



# CRIME AND PUNISHMENT

VOLUME II, ISSUE 1

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## NONJUDICIAL PUNISHMENT

### ARTICLE 15 ACTIONS

During December 2015, JBSA commanders administered 16 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. The following are some of the NJP actions that closed out in December.

**Violation of a Lawful Order; Fraternization; Adultery** – A Captain had an adulterous affair with a Senior Airman who was a member of the same unit. When given a no contact order by supervision, the member violated it. The member received forfeitures of \$2,246 pay per month for two months and a reprimand.

**Going From Place of Duty** – An Airman Basic in basic training fled his detail and jumped the border fence, leaving base. The member received forfeitures of \$724 pay per month for one month and a reprimand.

**Dereliction of Duty: Willful; Adultery** – A married Airman in technical school was derelict in his duty to refrain from having another Airman of the opposite gender in his dorm room. The member also had an adulterous relationship with another Airman. The member received forfeitures of \$878 pay per month for one month and a reprimand.

**Dereliction of Duty: Willful** – An Airman Basic in technical school was derelict in his duty to refrain from leaving base while in BTP status. The member received forfeitures of \$724 pay per month (suspended), 30 days restriction to base (with 15 days suspended), 15 days extra duty, and a reprimand.

**Dereliction of duty: Willful; Indecent Exposure** – An Airman First Class was derelict in his duty to refrain from driving an automobile while his driver's license was suspended. The member was also observed by an off-duty police officer to be publicly exposing his buttocks in an indecent manner. The member received a reduction to the rank of Airman (suspended), 15 days extra duty, and a reprimand.

**Dereliction of Duty: Willful** – An Airman consumed alcohol while underage. This member received a reduction to Airman Basic, forfei-

tures of \$500 pay per month for two months (one month suspended), 21 days restriction to base, and a reprimand.

**Dereliction of Duty: Willful** – An Airman in technical school was derelict in his duty to refrain from having a member of the opposite gender in his door room with the door closed. The member received forfeitures of \$198 pay per month for one month and a reprimand.

### Military Justice POCs

#### JBSA Lackland (37 TRW, 59 MDW and LAK Mission Partners)

(671-2007)

*Capt Will Wright (Courts)*

*TSgt Jovanni Hill (Courts)*

*Ms. Karen Dreitzler (Courts)*

*Capt Brittany Hannah (NJP)*

*Capt Douglas Moquet (NJP)*

*SSgt Stephan Williams (NJP)*

#### JBSA Fort Sam Houston (502 ABW and FSH/CB Mission Partners)

(221-2032)

*Capt Lauren McCormick (Courts)*

*Capt Gabriel Bush (NJP)*

*TSgt Eduardo De La Torre*

#### JBSA Randolph (12 FTW and RND Mission Partners)

(652-9673)

*Capt James Dawkins*

*SSgt Margo Walker*

# Unlawful Command Influence (UCI)

UCI occurs when military authorities attempt to influence, impede, or misdirect the administration of justice. UCI can be directed at court-martial members (the jury), witnesses, judges, counsel, and even at commanders.

**Examples of unlawful command influence include:**

- Wing Commander stating at commander's call "All cocaine users must be discharged from the Air Force." Why could this be unlawful? The Wing Commander seems to be setting a requirement for all of his subordinate commanders to follow. While it may be true that members convicted of illegal drug use are often discharged from the service, each commander must consider each case and each member individually; exercising his or her independent judgment.
- Commander giving a Letter of Counseling to a jury member for failing to convict an Airmen during a recent court-martial. This would be unlawful. A panel member, also called a jury member, is independent of the chain of command when acting as a jury member. He or she is required to act in accordance with the law, the instructions given on the law by the military judge and their own common knowledge of the ways of the world in considering how to vote in a court-martial. Further, their vote is private and protected by law; so no one is allowed to know what was discussed or an individual vote from a jury deliberation room.

- A superior commander directing a subordinate commander to prefer charges or offer an Article 15. This is unlawful—as a commander must act independently; using his or her own judgment.

**Permissible command influence includes:**

- Consulting with a subordinate about a military justice matter or requesting a subordinate reconsider his or her action in light of new evidence.  
  
Example: A squadron commander can seek advice from the senior commander.
- Ordering that all DUI cases in the Group will be dealt with by the Group Commander or above.

Discussion: A senior commander can always decide to pull a case to his or her level and make the decision. We often see this with DUIs—where the Wing Commander will handle DUIs personally to ensure that they are addressed as he or she believes they should be addressed. While a commander can not be told by a senior commander what to do, a senior commander can always just pull a case up and take any allowed action personally.

If the accused in a court-martial alleges that UCI resulted in him or her receiving an unfair trial, or even the perception of an unfair trial, the military judge can dismiss the charges against him or her. Therefore, it is vitally important to remain impartial and guard against even the appearance of impartiality.

## COURTS-MARTIAL AT JBSA IN DECEMBER 2016

U.S. v. TSgt T.H., 342d Recruiting Squadron, JBSA-Lackland, Texas, was tried by a general court-martial consisting of officer and enlisted members from 28 November—2 December 2016 at JBSA-Lackland, Texas. TSgt T.H. faced charges of sexual contact with a child in violation of Article 120, UCMJ; lewd acts upon a child in violation of Article 120, UCMJ; and assault upon a child in violation of Article 128, UCMJ. TSgt T.H. was found not guilty of all of the charges and specifications.

**After sentencing, members can request clemency. In some cases, this can change the outcome of their case and/or sentence. All courts-martial are open to the public. Visit our USAF Public Docket website at <http://www.afjag.af.mil/About-Us/Docket>.**