

**Personnel-General**  
**CIVIL ARREST, CONFINEMENT, BAIL, DELIVERY TO**  
**CIVIL AUTHORITIES, AND RESPONSES TO SUBPOENAS**

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**SUPPLEMENTATION.** *Local supplementation of this regulation is prohibited, except upon approval of AFZF-JA.*

**SUGGESTED IMPROVEMENTS.** *The proponent of this regulation is the Staff Judge Advocate. Users are invited to send comments and suggested changes to the Commander, Headquarters III Corps and Fort Hood, ATTN: AFZF-JA, Fort Hood, TX 76544-5056.*

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OVERVIEW

1

Purpose

This regulation familiarizes soldiers with the

- laws of the State of Texas.
- military regulations about
  - civil arrest and confinement
  - release on bail
  - delivery of soldiers to civil authorities, and
  - responses by soldiers to subpoenas by civil courts.

1a

General

Regardless of an individual's home of record, all soldiers in the State of Texas are subject to Texas criminal statutes.

1b

References

AR 600-8-2 (Suspension of Favorable Personnel Action (Flags))  
AR 600-40 (Apprehension, Restraint, and Release to Civil Authorities)

1c

RESPONSIBILITIES

2

Unit

Commanders

Unit commanders of soldiers released on personal bonds will

- initiate flagging action per AR 600-8-2, paragraph 2-1, when becoming aware that a member of his unit is under charges or restraint by civil authorities.
- telephonically notify the liaison NCOs at Bell County Personal Bond Office, 526-7186/7187, of any change in status which may affect the availability of a member of his unit who has been released on personal bond to make scheduled court appearances
- counsel the individual of his responsibility to keep his promise to appear for scheduled court appearances.
- advise the individual that if he does not appear as ordered.
  - a warrant will be issued for his arrest
  - he may be charged with a failure to appear, in addition to the original charges pending against him, and
  - he will be liable to the State of Texas for the amount of his bond plus the expense of rearresting him.

None of the above actions by unit commanders constitutes an opinion of guilt or innocence of the offenses charged, nor do they constitute personal responsibility for an individual who has been released on personal bond should he violate his bond.

2a

**CIVIL ARREST AND CONFINEMENT**

3

Authority to Arrest

Any peace officer may arrest persons

- under the authority of a written arrest warrant issued by a magistrate which
  - names the person to be arrested and
  - the offense of which he is accused.
- without a written arrest warrant only in cases specifically authorized by statute.

Some of the more common situations for which Texas law provides for arrest without a warrant are

- for any offense committed in the presence or within view of the arresting officer.
- to prevent the escape of a person who is reported to have committed a felony and there is no time to obtain a warrant.

3a

Traffic Violations

When a person is arrested for a violation of the Texas Motor Vehicle Laws, he may sign a promise to appear in court and be released.

The exception is he must be retained in custody and taken before a magistrate, when he

- demands an immediate appearance before a magistrate.
- is arrested for negligent homicide.
- is arrested for driving while intoxicated.
- refuses to give his written promise to appear in court.

Failure to appear in violation of a written promise to appear in court is a misdemeanor regardless of the disposition of the charges upon which the person was initially arrested.

3b

**RETURN OF PERSONNEL FROM CIVILIAN CONFINEMENT**

4

Magistrate

Except for certain traffic violations, every person arrested in the State of Texas is taken before a magistrate, who is usually a justice of the peace.

The magistrate is required to

- inform the person arrested of the charges against him
- advise him of his rights, and
- set the amount of bail.

4a

Bail

Bail is a security given by an accused that he will appear before the proper court when required to do so. This security can be in the form of

- cash
- a commercial bond, or
- a personal bond.

To obtain a bail bond, the person arrested must contact a commercial bonding company and pay a certain percentage of the bond set by the magistrate.

- The cost of a bail bond is not refunded to the person regardless of the outcome of his case.

4b

Bell County Personal Bond Program

Fort Hood participates in the Bell County Personal Bond Program. Under this program, soldiers who are apprehended in Bell or Coryell County may

- apply for release from confinement on their personal promise to make scheduled court appearances.
- request release on a personal recognizance bond.

Two noncommissioned officers (NCOs) are assigned on special duty as liaison NCOs to the Personal Bond Office. They are available 7 days a week to

- assist soldiers in applying for personal recognizance bonds.
- assist justices of the peace by obtaining recommendations from unit commanders.
- ensure soldiers released on personal bond make scheduled court appearances.

Bell County is authorized to charge a nominal fee for personal recognizance bonds to offset the administrative costs of operating the program.

- The fee is fixed at 3 percent of the face value of the bond, or \$20.00, whichever is the greater amount.

The bond fee

- is assessed at the time of release and is not refundable.
- has been established to offset the cost of operating the bond program.

**NOTE:** There is also a \$20.00 sheriff's fee assessed by Bell County. In Coryell County, administrative costs are covered by a flat \$15.00 administrative fee.

4c

**DELIVERY OF OFFENDERS TO CIVIL AUTHORITIES**

5

Delivery of Offenders

AR 600-40, paragraph 6, was issued according to the authority granted by Article 14, Uniform Code of Military Justice.

Commanding officers will

- cooperate with civil authorities and
- deliver a member of the Armed Forces to such authorities upon presentation of the proper request, unless the best interests of the service will be prejudiced.

The agreement between the State of Texas and the United States before transferring jurisdiction over the land comprising Fort Hood specifically reserved the right of the State of Texas to serve arrest warrants on the installations.

5a

Procedures

When delivering offenders to civil authorities follow these procedures.

All warrants will be delivered to the III Corps and Fort Hood Provost Marshal.

- The Provost Marshal will arrange to have the accused made available for delivery to civil authorities.

For felony warrants, take the following to the III Corps and Fort Hood Staff Judge Advocate for a ruling as to whether or not the accused should be released

- the accused person's identification card
- the warrant, and
- an informal memorandum requesting legal review with the following information
  - warrant number
  - county of issue
  - issuing authority
  - accused full name
  - organization
  - social security number
  - grade
  - race
  - date and place of birth
  - height
  - weight
  - hair color, and
  - eye color.
- The Provost Marshal
  - determines whether any court-martial charges or other administrative action is pending against the accused and
  - will so advise the Staff Judge Advocate.

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Procedures  
(Continued)

- If court-martial charges or administrative action are pending against an individual and release to civil authorities would significantly disrupt disposition of the case, the Staff Judge Advocate may recommend that the accused not be released until such action has been completed.

In cases involving service of an out-of-state felony warrant, the Provost Marshal will

- require the arresting civilian peace officer to provide an extradition order or
- a fugitive warrant issued by the Bell County judge.
- An attorney assigned to the Staff Judge Advocate will review all out-of-state felony warrants before releasing the soldier to civil authorities.

Do not refer cases involving misdemeanor warrants to the Staff Judge Advocate except for those accused against whom court-martial charges or administrative action are pending.

5b

**RESPONSES TO SUBPOENAS**

6

Subpoenas

Notify III Corps and Fort Hood Staff Judge Advocate when a subpoena is served or a request for deposition is made

- on any soldiers on active duty or
- civilian employee of the Department of the Army calling for the person's appearance in an official capacity before any court or other judicial proceedings
- This allows the Staff Judge Advocate to assure that service of the subpoena complies with the law and to determine whether the appearance of personnel or production of military records involve the improper release of information.

6a

FOR THE COMMANDER:



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