



# CRIME AND PUNISHMENT

VOLUME I, ISSUE 9

JULY 2016

## NONJUDICIAL PUNISHMENT

### ARTICLE 15 ACTIONS

During **June 2016**, JBSA commanders administered 8 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 June. Decisions regarding discharge are not included.

**Wrongful Use of a Controlled Substance** – A Senior Airman wrongfully used marijuana. The member received a reduction to Airman Basic (E-1), suspended forfeitures of \$783.00 pay for two months, and a reprimand.

**Failure to Go & Dereliction of Duty: Willful**– An Airman Basic in technical training, without authority, failed to remain in the local area and missed accountability. The member received forfeitures of \$783.00 pay for one month, 20 days restriction to base, 15 days extra duty, and a reprimand.

**Dereliction of Duty: Willful & False Official Statement**– An Airman Basic in technical training changed his answer on a test and lied about changing it. The member received suspended forfeitures of \$783.00 pay per month for one month, 14 days restriction to base, 14 days extra duty, and a reprimand.

**Dereliction of Duty x 2: Willful** – An Airman First Class in technical training consumed alcohol while under the age of 21. Additionally, the member left the area without an approved AETC Form 29B. The member received a reduction to Airman (E-2), suspended forfeitures of \$878.00 pay per month for one month, and a reprimand.

**Abusive Sexual Contact x 2**– An Airman First Class, without authority, made sexual contact with another Airman multiple times, without that Airman's consent. The member received a reduction to Airman Basic and a reprimand.

**Wrongful Use of a Controlled Substance** – An Airman in technical training used marijuana. The member received a reduction to Airman Basic (E-1), forfeitures of \$783.00 pay for two months, 30 days restriction to base, 30 days extra duty, and a reprimand.

**Abusive Sexual Contact x 3 & Indecent Exposure**– An Airman Basic in Basic Military Training made

sexual contact with three other trainees without their consent, and also exposed himself in an indecent manner. The member received forfeitures of \$783.00 pay per month for two months and a reprimand.

**AWOL: Failure to Go & Dereliction of Duty: Willful** – An Airman Basic in technical training left the local area without an approved 29B and missed accountability. The member received suspended forfeitures of \$724.00 pay for two months, with one month suspended, and a reprimand.

### Military Justice POCs

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

(671-2007)

*Capt Wade Tucker (Courts)*

*Capt Matthew Blyth (NJP)*

*Karen Dreitzler*

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

(221-2032)

*Capt Lauren McCormick*

*TSgt Andrea Simmonds*

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

(652-9673)

*Capt Eliot Peace*

*SSgt Timothy Morin*

*After Hours On-Call JAG—295-0064*

## Unlawful Command Influence (UCI)

UCI occurs when military authorities 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:

- Commanders stating all drug users must be removed from the Air Force.
- Commanders condemning a jury verdict or expressing their public unhappiness with the result of a court-martial.
- Commanders telling members not to testify for an accused at court-martial.
- Commanders taking adverse actions against a juror based upon the results of a court-martial.
- A superior commander directing a subordinate commander to prefer charges or offer an Article 15.

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.
- Ordering that all DUI cases in the Group will be dealt with by the Group Commander or above.
- Talking about how the use of illegal drugs is a violation of the law and impacts mission accomplishment.

If the accused in a court-martial alleges 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.

## The Right to Remain Silent - Art. 31, UCMJ

If you reasonably suspect a military member of a crime and intend to ask them a question about it—you MUST advise them of their Article 31 rights.

**Can I just skip this if what they did was minor?** No. Article 31 rights apply to all offenses, no matter how minor. You would be violating the law. Members have the legal right to be informed and you should NOT violate their rights.

**If I do this, I will be reading rights all the time!** Maybe. Found at Article 31 of the UCMJ, Congress and the President decided actually intended for the Article 31 rights to be read MORE often than regular Miranda (5th Amendment) rights. This is because military members have been trained to answer all questions asked by authority figures. Article 31 rights, then, are a way of signaling that these particular questions are different and they enable military member to understand that these are questions that they are not required to answer.

Commanders, first sergeants, and supervisors should keep an Article 31 rights advisement card (AFVA 31-231) on hand in case they need to question a member about a suspected crime. It is advisable to read the rights directly from the card as it ensures that the member is fully and accurately advised of their rights. After advising the member, if he or she elects to waive his or her rights and agrees to talk, document the waiver of rights in an AF IMT 1168.

If, however, the member elects to remain silent or requests to speak with an attorney, stop all questioning immediately. Also, if the member initially waives their rights and begins to answer questions, but then later changes their mind and wants to remain silent or speak with an attorney—you must once again stop all questioning immediately.

## COURTS-MARTIAL AT JBSA IN JUNE 2016

US v. TSgt Carroll, 91st NWS, JBSA-Lackland, was tried by a general court-martial consisting of officer members from 31 May - 4 Jun 16 at JBSA-Lackland, Texas. TSgt Carroll was found guilty of one specification of committing indecent conduct, in violation of Article 120, UCMJ. The members sentenced TSgt Carroll to reduction to E-4, forfeiture of all pay and allowances, 9 months confinement and to be discharged with a Bad Conduct Discharge.

US v. AB Willoughby, 343d TRS, JBSA-Lackland, was tried by a special court-martial consisting of a military judge on 7 Jun 16 at JBSA-Lackland, Texas. AB Willoughby pled and was found guilty of one specification of wrongful use of cocaine, in violation of Article 112a, UCMJ. The military judge sentenced AB Willoughby to forfeiture of \$750.00 pay and 30 days confinement.

**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>.**