

Part II – Rules for Court Martial
Part III – Military Rules of Evidence
Part IV – Punitive Articles
Part V – Nonjudicial Punishment Procedure
App. 1 – Constitution
App. 2 – UCMJ
App. 8 – Guide for General & Special Courts-Martial
App. 9 – Guide for Summary Courts-Martial
App. 10 – Forms of Findings
App. 11 – Forms of Sentences
App. 12 – Maximum Punishment Chart
App. 15 – Record of Trial by Summary Court-Martial
App. 17 – Forms for Court-Martial Orders
App. 21 – Analysis of Rules for Courts-Martial
App. 22 – Analysis of Military Rules of Evidence
App. 23 – Analysis of Punitive Articles
App. 24 – Analysis of Nonjudicial Punishment
App. 25 – Historical Executive Orders

### Instructions on the Use of “Cut & Paste” Updates to the 2005 MCM & Back Cover Index Tabs

1. Line through replaced sections in original text of the MCM.
2. Cut MCM Updates along indicated lines and tape or paste along top (hinge, so as not to cover still applicable portions). *Tip: Cut just to the inside of the lines, if you don't want to see the lines in your final product.*
3. Cut Index Tab from this page and tape to back cover with black tabs aligned to left-hand side of back cover. *Tip: Once attached, cover entire Index Tab and MCM binding with a self-stick laminating sheet, overlapping the left-hand side onto the inside back cover – will protect Index Tab and reinforce binding.*
4. Locate the first page of a section corresponding to Index Tab entry. Hold the page away from adjacent pages. With a black permanent marker, mark the edge of the page in the location corresponding to the relevant Index Tab entry.
5. Repeat Step 4 for each Index Tab entry.

*Col Rodger Drew, USAF*

Exec. Order 13397 (14 Oct 05) "Cut & Paste" Changes to 2005 MCM, Effective 13 Nov 05

**R.C.M. 201(e) (Modified)** [p. II-10]

(e) *Reciprocal jurisdiction.*

(1) Each armed force has court-martial jurisdiction over all persons subject to the code.

(2)(A) A commander of a unified or specified combatant command may convene courts-martial over members of any of the armed forces.

(B) So much of the authority vested in the President under Article 22(a)(9) to empower any commanding officer of a joint command or joint task force to convene general courts-martial is delegated to the Secretary of Defense, and such a commanding officer may convene general courts-martial for the trial of members of any of the armed forces assigned or attached to a combatant command or joint command.

(C) A commander who is empowered to convene a court-martial under subsections (e)(2)(A) or (e)(2)(B) of this rule may expressly authorize a commanding officer of a subordinate joint command or subordinate joint task force who is authorized to convene special and summary courts-martial to convene such courts-martial for the trial of members of other armed forces assigned or attached to a joint command or joint task force, under regulations which the superior command may prescribe.

(3) A member of one armed force may be tried by a court-martial convened by a member of another armed force, using the implementing regulations and procedures prescribed by the Secretary concerned of the military service of the accused, when:

(A) The court-martial is convened by a commander authorized to convene courts-martial under subsection (e)(2) of this rule; or

(B) The accused cannot be delivered to the armed force of which the accused is a member without manifest injury to the armed forces.

An accused should not ordinarily be tried by a court-martial convened by a member of a different armed force except when the circumstances described in (A) or (B) exist. However, failure to comply with this policy does not affect an otherwise valid referral.

(4) Nothing in this rule prohibits detailing to a court-martial a military judge, member, or counsel who is a member of an armed force different from that of the accused or the convening authority, or both.

**R.C.M. 103(2) (Modified)** [p. II-1]

(2) "Capital case" means a general court-martial to which a capital offense has been referred with an instruction that the case be treated as capital, and, in the case of a rehearing or new or other trial, for which offense death remains an authorized punishment under R.C.M. 810(d).

**R.C.M. 201(f)(1)(A)(iii) (Modified)** [p. II-11]

(iii) Notwithstanding any other rule, the death penalty may not be adjudged if:

(a) Not specifically authorized for the offense by the code and Part IV of this Manual; or

(b) The case has not been referred with a special instruction that the case is to be tried as capital.

**R.C.M. 307(c)(4) (Modified)** [p. II-29]

(4) *Multiple offenses.* Charges and specifications alleging all known offenses by an accused may be preferred at the same time. Each specification shall state only one offense. What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person.

**R.C.M. 501(a)(1) (Modified)** [p. II-42]

(1) *General courts-martial.*

(A) Except in capital cases, general courts-martial shall consist of a military judge and not less than five members, or of the military judge alone if requested and approved under R.C.M. 903.

(B) In all capital cases, general courts-martial shall consist of a military judge and no fewer than 12 members, unless 12 members are not reasonably available because of physical conditions or military exigencies. If 12 members are not reasonably available, the convening authority shall detail the next lesser number of reasonably available members under 12, but in no event fewer than five. In such a case, the convening authority shall state in the convening order the reasons why 12 members are not reasonably available.

Exec. Order 13397 (14 Oct 05) "Cut & Paste" Changes to 2005 MCM, Effective 13 Nov 05

**R.C.M. 503(a)(3) (Modified)** [p. II-47]

(3) *Members from another command or armed force.* A convening authority may detail as members of general and special courts-martial persons under that convening authority's command or made available by their commander, even if those persons are members of an armed force different from that of the convening authority or accused.

**R.C.M. 503(b)(3) (Modified)** [p. II-47]

(3) *Military judge from a different armed force.* A military judge from one armed force may be detailed to a court-martial convened in a different armed force, a combatant command or joint command when permitted by the Judge Advocate General of the armed force of which the military judge is a member. The Judge Advocate General may delegate authority to make military judges available for this purpose.

**R.C.M. 503(c)(3) (Modified)** [p. II-47]

(3) *Counsel from a different armed force.* A person from one armed force may be detailed to serve as counsel in a court-martial in a different armed force, a combatant command or joint command when permitted by the Judge Advocate General of the armed force of which the counsel is a member. The Judge Advocate General may delegate authority to make persons available for this purpose.

**R.C.M. 504(b)(2)(A) (Modified)** [p. II-48]

(A) *Definition.* For purposes of Articles 23 and 24, a command or unit is "separate or detached" when isolated or removed from the immediate disciplinary control of a superior in such manner as to make its commander the person held by superior commanders primarily responsible for discipline. "Separate or detached" is used in a disciplinary sense and not necessarily in a tactical or physical sense. A subordinate joint command or joint task force is ordinarily considered to be "separate or detached."

**R.C.M. 504(b)(2)(B) (Modified)** [p. II-48]

(B) *Determination.* If a commander is in doubt whether the command is separate or detached, the matter shall be determined:

(i) In the Army or the Air Force, by the officer exercising general court-martial jurisdiction over the command;

(ii) In the Naval Service or Coast Guard, by the flag or general officer in command or the senior officer present who designated the detachment; or

(iii) In a combatant command or joint command, by the officer exercising general court-martial jurisdiction over the command.

(3) *Summary courts-martial.* See R.C.M. 1302(a).

**R.C.M. 805(b) (Modified)** [p. II-78]

(b) *Members.* Unless trial is by military judge alone pursuant to a request by the accused, no court-martial proceeding may take place in the absence of any detailed member except: Article 39(a) sessions under R.C.M. 803; examination of members under R.C.M. 912(d); when the member has been excused under R.C.M. 505 or 912(f); or as otherwise provided in R.C.M. 1102. No general court-martial proceeding requiring the presence of members may be conducted unless at least five members are present, or in capital cases, at least 12 members are present except as provided in R.C.M. 501(a)(1)(B), where 12 members are not reasonably available because of physical conditions or military exigencies. No special court-martial proceeding requiring the presence of members may be conducted unless at least three members are present except as provided in R.C.M. 912(h). Except as provided in R.C.M. 503(a)(2), when an enlisted accused has requested enlisted members, no proceeding requiring the presence of members may be conducted unless at least one-third of the members actually sitting on the court-martial are enlisted persons.

Exec. Order 13397 (14 Oct 05) "Cut & Paste" Changes to 2005 MCM, Effective 13 Nov 05

R.C.M. 912(f)(4) (Modified) [p. II-104]

(4) *Waiver.* The grounds for challenge in subsection (f)(1)(A) of this rule may not be waived except that membership of enlisted members in the same unit as the accused may be waived. Membership of enlisted members in the same unit as the accused and any other ground for challenge is waived if the party knew of or could have discovered by the exercise of diligence the ground for challenge and failed to raise it in a timely manner. Notwithstanding the absence of a challenge or waiver of a challenge by the parties, the military judge may, in the interest of justice, excuse a member against whom a challenge for cause would lie. When a challenge for cause has been denied, the successful use of a peremptory challenge by either party, excusing the challenged member from further participation in the court-martial, shall preclude further consideration of the challenge of that excused member upon later review. Further, failure by the challenging party to exercise a peremptory challenge against any member shall constitute waiver of further consideration of the challenge upon later review.

R.C.M. 1003(b)(2) (Modified) [p. II-124]

(2) *Forfeiture of pay and allowances.* Unless a total forfeiture is adjudged, a sentence to forfeiture shall state the exact amount in whole dollars to be forfeited each month and the number of months the forfeitures will last.

Allowances shall be subject to forfeiture only when the sentence includes forfeiture of all pay and allowances. The maximum authorized amount of a partial forfeiture shall be determined by using the basic pay, retired pay, or retainer pay, as applicable, or, in the case of reserve component personnel on inactive-duty, compensation for periods of inactive-duty training, authorized by the cumulative years of service of the accused, and, if no confinement is adjudged, any sea or hardship duty pay. If the sentence also includes reduction in grade, expressly or

R.C.M. 1004(b) (Modified) [p. II-128]

(b) *Procedure.* In addition to the provisions in R.C.M. 1001, the following procedures shall apply in capital cases—

(1) *Notice.*

(A) *Referral.* The convening authority shall indicate that the case is to be tried as a capital case by including a special instruction in the referral block of the charge sheet. Failure to include this special instruction at the time of the referral shall not bar the convening authority from later adding the required special instruction, provided:

(i) that the convening authority has otherwise complied with the notice requirement of subsection (B); and

(ii) that if the accused demonstrates specific prejudice from such failure to include the special instruction, a continuance or a recess is an adequate remedy.

(B) *Arraignment.* Before arraignment, trial counsel shall give the defense written notice of which aggravating factors under subsection (c) of this rule the prosecution intends to prove. Failure to provide timely notice under this subsection of any aggravating factors under subsection (c) of this rule shall not bar later notice and proof of such additional aggravating factors unless the accused demonstrates specific prejudice from such failure and that a continuance or a recess is not an adequate remedy.

(2) *Evidence of aggravating factors.* Trial counsel may present evidence in accordance with R.C.M. 1001(b)(4) tending to establish one or more of the aggravating factors in subsection (c) of this rule.

R.C.M. 1103A (New) [p. II-143]

**Rule 1103A. Sealed exhibits and proceedings.**

(a) *In general.* If the record of trial contains exhibits, proceedings, or other matter ordered sealed by the military judge, the trial counsel shall cause such materials to be sealed so as to prevent indiscriminate viewing or disclosure. Trial counsel shall ensure that such materials are properly marked, including an annotation that the material was sealed by order of the military judge, and inserted at the appropriate place in the original record of trial. Copies of the record shall contain appropriate annotations that matters were sealed by order of the military judge and have been inserted in the original record of trial. This Rule shall be implemented in a manner consistent with Executive Order 12958, as amended, concerning classified national security information.

(b) *Examination of sealed exhibits and proceedings.* Except as provided in the following subsections to this rule, sealed exhibits may not be examined.

(1) *Examination of sealed matters.* For the purpose of this rule, "examination" includes reading, viewing, photocopying, photographing, disclosing, or manipulating the documents in any way.

(2) *Prior to authentication.* Prior to authentication of the record by the military judge, sealed materials may not be examined in the absence of an order from the military judge based on good cause shown.

(3) *Authentication through action.* After authentication and prior to disposition of the record of trial pursuant to Rule for Courts-Martial 1111, sealed materials may not be examined in the absence of an order from the military judge upon a showing of good cause at a post-trial Article 39a session directed by the Convening Authority.

(4) *Reviewing and appellate authorities.*

(A) Reviewing and appellate authorities may examine sealed matters when those authorities determine that such action is reasonably necessary to a proper fulfillment of their responsibilities under the Uniform Code of Military Justice, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional responsibility.

(B) Reviewing and appellate authorities shall not, however, disclose sealed matter or information in the absence of:

(i) Prior authorization of the Judge Advocate General in the case of review under Rule for Courts-Martial 1201(b); or

(ii) Prior authorization of the appellate court before which a case is pending review under Rules for Courts-Martial 1203 and 1204.

(C) In those cases in which review is sought or pending before the United States Supreme Court, authorization to disclose sealed materials or information shall be obtained under that Court's rules of practice and procedure.

(D) The authorizing officials in paragraph (B)(ii) above may place conditions on authorized disclosures in order to minimize the disclosure.

(E) For purposes of this rule, reviewing and appellate authorities are limited to:

(i) Judge advocates reviewing records pursuant to Rule for Courts-Martial 1112;

(ii) Officers and attorneys in the office of the Judge Advocate General reviewing records pursuant to Rule for Courts-Martial 1201(b);

(iii) Appellate government counsel;

(iv) Appellate defense counsel;

(v) Appellate judges of the Courts of Criminal Appeals and their professional staffs;

(vi) The judges of the United States Court of Appeals for the Armed Forces and their professional staffs;

(vii) The Justices of the United States Supreme Court and their professional staffs; and

(viii) Any other court of competent jurisdiction.

Exec. Order 13397 (14 Oct 05) "Cut & Paste" Changes to 2005 MCM, Effective 13 Nov 05

*R.C.M. 1301(a) (Modified)* [p. II-175]

(a) *Composition.* A summary court-martial is composed of one commissioned officer on active duty. Summary courts-martial shall be conducted in accordance with the regulations of the military service to which the accused belongs. Unless otherwise prescribed by the Secretary concerned a summary court-martial shall be of the same armed force as the accused. Whenever practicable, a summary court-martial should be an officer whose grade is not below lieutenant of the Navy or Coast Guard or captain of the Army, Air Force, or Marine Corps. When only one commissioned officer is present with a command or detachment, that officer shall be the summary court-martial of that command or detachment. When more than one commissioned officer is present with a command or detachment, the convening authority may not be the summary court-martial of that command or detachment.

*Mil. R. Evid. 317(b) (Modified)* [p. III-16]

(b) *Authorization for judicial applications in the United States.* Under 18 U.S.C. § 2516(1), the Attorney General, or any Assistant Attorney General specially designated by the Attorney General may authorize an application to a federal judge of competent jurisdiction for, and such judge may grant in conformity with 18 U.S.C. § 2518, an order authorizing or approving the interception of wire or oral communications by the Department of Defense, the Department of Homeland Security, or any Military Department for purposes of obtaining evidence concerning the offenses enumerated in 18 U.S.C. § 2516(1), to the extent such offenses are punishable under the Uniform Code of Military Justice.

*MCM Part IV ¶ 14 c(2)(a) (Modified)* [p. IV-19]

(2) *Disobeying superior commissioned officer.*

(a) *Lawfulness of the order.*

(i) *Inference of lawfulness.* An order requiring the performance of a military duty or act may be inferred to be lawful and it is disobeyed at the peril of the subordinate. This inference does not apply to a patently illegal order, such as one that directs the commission of a crime.

(ii) *Determination of lawfulness.* The lawfulness of an order is a question of law to be determined by the military judge.

(iii) *Authority of issuing officer.* The commissioned officer issuing the order must have authority to give such an order. Authorization may be based on law, regulation, or custom of the service.

(iv) *Relationship to military duty.* The order must relate to military duty, which includes all activities reasonably necessary to accomplish a military mission, or safeguard or promote the morale, discipline, and usefulness of members of a command and directly connected with the maintenance of good order in the service. The order may not, without such a valid military purpose, interfere with private rights or personal affairs. However, the dictates of a person's conscience, religion, or personal philosophy cannot justify or excuse the disobedience of an otherwise lawful order. Disobedience of an order which has for its sole object the attainment of some private end, or which is given for the sole purpose of increasing the penalty for an offense which it is expected the accused may commit, is not punishable under this article.

(v) *Relationship to statutory or constitutional rights.* The order must not conflict with the statutory or constitutional rights of the person receiving the order.

*MCM Part IV ¶ 16 c(1)(a) (Modified)* [p. IV-23]

(a) *Authority to issue general orders and regulations.* General orders or regulations are those orders or regulations generally applicable to an armed force which are properly published by the President or the Secretary of Defense, of Homeland Security, or of a military department, and those orders or regulations generally applicable to the command of the officer issuing them throughout the command or a particular subdivision thereof which are issued by:

MCM Part IV ¶ 97 b (Modified) [p. IV-119]

(2) Patronizing a prostitute.

(a) That the accused had sexual intercourse with another person not the accused's spouse;

(b) That the accused compelled, induced, enticed, or procured such person to engage in an act of sexual intercourse in exchange for money or other compensation; and

(c) That this act was wrongful; and

(d) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(3) Pandering by compelling, inducing, enticing, or procuring act of prostitution.

(a) That the accused compelled, induced, enticed, or procured a certain person to engage in an act of sexual intercourse for hire and reward with a person to be directed to said person by the accused;

(b) That this compelling, inducing, enticing, or procuring was wrongful; and

(c) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(4) Pandering by arranging or receiving consideration for arranging for sexual intercourse or sodomy.

(a) That the accused arranged for, or received valuable consideration for arranging for, a certain person to engage in sexual intercourse or sodomy with another person;

(b) That the arranging (and receipt of consideration) was wrongful; and

(c) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

MCM Part IV ¶ 97 e (Modified) [p. IV-119]

(1) Prostitution and patronizing a prostitute. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year.

(2) Pandering. Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 5 years.

MCM Part IV ¶ 97 f (Modified) [p. IV-119]

(2) Patronizing a prostitute.

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_20\_\_\_, wrongfully (compel) (induce) (entice) (procure) \_\_\_\_\_, a person not his/her spouse, to engage in (an act) (acts) of sexual intercourse with the accused in exchange for (money) (\_\_\_\_\_).

(3) Compelling, inducing, enticing, or procuring act of prostitution.

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_20\_\_\_, wrongfully (compel) (induce) (entice) (procure) \_\_\_\_\_ to engage in (an act) (acts) of (sexual intercourse for hire and reward) with persons to be directed to him/her by the said \_\_\_\_\_.

(4) Arranging, or receiving consideration for arranging for sexual intercourse or sodomy.

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject-matter jurisdiction data, if required), on or about \_\_\_20\_\_\_, wrongfully (arrange for) (receive valuable consideration, to wit: \_\_\_\_\_ on account of arranging for) \_\_\_\_\_ to engage in (an act) (acts) of (sexual intercourse) (sodomy) with \_\_\_\_\_.

MCM Part IV ¶ 109 (Modified) [p. IV-126]

**109. ARTICLE 134—(Threat or hoax designed or intended to cause panic or public fear)**

a. *Text.* See paragraph 60.

b. *Elements.*

(1) *Threat.*

(a) That the accused communicated certain language;

(b) That the information communicated amounted to a threat;

(c) That the harm threatened was to be done by means of an explosive; weapon of mass destruction; biological or chemical agent, substance, or weapon; or hazardous material;

(d) That the communication was wrongful; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

(2) *Hoax.*

(a) That the accused communicated or conveyed certain information;

(b) That the information communicated or conveyed concerned an attempt being made or to be made by means of an explosive; weapon of mass destruction; biological or chemical agent, substance, or weapon; or hazardous material, to unlawfully kill, injure, or intimidate a person or to unlawfully damage or destroy certain property;

(c) That the information communicated or conveyed by the accused was false and that the accused then knew it to be false;

(d) That the communication of the information by the accused was malicious; and

(e) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

c. *Explanation.*

(1) *Threat.* A "threat" means an expressed present determination or intent to kill, injure, or intimidate a person or to damage or destroy certain property presently or in the future. Proof that the accused actually intended to kill, injure, intimidate, damage, or destroy is not required.

(2) *Explosive.* "Explosive" means gunpowder, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electrical circuit breakers), detonators, and other detonating agents, smokeless powders, any explosive bomb, grenade, missile, or similar device, and any incendiary bomb or grenade, fire bomb, or similar device, and any other explosive compound, mixture, or similar material.

(3) *Weapon of mass destruction.* A weapon of mass destruction means any device, explosive or otherwise, that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of: toxic or poisonous chemicals, or their precursors; a disease organism; or radiation or radioactivity.

(4) *Biological agent.* The term "biological agent" means 12 any microorganism (including bacteria, viruses, fungi, rickettsiac, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing—

(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(b) deterioration of food, water, equipment, supplies, or materials of any kind; or

(c) deleterious alteration of the environment.

(5) *Chemical agent, substance, or weapon.* A chemical agent, substance, or weapon refers to a toxic chemical and its precursors or a munition or device, specifically designed to cause death or other harm through toxic properties of those chemicals that would be released as a result of the employment of such munition or device, and any equipment specifically designed for use directly in connection with the employment of such munitions or devices.

(6) *Hazardous material.* A substance or material (including explosive, radioactive material, etiologic agent, flammable or combustible liquid or solid, poison, oxidizing or corrosive material, and compressed gas, or mixture thereof) or a group or class of material designated as hazardous by the Secretary of Transportation.



**MCM Part IV ¶ 109 (Modified)** [p. IV-127]

(7) *Malicious*. A communication is “malicious” if the accused believed that the information would probably interfere with the peaceful use of the building, vehicle, aircraft, or other property concerned, or would cause fear or concern to one or more persons.

d. *Lesser included offenses*.

(1) *Threat*

- (a) Article 134—communicating a threat
- (b) Article 80—attempts
- (c) Article 128—assault

(2) *Hoax*. Article 80—attempts

e. *Maximum punishment*. Dishonorable discharge, forfeitures of all pay and allowances, and confinement for 10 years.

f. *Sample specifications*.

(1) *Threat*.

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location), on or about \_\_\_\_\_ 20\_\_\_\_, wrongfully communicate certain information, to wit: \_\_\_\_\_, which language constituted a threat to harm a person or property by means of a(n) [explosive; weapon of mass destruction; biological agent, substance, or weapon; chemical agent, substance, or weapon; and/or (a) hazardous material(s)].

(2) *Hoax*.

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location), on or about \_\_\_\_\_ 20\_\_\_\_, maliciously (communicate) (convey) certain information concerning an attempt being made or to be made to unlawfully [(kill) (injure) (intimidate) \_\_\_\_\_] [(damage) (destroy) \_\_\_\_\_] by means of a(n) [explosive; weapon of mass destruction; biological agent, substance, or weapon; chemical agent, substance, or weapon; and/or (a) hazardous material(s)], to wit: \_\_\_\_, which information was false and which the accused then knew to be false.

**MCM Part V ¶ 1 (Modified)** [p. V-2]

h. *Applicable standards*. Unless otherwise provided, the service regulations and procedures of the service-member shall apply.

i. *Effect of errors*. Failure to comply with any of the procedural provisions of Part V of this Manual shall not invalidate a punishment imposed under Article 15, unless the error materially prejudiced a substantial right of the servicemember on whom the punishment was imposed.

**MCM Part V ¶ 2 a (Modified)** [p. V-2]

a. *Commander*. As provided by regulations of the Secretary concerned, a commander may impose nonjudicial punishment upon any military personnel of that command. “Commander” means a commissioned or warrant officer who, by virtue of rank and assignment, exercises primary command authority over a military organization or prescribed territorial area, which under pertinent official directives is recognized as a “command.” “Commander” includes a commander of a joint command. Subject to subparagraph 1d(2) and any regulations of the Secretary concerned, the authority of a commander to impose nonjudicial punishment as to certain types of offenses, certain categories of persons, or in specific cases, or to impose certain types of punishment, may be limited or withheld by a superior commander or by the Secretary concerned.