), III Corps and Fort Hood for the purpose of UCMJ and adverse administrative actions.

Chapter 3 Administration of Military Justice

A commander has a unique and powerful role in the military justice system. In that role, a commander has the authority to affect individual lives and the morale and readiness of his or her command. A commander has a duty to ensure that in disposing of alleged misconduct committed by Soldiers within his or her command, he or she does so carefully, deliberately, and in strict compliance with applicable law and regulation. Soldiers will rally behind and remain loyal to a thoughtful and fair commander. An unfair or unlawful approach to military justice adversely impacts the morale of a unit and compromises its war fighting effectiveness. Commanders must understand and comply with the following requirements when deciding how to dispose of allegations of misconduct:

a. *Individualized treatment of each case.* The disposition decision is one of the most important and difficult decisions facing a commander. Each Soldier deserves to have his or her case adjudicated based on the specific facts of his or her individual case. Each commander must make fair and individualized determinations for each case of misconduct. Commanders must carefully consider the factors set forth in Rule for Courts-Martial (R.C.M.) 306. Commanders will not have an inflexible policy, either in disposition or punishment, towards the administration of justice based upon the type of offense committed or the grade of the offender.

b. *Unlawful command influence.* Commanders will not order a subordinate to dispose of an incident of misconduct in a particular way. Equally important, commanders shall not seek to influence, either directly or indirectly, the decision of subordinate commanders when disposing of misconduct under the UCMJ. Each commander must exercise their independent discretion when determining or recommending an appropriate disposition for a Soldier's alleged misconduct.

c. *Treatment of a Soldier pending UCMJ proceedings.* A commander may not punish a Soldier accused of misconduct prior to the completion of UCMJ proceedings. Any treatment intended to humiliate, ridicule, or is otherwise contrary to the inherent dignity and respect of an accused Soldier is unlawful and will not be tolerated. Soldiers who are not in pretrial confinement are expected to continue to perform duties commensurate with their grade and military occupational specialty (MOS) unless there

are legitimate governmental interests served by having that Soldier perform some other duty.

d. *Timely disposition of misconduct.* Commanders are expected to dispose of allegations of misconduct in a timely manner at the lowest appropriate level of disposition. If a commander decides to take action, if any, they should act as soon as they have all the relevant facts. The military is a transient profession and needless delays detract from the fair administration of justice.

e. *Fairness of proceedings.* Commanders are expected to ensure that in disposing of misconduct, the proceedings are fair and they consider all known and relevant information. A commander should ensure that neither he or she nor a subordinate intimidates or discourages witnesses, either directly or indirectly, from providing information on behalf of a Soldier appearing at a court-martial, administrative board, or nonjudicial punishment (Article 15) proceeding. To the contrary, commanders must encourage those who possess information, either favorable or unfavorable, to provide that information in order to ensure full and fair adjudication of the misconduct.

Chapter 4

Authority to Take Adverse Action

4-1. Withholding and delegation policies

The Office of the Staff Judge Advocate (OSJA) command policy memorandums, signed by the Commander, III Corps and Fort Hood *prior* to 18 July 2008 are hereby revoked. This revocation only applies to III Corps and Fort Hood OSJA command policy memorandums and does not apply to other command section policy memorandums. 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 they see fit. Except for paragraph 4-5 below, this paragraph does not apply to 1CD or 4ID. The 1CD and 4ID GCMCAs retain discretion to establish withholding and delegation policies and procedures for units and personnel attached or assigned under their UCMJ jurisdiction.

4-2. Senior leader misconduct

Pursuant to R.C.M. 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, and master sergeants is withheld to the Commander, III Corps and Fort Hood unless such authority is returned to a lower level commander. The Commander, III Corps and Fort Hood may, on a case by case basis, return actions to lower level commanders for disposition at the request of the lower level commander or when the Commander, III Corps and Fort Hood determines that such disposition at a lower level is appropriate.

4-3. Limitation of delegation

Subordinate commanders do not have the authority to impose nonjudicial punishment for UCMJ offenses allegedly committed by commissioned officers, warrant officers, sergeants major, first sergeants in the grade of E-8, and master sergeants unless such authority is returned IAW paragraph 4-2 above.

4-4. Senior leader misconduct report

NLT 72 hours from receipt of information that a commissioned officer, warrant officer, sergeant major, first sergeant in the grade of E-8, or master sergeant may have violated the UCMJ, the suspect's special court-martial convening authority (SPCMCA, brigade commander) shall provide an e-mail to the Commander, III Corps and Fort Hood. If the requested information cannot be provided within 72 hours, provide an interim report delineating as much information as possible. Send a copy to the SJA. When sergeants major are involved, send a copy to the III Corps and Fort Hood Command Sergeant Major. Include all relevant facts, known evidence supporting those facts, and circumstances surrounding the alleged offenses. In addition to the factors set out in R.C.M. 306(b), the report shall address the:

- a. Alleged crime. What happened (who did what, where, when, how, and why).
- b. Accused's service record, Family situation, and mitigating or extenuating circumstances known to the chain of command.
- c. Any potential victims.
- d. Unit impact. The specific effect on the good order, morale, and discipline of the unit.
- e. Recommended disposition. All allegations of senior leader misconduct will be considered and disposed of fairly and impartially IAW applicable laws, regulations, and statutes. Commanders should give their independent recommendations for an appropriate disposition. For example: Commanding General (CG) Article 15, general officer memorandum of reprimand, counseling (oral or written), release to lower level commander for disposition or no action, if appropriate.

4-5. Suspension and relief actions

IAW AR 600-20 (Army Command Policy), paragraph 2-17, commanders are authorized to temporarily suspend a subordinate from command or other assigned position when the senior commander loses confidence in the subordinate commander's ability to lead due to misconduct, poor judgment, the subordinate's ability to complete assigned tasks, or for other similar reasons. The procedures for relief for cause officer evaluation reports (OERs) and noncommissioned officer evaluation reports (NCOERs) are contained in AR 623-3 (Evaluation Reporting System) and Department of the Army (DA) Pamphlet (PAM) 623-3 (Evaluation Reporting System). The following is a summary of the published III Corps, G-1, command policy memorandum on suspension and relief actions. In the event of a difference between the G-1 policy memorandum and this regulation, the G-1 policy memorandum will take precedence.

- a. For all units, including 1CD and 4ID units, a commander desiring to direct suspension or direct relief of a subordinate commander or a command sergeant major

must notify and consult with the next superior commander and servicing SJA prior to taking action. The Commander, III Corps and Fort Hood and OSJA must be notified by command and technical channels in every instance of suspension and/or relief of a subordinate commander or command sergeant major.

b. Because AR 600-20 requires general officer written approval for relief for cause from command actions, the appropriate general officer will be consulted prior to initiation of suspension and/or relief. The Commander, III Corps and Fort Hood retains approval authority over all suspension and/or relief for cause actions involving brigade commanders and brigade command sergeants major.

c. For 1CD and 4ID, the division commander is the approval authority for all suspension and/or relief actions for commanders and command sergeants major of battalion or squadron units and below. For all other 1CD and 4ID division units (other than brigade level commands), the division commander retains discretion to prescribe the desired procedures subject to the notice and consultation established by this Fort Hood supplement.

d. For III Corps and non-divisional units (other than brigade level commands), the Deputy Commander, III Corps and Fort Hood is delegated command authority to serve as the first general-officer approval authority for suspension and/or relief for cause actions involving commanders and command sergeants major.

4-6. Delegation to III Corps and Fort Hood Deputy Commanding General

The Commander, III Corps and Fort Hood delegates to the Deputy Commanding General his or her powers under Article 15, UCMJ pursuant to AR 27-10 (Military Justice), paragraph 3-7 and 3-30. This delegation also applies to the issuance and filling of memoranda of reprimand (administrative reprimands and reprimands issued as part of non judicial punishment). The delegation of Article 15 authority includes the powers of a "next superior authority" for the purposes of acting on appeals. Further, this delegation includes the power to exercise Article 15 authority over commissioned officers, warrant officers, sergeants major, first sergeants in the grade of E-8, and master sergeants.

4-7. Reservation of Uniform Code of Military Justice (UCMJ) authority

The Commander, III Corps and Fort Hood has reserved authority to dispose of certain offenses to SPCMCAs.

4-8. Domestic violence

Disposition of domestic violence related offenses is reserved to commanders who are SPCMCAs. All allegations of misconduct involving domestic violence will be considered and disposed of fairly and impartially IAW applicable laws, regulations, and statutes.

4-9. Desertion and absent without leave (AWOL)

The authority to dispose of violations of Article 85, UCMJ (Desertion) and Article 86, UCMJ (Absent without Leave for a Period Greater than 30 Days) is reserved to commanders who are SPCMCAs. Commanders who are SPCMCAs do not have the

authority to further delegate this authority. All allegations of desertion or AWOL for a period greater than 30 days will be considered and disposed of fairly and impartially IAW applicable laws, regulations, and statutes.

4-10. Weapons violations

Fort Hood (FH) Regulation (Reg) 190-11 (Weapons) prescribe the requirements for registration, transportation, and possession of weapons on Fort Hood. Commanders will post information on unit bulletin boards and ensure that all assigned and attached personnel are briefed on FH Reg 190-11, any other applicable Army regulations, and state and local laws on weapons and ammunition.

a. All commanders are obligated to ensure the safety of our Soldiers. Commanders should regularly consider conducting health and welfare inspections to ensure contraband, such as unregistered weapons, are not being improperly maintained in the barracks. Pursuant to FH Reg 190-11, firearms can be stored in Family housing, bachelor officer quarters, or bachelor enlisted quarters by authorized occupants. However, commanders may require these firearms be stored in the unit arms room. Commanders should be vigilant for signs that a Soldier may be dealing with personal issues that may warrant these on-post weapons be stored in a unit arms room.

b. Disposition of weapons related offenses is reserved to commanders who are SPCMCAs. All allegations of misconduct involving weapons will be considered and disposed of fairly and impartially IAW applicable laws, regulations and statutes.

4-11. Driving under the influence (DUI) and driving while intoxicated (DWI) violations

Except as otherwise provided in this regulation, the authority to exercise UCMJ jurisdiction over DUI and DWI offenses committed on the installation by Soldiers is hereby withdrawn. All such cases, including 1CD and 4ID cases, will be referred to the Federal Magistrate for disposition.

a. In exceptional cases where disposition of DUI and DWI driving offenses under the UCMJ is deemed essential to good order and discipline, commanders may seek to retain jurisdiction over such offenses. This request can be based on the Soldier's imminent deployment, permanent change of station (PCS), or previously approved temporary duty lasting more than four months from the command's notice of the offense. In these cases, the Soldier's brigade level commander will request, in writing, authority to exercise UCMJ to the Commander, III Corps and Fort Hood through the OSJA.

b. This policy does not affect the initiation and imposition of administrative sanctions for DUI and DWI offenses, such as general officer memoranda of reprimand, suspension and revocation of installation driving privileges, bars to reenlistment, administrative reductions, and separation for misconduct. This policy also does not affect the referral of Soldiers to remedial driving classes or alcohol and drug abuse counseling.

c. Civilian tribunals, both state and federal, which also handle all other traffic offenses, are generally better suited to handle DUI and DWI offenses than the military

justice system, because they can adjudicate offenses committed by both military personnel and civilians. An adjudication of guilt by a state court judge or the Federal Magistrate triggers enhanced penalties for multiple DUI and DWI offenses under Texas law, whereas nonjudicial punishment under Article 15, UCMJ and administrative sanctions do not.

d. A person subject to the UCMJ who has been tried in a civilian court may, but ordinarily will not, be tried by court-martial or punished under the Article 15, UCMJ for the same act over which the civilian court has exercised jurisdiction. When an offense, such as DUI and DWI, is pending trial or has been tried by the Federal Magistrate or other state court, commanders will not impose nonjudicial punishment or prefer charges under the UCMJ without prior approval of the Commander, III Corps and Fort Hood.

Chapter 5

Federal Magistrate Hearings and Trials

5-1. Federal Magistrate hearing and trial location

Federal Magistrate hearings and trials are held at the Lawrence J. Williams Judicial Center, Building 5794 Tank Destroyer (located behind the Fort Hood Officers Club adjacent to the Fort Hood East Gate).

5-2. Prohibited items

All non-authorized personnel, including but not limited to, Soldiers, civilians, and Family members, are prohibited from bringing any type of dangerous item, weapon, or cell phone at any time into the Lawrence J. Williams Judicial Center, Building 5794 Tank Destroyer (located behind the Fort Hood Officers Club adjacent to the Fort Hood East Gate). This includes, but is not limited to, guns and/or firearms (including air guns), ammunition, explosive materials, flammable materials, dangerous chemicals, sharp objects (i.e., knives, razors, picks), martial arts and/or self-defense items, stun guns and/or shocking devices, mace and/or pepper spray, and/or blunt objects or sporting goods that could be used as a weapon (i.e., bats, clubs, tools).

5-3. Federal Magistrate hearing and trial procedures

Military witnesses shall cooperate with both the special assistant United States attorney (SAUSA) and defense counsel. When notified and required by the SAUSA or the SAUSA paralegal, the accused's commander will detail an escort for all court hearings. The escort must be a noncommissioned officer (NCO) or officer, senior in rank to the accused. The duty uniform for the accused at any court hearing, regardless of location, is the Class A uniform. For matters scheduled at the Lawrence J. Williams Judicial Center at Fort Hood, the uniform for escorts is the Army combat uniform (ACU) unless the escort is expected to testify on behalf of the accused, in which case the uniform is the Class A uniform. For matters scheduled at the United States District Courthouse in Waco, Texas, the uniform for escorts is the Class A Uniform. Under no circumstances will an escort be armed.

a. If an accused is facing confinement, escorts are authorized to carry an extra change of clothes for the accused. The United States Marshalls will compel an accused to remove all metal objects from his or her Class A uniform if a change of clothes is not available. Extra clothes will help ensure the Class A uniform does not get damaged in any way during transportation or confinement. There is a mandatory minimum 3 day period of confinement for all DUI and DWI convictions; therefore, those escorting an accused for DUI and DWI hearings should bring a change of clothes for the Soldier they are escorting.

b. Upon completion of the matter, the SAUSA paralegal will report the results to the accused's commander.

Chapter 6

General Officer Memoranda of Reprimand (GOMOR)

A general officer memoranda 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 units at Fort Hood. The III Corps and Fort Hood OSJA, Administrative Law Division, will assist in preparing the GOMORs for the Deputy Commanding General, III Corps and Fort Hood. The 1CD and 4ID GCMCA retain discretion to establish GOMOR policies and procedures GOMORs for units and personnel attached or assigned under their UCMJ jurisdiction. The 1CD and 4ID SJAs are responsible for preparing and processing GOMORs for their respective general court-martial (GCM) jurisdictions.

a. A copy of the GOMOR imposed by the Deputy Commanding General, III Corps and Fort Hood 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 acknowledgement and additional matters, if any, within 10 calendar days through the chain of command to the III Corps and Fort Hood OSJA, Administrative Law Division. Unless an extension is granted, units will ensure expeditious processing of GOMORs within 10 days of service to the Soldier. These matters will be submitted the Deputy Commanding General for a filing determination. The chain of command will recommend that the GOMOR be filed in either the unit file, the Soldier's official military personnel file (OMPF), or that the GOMOR not be filed at all.

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

c. When the reprimanding official leaves the chain of command or supervision after stating in writing the intent to impose a reprimand, his or her successor may complete appropriate action on the reprimand. In such cases, the successor should be familiar with relevant information about the proposed reprimand.

d. When a former commander or supervisor discovers misconduct warranting a reprimand, an admonition, or censure, he or she may

(1) Send pertinent information to the individual's current commander for action.

(2) Personally initiate and process a letter of reprimand, admonition, or censure as if the former command or supervisory relationship continued. In such cases, further review (if needed) will be accomplished in the recipient's current chain of command. Officials should consider the timeliness and relevance of the adverse information before taking administrative action at the later date.

e. IAW FH Reg 190-5 (Fort Hood Traffic Code), driving privileges are mandatorily suspended for one year for all DUI and DWI offenses and refusals to take BAC tests. The alleged offender has 10 days to request a hearing to challenge the suspension. If the Soldier's driving privileges are suspended, Commanders will ensure the Soldier is counseled about the suspension.

Chapter 7

Victim and Witness Assistance

All persons must ensure that victims and witnesses of crime are treated courteously and with respect for their privacy. Interference with personal privacy and property rights will be kept to an absolute minimum. In those cases in which a victim has been subjected to attempted or actual violence, every reasonable effort will be made to minimize further traumatization. Victims will be treated with care and compassion, particularly in circumstances involving children, domestic violence, or sexual misconduct. Effective victim and witness programs are multidisciplinary and utilize all related military and civilian agencies. For the services of a victim and witness liaison (VWL), contact the III Corps and Fort Hood OSJA, ATTN: Chief, Criminal Law.

Chapter 8

Pretrial Restraint and Pretrial Confinement

8-1. Pretrial restraint

Prior to any form of pretrial restraint is imposed on a Soldier, a commander must notify their trial counsel to ensure the prompt disposition of the case and avoid speedy trial issues. Pretrial restraint includes conditions on liberty (i.e., sign-in or escort requirements), restriction, arrest, and confinement.

8-2. Types of pretrial restraint

R.C.M. 304 (Pretrial Restraint) delineates the various types of pretrial restraint (conditions on liberty, restriction in lieu of arrest, arrest, and confinement) that a commander may employ in appropriate circumstances.

8-3. Prior consultation with General Court-Martial Convening Authority (GCMCA) Staff Judge Advocate (SJA) prior to pretrial confinement

An accused pending charges should ordinarily continue the performance of normal duties within the accused's organization while awaiting trial. If a commander is contemplating placing a Soldier in pretrial confinement, he or she must consider the facts and standards set forth in R.C.M. 305 (Pretrial Confinement) and he or she or his or her servicing trial counsel must consult with their GCMCA SJA prior to placing the Soldier into pretrial confinement.

8-4. Requirements for pretrial confinement

Commanders may impose pretrial restraint only if probable cause exists to believe an offense triable by court-martial has been committed, the person to be restrained committed it, and the restraint ordered is required by the circumstances. Normally, charges against an accused will be preferred before the Soldier is placed in pretrial confinement. If this not practicable, charges will be preferred as soon as possible after confinement or restriction tantamount to confinement is initiated.

8-5. Appointment of Trial Defense counsel

The servicing SJA will promptly notify the Senior Defense Counsel of the III Corps and Fort Hood Trial Defense Service (TDS) Office when an accused is placed in pretrial confinement.

Chapter 9**Procedures for Court-Martial**

The 1CD and 4ID GCMCA retain discretion to establish court-martial procedures for units and personnel attached or assigned under their UCMJ jurisdiction.

a. No charges will be preferred unless they have been reviewed by a Judge Advocate from the Criminal Law Division of the servicing SJA office. For reporting requirements when the accused is an officer, warrant officer, sergeant major, first sergeant in the grade of E-8, and master sergeant, contact the III Corps and Fort Hood OSJA, ATTN: Chief, Criminal Law.

b. In accordance with R.C.M. 306(a), the Commander, III Corps and Fort Hood has withheld the authority to convene special courts-martial empowered to adjudge a bad-conduct discharge for those commands for which his or her is the GCMCA.

c. Charges and allied papers forwarded to the GCMCA will be submitted through the OSJA, Criminal Law Division.

(1) The unit legal paralegal will ensure the original charge sheet and allied papers are delivered to the Criminal Law Division upon preferral of charges. The unit legal paralegal will promptly request the accused's OMPF from Human Resources Command (HRC). For specific contact information at HRC, contact the III Corps and Fort Hood OSJA, Senior Paralegal NCO, Criminal Law.

(2) The unit legal specialist will retain a copy of the packet for further assembly.

(3) Once the chain of command recommendations and, if necessary, the Article 32, UCMJ (Investigation) paperwork are complete, three copies will be assembled as follows: charge sheet; SPCMCA's transmittal endorsement; basic transmittal memorandum; SPCMCA's transmittal endorsement; memorandum appointing Article 32 investigating officer; investigating officer's notification memorandum to the accused with accused's acknowledgment; Department of Defense (DD) Form 457 (Investigating Officer's Report); investigating officer's chronology; summary of testimony; other statements, documents, or matters considered by the investigating officer; defense-delay requests; other papers accompanying the charges; and certified copies of DA Forms 2A (Personnel Qualification Record , Part I – Enlisted Peacetime) and 2-1 (Personnel Qualification Record) and unfavorable information (Article 15s, reprimands, bars to reenlistments, etc.).

d. The Commanding General delegates to the SJA the authority to approve the payment of transportation expenses and allowances to civilian witnesses appearing before Article 32, UCMJ investigations. Verbatim transcripts of Article 32 investigations will not be made without the approval of the III Corps and Fort Hood SJA.

e. The Commanding General as the GCMCA authorizes the Deputy Staff Judge Advocate, Chief, Criminal Law, or Senior Paralegal NCO, Criminal Law to sign and execute block 14 of DD Form 458 (Charge Sheet) referral section, after the convening authority directs that charges be referred.

f. The convening authority delegates to the III Corps and Fort Hood, OSJA, Senior Paralegal NCO, Chief, Criminal Law Division, Deputy Staff Judge Advocate, or Chief Legal Administrator the authority to sign all promulgating orders and documents related to matters covered by R.C.M 1114 (Promulgating Orders).

g. When either the government or the defense desires to employ an expert witness or consultant at government expense, the party desiring the witness will, prior to hiring the expert, submit a request to the GCMCA. Only the GCMCA may authorize the employment of an expert witness or consultant at government expense. This request, via the III Corps and Fort Hood OSJA, must include the name, address, and telephone number of the expert and a synopsis of the expected testimony, sufficient to show relevance and necessity.

h. Military witnesses will cooperate with both the trial and defense counsel. Courts-martial trials are conducted at the Lawrence J. Williams Judicial Center, Building 5794.

i. The accused's commander will detail a bailiff for all court hearings when a bailiff is required. The bailiff must be an NCO senior in rank to an enlisted accused. The bailiff's uniform is the Class A uniform. The accused's commander will detail two guards in duty uniform to escort the accused for all court hearings. Guards will not be armed unless specifically advised by the trial counsel or the military judge. One guard must be a NCO senior in rank to an enlisted accused, and whenever possible, at least one guard will be female if the accused is female.

Chapter 10

Courts-Martial Member and Duty

The 1CD and 4ID GCMCA retain discretion to establish court-martial member procedures for units and personnel attached or assigned under their UCMJ jurisdiction.

a. Once the III Corps and Fort Hood GCMCA has personally chosen the court members, this is the court member's primary duty and takes precedence over all other duties unless specifically excused by the convening authority or the SJA as outlined below. Court members must notify the Senior Paralegal NCO, Criminal Law Division of any pre-approved temporary duty (TDY) or other absence from Fort Hood that is 14 days or longer. Court members will affirmatively acknowledge receipt, in writing, to the Senior Paralegal NCO, Criminal Law Division when notified of a court-martial trial date. This written acknowledgement can be in the form of an e-mail. If a court-martial member needs to request an excusal due to pre-approved leave, TDY, or other reason, the detailed justification and request for excusal must be sent NLT 10 days before the start of the trial. The justification should include copies of the pre-approved leave form or TDY orders.

b. Once the III Corps and Fort Hood GCMCA has personally chosen the court members, the authority to sign the documents detailing the members and the convening order is delegated to the III Corps OSJA, Chief, Criminal Law, Deputy Staff Judge Advocate, and Chief Legal Administrator. This includes situations where an enlisted Soldier elects to be tried by an enlisted panel. In such situations, the primary officer members designated for replacement are replaced by the designated enlisted members in the order designated by the convening authority. The authority to sign all documents reflecting the same is delegated to the officers herein mentioned.

c. The Commanding General delegates to the SJA (and in the absence of the SJA, the Acting 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) (Changes of Members, Military Judge, and Counsel).

Chapter 11

Supervision of Military Justice in III Corps and Fort Hood

11-1. Staff Judge Advocate (SJA)

The OSJA is the consolidated legal center for the III Corps and Fort Hood GCM jurisdiction. All Command Judge Advocate's offices on Fort Hood, including but not limited to, 1CD, 4ID, 3d Armored Cavalry Regiment (3d ACR), Operational Testing Command (OTC), and Carl R. Darnall Army Medical Center are separately located, but the personnel assigned to that office fall within the technical supervision of the III Corps and Fort Hood SJA. The SJA has primary responsibility for the assignment, training, management, education, professional development, and proper utilization of all legal personnel at Fort Hood. This applies to all judge advocates (27A), civilian attorneys, legal administrators (27A), paralegal specialists (27D), paralegal NCOs (27D), civilian

paralegals and legal assistants, and court reporters (27DC5), regardless of table of organization and equipment (TOE) and table of distribution and allowances (TDA). The III Corps and Fort Hood, 1CD, and 4ID Command Paralegal NCOs are responsible for all training required and performed by military paralegals and court-reporters within their organization.

11-2. Legal support personnel

Paralegal specialists, court reporters, and paralegal NCOs will not be assigned regular duties inconsistent with their military occupational specialty when such duties will delay the processing of legal actions. Judge Advocates, paralegal specialists, court reporters, and paralegal NCOs should be exempt from all unit detail rosters because of the potential conflict these details create with their legal duties. Commanders will exempt from detail rosters, judge advocates, paralegal specialists, court reporters, and paralegal NCOs who are assigned to their units. Subordinate commanders shall not detail a court reporter to an Article 32, UCMJ investigation or summary courts-martial without the express written permission of the III Corps and Fort Hood SJA.

11-3. Personnel of other services

Offenses by members of other armed services will normally be referred to the armed service concerned for appropriate action.

11-4. Persons not subject to court-martial jurisdiction

Persons not subject to court-martial jurisdiction (i.e., civilian employees, civilians, and Family members) are subject to adverse administrative action and the criminal jurisdiction of the United States and the state of Texas. A commander considering adverse actions against civilians or Family members should consult with their servicing SJA.

Chapter 12

Court-Martial Policy and Procedures

The 1CD and 4ID GCMCA retain discretion to establish court-martial procedures for units and personnel attached or assigned under their UCMJ jurisdiction.

a. *Signature authority.* The SJA; the Deputy Staff Judge Advocate; Chief, Criminal Law; Chief Legal Administrator; Command Paralegal NCO; and the Senior Paralegal NCO, Criminal Law are authorized to authenticate and sign all documents pertaining to military justice, including but not limited to, referral of court-martial charges, disposition of court-martial charges, and court-martial orders for III Corps and Fort Hood GCMCA cases.

b. *Communication with the OSJA.*

(1) Direct communication with the OSJA by all commanders and their representatives is highly encouraged. Before disciplinary action is initiated by commanders, they should consult with their designated unit trial counsel to ensure that

the contemplated action is in proper form and substantiated by the available evidence.

(2) Officers appointed as investigating officers pursuant to Article 32, UCMJ will contact their servicing SJA, Administrative Law Division for advice concerning their duties within 24 hours after notification of appointment or receipt of appointment memorandum, whichever is sooner. Early notification aids in the expeditious processing of court-martial cases. Quick, fair, and efficient disposition of the investigation enhances discipline and Soldier confidence in the fairness of the military justice system. Convening authorities will provide investigating officers a complete case file, to include charge sheets, all allied papers, and appointment memorandum.

(3) Officers appointed as summary courts-martial (SCM) officers will contact their servicing SJA, Administrative Law Division for advice concerning their duties within 24 hours after notification of appointment or receipt of the appointment memorandum, whichever is sooner. The SCMCA will provide the SCM officers with a complete case file, to include charge sheets and all allied papers.

(4) Duty as an Article 32 investigating officer and/or as a SCM officer takes priority over all other duties. These officers are prohibited from taking leave, pass, training holidays, or TDY without personal approval from the convening authority. This authority may not be delegated. Article 32 investigating officers and SCM officers will not be assigned other duties that interfere with the prompt disposition of their assigned cases.

Chapter 13 Trial Defense Service

Soldiers pending UCMJ, nonjudicial punishment, and adverse administrative separations are entitled to no-cost consultation or representation from a Trial Defense attorney through the Trial Defense Service.

a. *Article 15, UCMJ, Counseling.* Every Soldier considered for nonjudicial punishment under Article 15, UCMJ (other than summarized proceedings), has the right to consult with an attorney. If this right is freely and voluntarily waived, consultation is not mandatory.

(1) Soldiers, including those assigned to 1CD and 4ID units, should report to the III Corps and Fort Hood TDS Office, Building 4617, Room 128 (corner of Santa Fe and 72nd Street) at the appointed time with one legible copy of the Article 15 (DA Form 2627 [Record of Proceedings Under Article 15, UCMJ]) and all available evidence and supporting documentation. Commanders are responsible for providing the Soldier with as much evidence as is reasonably available, at a minimum, sufficient evidence to inform the attorney and Soldier of the nature and source of evidence supporting the action. The Article 15 needs to be signed and dated by the imposing commander. Soldiers appearing without the Article 15 or available evidence will not be counseled. If the Soldier cannot be counseled for these reasons, the right to consult with counsel is not waived.

(2) Soldiers undergoing summarized Article 15 proceedings (DA Form 2627-1) do not have the right to consult with counsel.

b. *Administrative separations.*

(1) Every Soldier processed for separation under Chapters 5, 9, 13, 14, 15 and 18 of AR 635-200 (Active Duty Enlisted Administrative Separations) and officer processed for separation under AR 600-8-24 (Officer Transfers and Discharges), has the right to be counseled by a lawyer or trial defense counsel.

(2) Soldiers reporting for consultation should have the complete separation packet with them, to include all supporting documentation (i.e., Article 15, counseling statements, Army physical fitness test (APFT) records, military police (MP) Reports, etc.). The notification of the initiation of separation must be signed and dated by the initiating commander. The prerequisite medical and psychiatric reports will also be included in the packet. Soldiers appearing without the complete packet, supporting evidence, or medical or psychiatric reports will not be counseled. If the Soldier cannot be counseled for these reasons, the right to consult with counsel in not waived.

c. *Suspect rights Counseling.*

(1) Before a member of the United States (U.S.) military begins questioning a Soldier regarding a suspected UCMJ violation, that member must inform the Soldier of the rights under Article 31, UCMJ (Rights). This notification should be recorded using DA Form 3881 (Rights Warning Procedure/Waiver Certificate), with the Soldier's signature.

(2) If the Soldier elects to remain silent, the command will stop questioning the Soldier immediately.

(3) If the Soldier requests to speak with an attorney, the command should immediately cease questioning and send the Soldier to TDS. The command may not re-initiate questioning until the Soldier has had an opportunity to speak with counsel. If TDS counsel is unavailable, the command will coordinate for telephonic consultation with a TDS attorney.

(4) Once the Soldier has notified the command of representation by counsel, the command will direct all questions regarding the suspect offense through the Soldier's counsel.

Chapter 14

Administrative Separation and Board of Inquiry Duty

The 1CD and 4ID GCMCA retain discretion to establish administrative board and duty procedures for units and personnel attached or assigned under their UCMJ jurisdiction.

a. Once the convening authority has personally chosen the administrative separation board or board of inquiry members, this is the board member's primary duty and takes precedence over all other duties unless specifically excused by the convening authority or the SJA as outlined below. Court members must notify the Senior Paralegal NCO, Criminal Law of any TDY or other absence from Fort Hood that is 14 days or longer. Board members will affirmatively acknowledge receipt, in writing, to the Senior Paralegal NCO, Criminal Law Division when notified of a board date. This written acknowledgement can be in the form of an e-mail. If a board member needs to request

an excusal due to pre-approved leave, TDY, or other reason, the detailed justification and request for excusal must be sent NLT 15 days before the start of the board. The justification should include copies of the pre-approved leave form or TDY orders.

b. Once the convening authority has personally chosen the administrative separation board members, the authority to sign the necessary documents detailing the board members is delegated to the III Corps and Fort Hood SJA, Chief, Criminal Law, Deputy Staff Judge Advocate, or Chief Legal Administrator. If the primary board members are excused, the members are replaced in the order designated by the convening authority and the authority to sign all documents reflecting the same is delegated to the officers previously mentioned.

c. *Military occupational specialty medical retention board (MMRB)*. IAW AR 600-20, Physical Evaluation Board System, paragraph 4-5, the Deputy Commanding General, III Corps and Fort Hood is delegated authority to approve, disapprove, or otherwise dispose of MMRB actions under the GCMCA of III Corps and Fort Hood.

Chapter 15

Required Reports

Each SPCMCA will provide the servicing SJA office with a completed Judge Advocate General (JAG)-2 report for that special court-martial jurisdiction NLT 2 duty days after the last duty day of the reporting month.

Appendix A
References

Section I
Required Publications

AR 27-10

Military Justice (Cited in para 4-6)

AR 220-5

Designation, Classification, and Change of Status of Units (Cited in para 2-2)

AR 600-8-24

Officer Transfers and Discharges (Cited in para 13b(1))

AR 600-20

Army Command Policy (Cited in para 4-5, 4-5b, and 14c)

AR 600-37

Unfavorable Information (Cited in para 6a)

AR 623-3

Evaluation Reporting System (Cited in para 4-5)

AR 635-200

Active Duty Enlisted Administrative Separations (Cited in para 13b(1))

Article 15, UCMJ

Nonjudicial Punishment (Cited in para 2-1, 3e, 4-4e, 4-6, 4-11c, 4-11d, 9c(3), 13a, 13a(1), 13a(2), and 13b(2))

Article 31, UCMJ

Rights (Cited in para 13c(1))

Article 32, UCMJ

Investigations (Cited in para 9c(3), 9d, 11-2, 12b(2), and 12b(4))

Article 85, UCMJ

Desertion (Cited in para 4-9)

Article 86, UCMJ

Absence without Leave (Cited in para 4-9)

DA PAM 623-3

Evaluation Reporting System (Cited in para 4-5)

FH Reg 190-5

Fort Hood Traffic Code (Cited in para 6e)

FH Reg 190-11

Weapons (Cited in para 4-10 and 4-10a)

R.C.M. 304

Pretrial Restraint (Cited in para 8-2)

R.C.M. 305

Pretrial Confinement (Cited in para 8-3)

R.C.M. 306

Initial Disposition (Cited in para 3a, 4-2, 4-4, and 9b)

R.C.M. 505

Changes of Members, Military Judge, and Counsel (para 10c)

R.C.M. 1114

Promulgating Orders (Cited in para 9f)

Section II

Related Publications

AR 190-5

Motor Vehicle Traffic Supervision

AR 190-47

The Army Corrections System

AR 600-8-2

Suspension of Favorable Personnel Actions (FLAGS)

AR 600-8-10

Leaves and Passes

AR 600-8-19

Enlisted Promotions and Reductions

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AR 600-60

Physical Performance Evaluation System

DOD Directive 1030.1

Victim and Witness Assistance

DOD Directive 5525.4

Enforcement of State Traffic Laws on DOD Installations

DODI 1030.2

Victim and Witness Assistance Procedures

DODI 6055.4

DOD Traffic Safety Program

FH Reg 190-2

Motor Vehicle Traffic Supervision

FH Reg 210-48

Installation Housing Community Standards

Manual for Courts-Martial, United States

Memorandum of Understanding Between the Department of Justice and the Department of Defense Relating to the Investigation and Prosecution of Certain Crimes

Texas Penal Code, Section 42.01(a)(1)(5)

18 USC Section 13

Crimes and Criminal Procedures, Part I – Crimes Chapter

18 USC Section 18

Crimes and Criminal Procedures, Part II – Crimes Procedures

Section III

Prescribed Forms

DA Form 2a

Personnel Qualification Record, Part I – Enlisted Peacetime (Prescribed in para 9c(3))

DA Form 2-1

Personnel Qualification Record (Prescribed in para 9c(3))

DA Form 2627

Record of Proceeding under Article 15, UCMJ (Prescribed in para 13a(1))

DA Form 2627-1

Summarized Record of Proceeding Under Article 15, UCMJ (Prescribed in para 13a(2))

DA Form 3881

Rights Warning Procedure/Waiver Certificate (Prescribed in para 13c(1))

DD Form 457

Investigating Officer's Report (Prescribed in para 9c(3))

DD Form 458

Charge Sheet (Prescribed in para 9c(3))

Section IV

Referenced Forms

DA Form 268

Report to Suspend Favorable Personnel Actions (FLAG)

DA Form 2028

Recommended Changes to Publications and Blank Forms

DA Form 4187

Personnel Action

DA Form 4430

Department of the Army Report of Result of Trial

DA Form 7568

Army Victim/Witness Liaison Program Evaluation

DD Form 2703

Post-Trial Information for Victims and Witnesses of Crime

DD Form 2704

Victim/Witness Certification and Election Concerning Inmate Status

DD Form 2705

Victim/Witness Notification of Inmate Status

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DD Form 2706

Annual Report on Victim and Witness Assistance

DD Form 2707

Confinement Order

FH Form 1853

Distribution Scheme

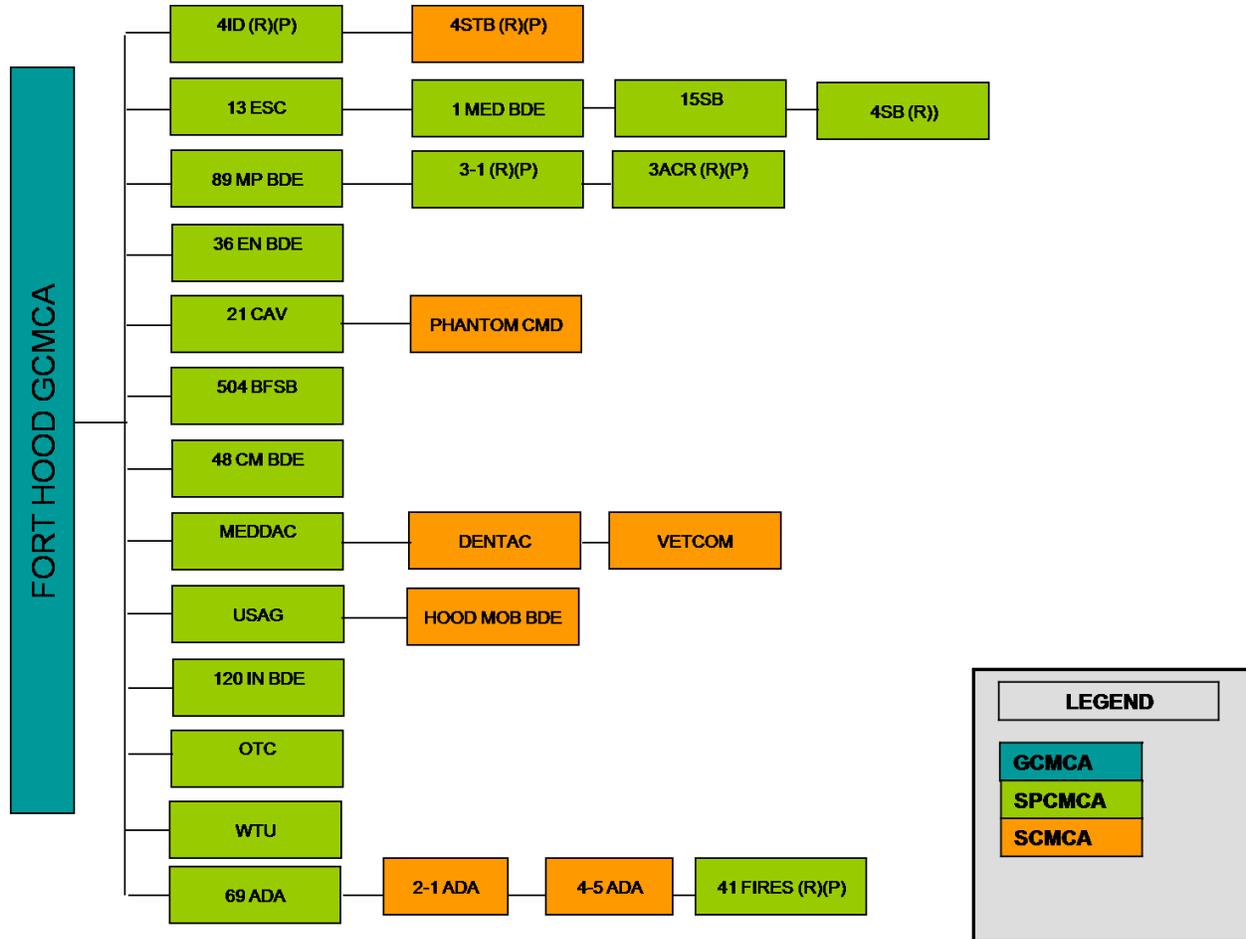
FH Form 1875

Unit Commander's Observation/Evaluation of Prisoner

SF 600

Chronological Record of Medical Care

**Appendix B
III Corps and Fort Hood General Court-Martial Convening Authority Jurisdiction**



Note:

* As of 1 November 2008 – The III Corps and Fort Hood UCMJ jurisdiction may change due to mission or organization. If there are any questions about jurisdiction, check with the OSJA, Criminal Law Division.

Figure B-1. Fort Hood General Court-Martial Convening Authority (GCMCA)

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Glossary

Section I Abbreviations

ACU

Army Combat Uniform

APFT

Army Physical Fitness Test

AR

Army Regulation

ARNG

Army National Guard

ATTN

Attention

AWOL

Absent Without Leave

BAC

Blood Alcohol Content

CG

Commanding General

DA

Department of the Army

DD

Department of Defense (Forms)

DOD

Department of Defense

DODI

Department of Defense Instruction

DUI

Driving Under the Influence

DUIC

Derivative Unit Identification code

DWI

Driving While Intoxicated

ETC.

Et Cetera

FH

Fort Hood

FORSCOM

Forces Command

GCM

General Court-Martial

GCMCA

General Court-Martial Convening Authority

GOMOR

General Officer Memoranda of Reprimand

HHC

Headquarters and Headquarters Company

HRC

Human Resources Command

IAW

In Accordance With

JAG

Judge Advocate General

MMRB

Military Occupational Specialty Medical Retention Board

MOS

Military Occupational Specialty

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MP

Military Police

NCO

Noncommissioned Officer

NCOER

Noncommissioned Officer Evaluation Report

NLT

Not Later Than

OER

Officer Evaluation Report

OMPF

Official Military Personnel File

OSJA

Office of the Staff Judge Advocate

OTC

Operational Testing Command

PAM

Pamphlet

PARA

Paragraph

PCS

Permanent Change of Station

RC

Reserve Component

R.C.M.

Rule of Court-Martial

REG

Regulation

SAUSA

Special Assistant United States Attorney

SCM

Summary Courts-Martial

SJA

Staff Judge Advocate

SPCMCA

Special Court-Martial Convening Authority

TDA

Table of Distribution and Allowance

TDS

Trial Defense Service

TDY

Temporary Duty

TOE

Table of Organization and Equipment

UCMJ

Uniform Code of Military Justice

UIC

Unit Identification Code

US

United States

USC

United States Code

1CD

1st Cavalry Division

3d ACR

3d Armored Cavalry Regiment

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4ID

4th Infantry Division

Section II

Terms

This section not used.