

Article 86 essay



**ASSIGN
BUSTER**

If a soldier is late for a formation he is in violation of Article 86 of the UCMJ, Failure to Report to Appointed Place of Duty. The supervisor must then counsel his soldier and attempt to correct this behavior.

The supervisor has a lot of latitude to decide how to punish this soldier. He can make the soldier report 30 minutes prior to the first formation for the day for five consecutive days. This would typically have him reporting at 0600 hours rather than 0630 hours. He could have him report to the Staff Duty NCO every 4 hours through the night for a specified number of days.

This would take away the soldier's time creating an unpleasant situation for that soldier. This form of correction provides both specific and general deterrence. It specifically deters because that soldier will not want to go through whatever punishment was dealt out to him. He would also be aware that the penalties get stiffer the next violation of the same instance. It generally deters because all other soldiers in that platoon or company see what happened to that soldier and do not want that same thing to happen to them.

Most infractions of the UCMJ can be dealt with by nonjudicial punishment. Nonjudicial punishment is Article 15 of the UCMJ. The authority of commanders to give an Article 15 is found in Article 15 of the Uniform Code of Military Justice. An Article 15 is considered non-judicial punishment, because it is not a judicial proceeding.

Non-judicial punishment is a military justice option available to commanders. It permits commanders to resolve allegations of minor misconduct against a soldier without resorting to higher forms of discipline, such as a court-

martial. The commander has complete discretion about whether to impose an Article 15. A soldier may, however, refuse to accept the Article 15 and instead demand trial by court-martial. (Powers, Nonjudicial Punishment)

There are three types of Article 15's.

Summarized any company grade commander may administer this type of Article 15. Soldiers who are read a summarized Article 15 are not entitled to consult with a defense attorney. They may, however, turn down the Article 15 and demand trial by court-martial. The maximum punishment authorized at a summarized Article 15 is any combination of: extra duty for 14 days, restriction for 14 days, oral reprimand or admonition. Company grade, any company grade commander may administer this type of Article 15. The maximum punishment authorized at a company grade Article 15 is any combination of, extra duty for 14 days, restriction for 14 days, oral reprimand or admonition, forfeiture of 7 days base pay, reduction in rank of one grade (E-4 & below only).

A Field Grade commander in the rank of Major or above may administer this type of Article 15. The maximum punishment authorized at a field grade Article 15 is, extra duty for 45 days, restriction for 60 days (maximum of 45 days if combined with extra duty), oral reprimand or admonition, forfeiture of half of their base pay per month for two months, reduction in rank to E-1(E-4 & below) or reduction in rank of one grade (E-5 & E-6 only). (AR 27-10, 2002, p. 10-12) Nonjudicial punishment serves as an excellent means to help hinder violations of the UCMJ in the military. Nonjudicial punishment is fast, there is less paperwork, and punishment comes quicker. In the Manual for

Courts Martial under Article 16, the UCMJ provides for three different types of court-martials.

They are summary, special, and general. These types of courts-martial are different in their administration, and the level of punishment each court can impose. Summary court-martial consists of one commissioned officer, and may try only enlisted soldiers for minor offences. The punishment that can be imposed is only slightly higher than a field grade article 15.

A court-martial conviction however is a federal conviction, while a Field Grade Article 15 is not. For soldiers in the pay grade of E-4 and above, a summary court martial may sentence a soldier to 60 days restriction, forfeiture of two-thirds one month's base pay and demotion of one rank. For soldiers in the pay grade of E-3 and below, a summary court-martial may sentence a soldier to 60 days restriction or one month confinement, demotion to lowest rank, and forfeiture of two thirds pay for one month. Manual for Courts Martial, 2002, pg A2-6) A special court-martial is often classified as a misdemeanor court, all persons subject to the UCMJ, including officers and warrant officers can be tried by a special court martial.

A special court-martial may impose extra duty, admonition, restriction, reprimand, and confinement for not more than six months, and forfeiture of two-thirds of a month's base pay for six months. Enlisted soldiers can be demoted to the lowest pay grade, and receive a bad-conduct discharge. Manual for Courts Martial, 2002, pg A2-6)A general court-martial consists of no less than five members and a military judge, or the soldier can be tried by military judge alone upon the request of the soldier being tried. A general

court-martial is often classified as a felony court. The general court-martial can try all persons subject to the UCMJ including officers.

A general court-martial may consider any sentence allowed by the UCMJ. This could include lengthy incarceration, hard labor, life in prison and the death penalty. Manual for Courts Martial, 2002, pg A2-6) Although there are differences in the administration, and underlying philosophy, the ultimate goal is the same. Corrections, whether it is in the Army or in the civilian world is there to deter crime. The UCMJ does just that from the least of crimes, showing up late to work, or to capital crimes. The UCMJ serves as a deterrent to deviant behavior in the military.