



CRIME AND PUNISHMENT

VOLUME I, ISSUE 5

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NONJUDICIAL PUNISHMENT

ARTICLE 15 ACTIONS

During February 2016, JBSA commanders administered 28 nonjudicial punishment actions under Article 15 of the UCMJ. The punishments imposed reflect the commander's determination of an appropriate punishment after considering the circumstances of the offense and the offender's record. A "suspended" punishment does not take effect unless the offender engages in additional misconduct or fails to satisfy the conditions of the suspension. The suspension period usually lasts for six months unless a lesser amount is specified. Administrative discharge may also be an option for commanders after the conclusion of an Article 15, depending on the circumstances. The following are some of the NJP actions that closed out in February. Decisions regarding discharge are not included.

Destroying/Damaging non-military property x 5 – A Staff Sergeant was observed ripping off the door handles of three vehicles, scratching one vehicle, and ripping off the rear windshield wiper blade off another vehicle. The member received a reduction to Senior Airman, forfeitures of \$1241 pay per month for two months (suspended for 6 months), and a reprimand.

Wrongful use of marijuana - A Senior Airman wrongfully used marijuana. The member received a reduction to Airman First Class, forfeitures of \$1027.00 pay per month for two months, and a reprimand.

Wrongful use of Marijuana – An Airman in technical training tested positive (urinalysis) for marijuana. The member received a reduction to Airman Basic, forfeitures of \$783 pay per month for two months, 30 days extra duty, 30 days restriction, and a reprimand.

Wrongful use of a controlled substance x 3 - An Airman Basic wrongfully used codeine, hydrocodone, and hydromorphone. The member received 21 days restriction, forfeitures of \$783.00 pay per month for two months (1 month suspended), and a reprimand.

Dereliction of Duty x 2: Willful – An Airman failed to refrain from having a visitor in her dormitory who was not a NPS Airman from the same group, and also failed to refrain from having a visitor in her dormitory after accountability. The member received 14 days restriction, forfeitures of \$250.00 pay per month for two months (1 month suspended), and a reprimand.

Dereliction of Duty: Willful - An Airman First Class consumed alcohol while underage. Punishment consisted of a reduction to the grade of Airman, forfeiture of \$878 pay (suspended for 6 months), and a reprimand.

Dereliction of Duty: Willful – An Airman First Class in technical training unlawfully possessed, consumed, and distributed alcohol to a minor. The member received forfeitures of \$923 pay per month for two months, (1 month suspended), 14 days extra duty,

30 days restriction, and a reprimand.

Dereliction of Duty: Willful x 2 – An Airman Basic in technical training failed to return to the dormitory for accountability and allowed a member from outside of the squadron and of the opposite gender inside dormitory room. The member received forfeitures of \$783 pay per month for one month (1 month suspended), 14 days extra duty, 14 days restriction and a reprimand.

Larceny – An Airman Basic in technical training stole a cosmetic brush from AAFES. The member received forfeitures of \$783 pay per month for two months, 20 days restriction, and a reprimand.

Military Justice POCs

JBSA Lackland (671-2007)

Capt Chris Porter (Courts)
Capt Matthew Blyth (NJP)
Karen Dreitzler

JBSA Fort Sam Houston (221-2032)

Capt Lauren McCormick
TSgt Andrea Simmonds

JBSA Randolph (652-9673)

Capt Eliot Peace
SSgt Nelly Hensley

After Hours On-Call JAG

JBSA Lackland - 210-288-7379
JBSA Fort Sam - 210-317-8738
JBSA Randolph - 210-275-2453

Retaliation Against Victims

Retaliation against someone because they reported a crime is an issue that cannot be allowed to progress. With the most recent update to AFI 36-2909, *Professional and Unprofessional Relationships*, dated 19 June 2015, the Air Force is placing a strong emphasis on combatting retaliation. While it is often viewed as being an issue surrounding victims of sexual assault, the Air Force emphasis is regarding victims of all crimes as well as those who report a crime.

Now, retaliation encompasses a broad range of behaviors. Congress' Judicial Proceedings Panel's (JPP) report on retaliation describes three types in relation to sexual assault. It includes *social retaliation*, such as harassing or isolating a Service member because he or she reported a sexual assault; *professional retaliation*, such as interfering with a Service member's promotion because he or she reported a sexual assault; and *criminal retribution*, such as assaulting or threatening a Service member because he or she reported a sexual assault. These behaviors can occur any time after the underlying sexual assault. In some cases, Service members experience retaliation before the sexual assault is reported. In other cases, Service members experience retaliation during the investigation, prosecution, and post-adjudication stages of the judicial process.

The negative effects of retaliation in the military are clear. Retaliation not only harms the victims in these situations but also damages unit cohesion and mission readiness. Fear of retaliation can also undermine other victims' willingness to report sexual assault in the future, allowing the cycle of sexual assault to continue.

AFI 36-2909, Additions

Newly added to AFI 36-2909 is paragraph 11:

11. Prohibition on Retaliation. Military members shall not retaliate against an alleged victim or other military member who reports a criminal offense.

11.1. Retaliation. Retaliation is taking or threatening to take an adverse personnel action, or withholding or threatening to withhold a favorable personnel action, with respect to a military member because the member reported a criminal offense.

11.2. Ostracism. Ostracism, which is a form of retaliation under this instruction, is the exclusion, from social acceptance, privilege or friendship with the intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice.

11.3. Maltreatment. Maltreatment, which is a form of retaliation under this instruction, is treatment by peers or by other persons, that, when viewed objectively under all the circumstances, is abusive or otherwise unnecessary for any lawful purpose, that is done with the intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice, and that results in physical or mental harm or suffering, or reasonably could have caused, physical or mental harm or suffering. Maltreatment under this instruction is prohibited by the National Defense Authorization Act of Fiscal Year 2014, Section 1709(b), and does not require a senior-subordinate relationship as is required for maltreatment under Article 93, UCMJ.

The updated preamble to 36-2909 makes violations of anything in paragraph 11 punishable as either a violation under Article 92 (Violation of a Lawful Regulation) or Article 134 (Conduct Prejudicial to Good Order and Discipline or Service Discrediting).

COURTS-MARTIAL AT JBSA IN FEBRUARY 2016

There were no courts-martial that closed out through sentencing during the month of February 2016.

After sentencing, members can request clemency. In some cases, this can change the outcome of their case and/or sentence to something less severe. Acquittals are final results. All courts-martial are open to the public. Visit our USAF Public Docket website at <http://www.afjag.af.mil/docket/index.asp>.