CHAPTER 6

GOVERNING REGULATIONS

LEARNING OBJECTIVES

Upon completion of this chapter, you should be able to do the following:

1. Identify the articles from *Navy Regulations* that all Navy personnel should know.
2. Identify the contents of various articles from *Navy Regulations.*
3. Trace the development of the *Uniform Code of Military Justice.*
4. Describe the contents of article 137 of the *Uniform Code of Military Justice.*
5. Identify the contents of the articles that are explained in article 137 of the *Uniform Code of Military Justice.*
6. Describe the proceedings of nonjudicial punishment and the punishments that may be awarded at nonjudicial punishment proceedings.
7. Describe the three types of courts-martial.
8. Describe the purpose of the *Standard Organization and Regulations of the U.S. Navy.*
9. Identify the contents of various articles of the *Standard Organization and Regulations of the U.S. Navy.*

Figure 6-1 shows the three official sources that set forth the basic disciplinary laws for the Navy. These sources are the *Uniform Code of Military Justice (UCMJ)* (contained in the *Manual for Courts-Martial United States, 1984,* Revised Edition); *United States Navy Regulations, 1990* (commonly called *Navy Regs);* and the *Standard Organization and Regulations of the U.S. Navy.*

You probably have heard the saying, "Ignorance of the law is no excuse." Obviously, this idea must govern; otherwise, personnel could excuse illegal conduct merely by saying they did not know there was a law against it. When you entered the Navy, you agreed to abide by the Navy's laws and regulations. Naturally, you will need time to learn all the rules you must obey. However, you should make every effort to learn them as soon as possible to avoid embarrassing situations and disciplinary action.

U.S. NAVY REGULATIONS

The 12 chapters of *Navy Regs* describe the authority and responsibilities of the offices within the Department of the Navy. They also describe the regulations concerning the procedures, authority, and command of these offices. *Navy Regs* also covers honors and ceremonies, the rights and responsibilities of persons in the Department of the Navy, and the purpose and force of these regulations.

Each ship and station has complete copies of *Navy Regs* available to all personnel. Also available is an excellent nonresident training course entitled *Navy Regulations,* NAVEDTRA 10740-C, which you are encouraged to complete. Your educational services officer (ESO) can help you order this course.

The following section lists articles (with a condensation of their text, if appropriate) from *United States Navy Regulations, 1990,* that all

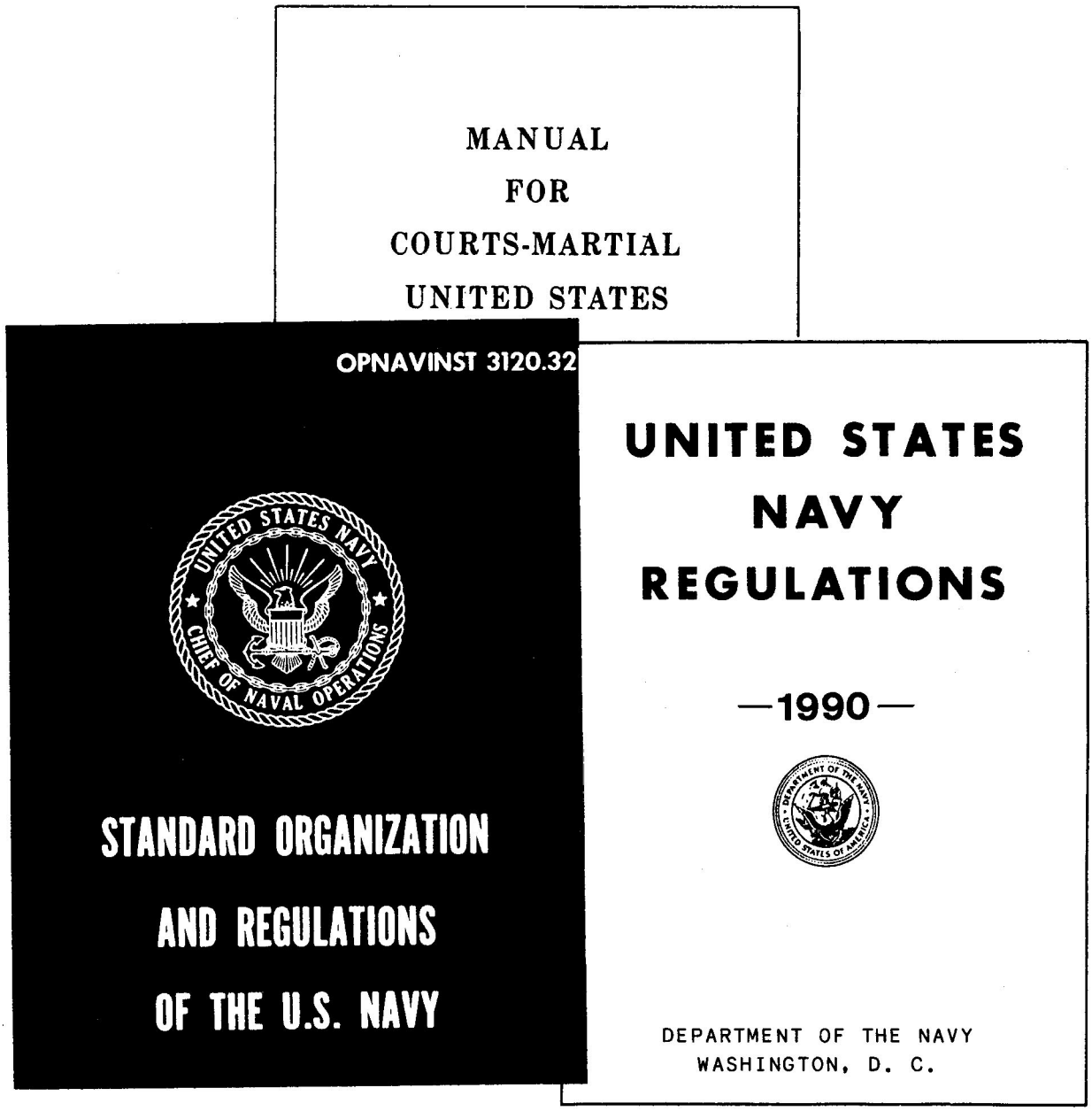


Figure 6-1.-Three official sources for basic disciplinary laws.

personnel in the Navy should know. This listing serves only as a starting place for you to learn about Navy regulations. You are responsible for learning and obeying all regulations. These regulations are not punitive articles, but laws under which the Navy operates. Many exist for your own protection. Failure to obey any regulation subjects the offender to charges under article 92, *UCMJ* (Failure to obey order or regulation).

In the following excerpts the first two digits of the article number indicate the chapter of *Navy Regs* from which the article is taken. When the article itself is self-explanatory, the article is presented in block quotation exactly as stated in Navy *Regs;* no further explanation is given. Articles that are lengthy and, in some cases, difficult to interpret are paraphrased to give you a brief overview of the contents of the article.

0818. Publishing and Posting Orders and Regulations

1. In accordance with Article 137 of the *Uniform Code of Military Justice,* the articles specifically enumerated therein shall be carefully explained to each enlisted person:

a. At the time of entrance on active duty or within six days thereafter;

b. Again, after completion of six months active duty; and

c. Again, upon the occasion of each reenlistment.

2. A text of the articles specifically enumerated in Article 137 of the *Uniform Code of Military Justice* shall be posted in a conspicuous place or places, readily accessible to all personnel of the command.

3. Instructions concerning the *Uniform Code of Military Justice* and appropriate articles of *Navy Regulations* shall be included in the training and educational program of the command.

4. Such general orders, orders from higher authority, and other matters which the commanding officer considers of interest to the personnel or profitable for them to know shall be published to the command as soon as practicable. Such matters shall also be posted, in whole or in part, in a conspicuous place or places readily accessible to personnel of the command.

5. Upon the request of any person on active duty in the armed services, the following publications shall be made available for that person's personal examination:

a. A complete text of the *Uniform Code of Military Justice,*

b. *Manual for Courts-Martial,*

c. *Navy Regulations,*

d. *Manual of the Judge Advocate General,*

e. *Marine Corps Manual* (for Marine Corps personnel),

f. *Naval Military Personnel Manual* (for Navy personnel) or *Marine Corps Personnel Manual* (for Marine Corps personnel).

0917. Dealings With Foreigners

When in foreign ports, personnel shall respect local laws, customs, ceremonies, and regulations; display courtesy and moderation; and cultivate a feeling of good will and mutual respect.

1020. Exercise of Authority

All persons in the naval service on active service, those on the retired list with pay, and transferred members of the Fleet Reserve and the Fleet Marine Corps Reserve are at all times subject to naval authority. While on active service they may, if not on leave of absence except as noted below, on the sick list, taken into custody, under arrest, suspended from duty, in confinement, or otherwise incapable of discharging their duties, exercise authority over all persons who are subordinate to them.

1021. Authority Over Subordinates

This article gives officers the authority necessary to perform their duties.

1023. Abuse of Authority

Persons in authority are forbidden to injure their subordinates by tyrannical or capricious conduct, or by abusive language.

1024. Contradictory and Conflicting Orders

An enlisted person who receives an order that annuls, suspends, or modifies one received from another superior shall immediately relate this fact to the superior from whom the last order was received. If, after receiving this information, the superior from whom the last order was received should insist upon the execution of that order, it shall be obeyed. The person receiving and executing such order shall report the circumstances as soon as practicable to the superior from whom the original order was received.

1033. Authority in a Boat

This article provides the senior line officer eligible for command at sea the authority over all persons embarked in a boat. It also delegates the officer responsibility for the safety and management of the boat.

1037. Authority of Warrant Officers, Non-Commissioned Officers, and Petty Officers

Chief warrant officers, warrant officers, non-commissioned officers, and petty officers shall have, under their superiors, all necessary authority for the proper performance of their duties, and they shall be obeyed accordingly.

1038. Authority of a Sentry

A sentry, within the limits stated in his or her orders, has authority over all persons on his or her post.

1039. Authority of Juniors To Issue Orders to Seniors

No member of the armed forces is authorized by virtue of his or her rank alone to give any order or grant any privilege, permission, or liberty to any officer senior to him or her. A member is not required to receive such order, privilege, permission, or liberty from a junior, unless such junior is at the time:

- In command of the ship or other command to which the senior is attached.
- In command or direction of the military expedition or duty on which such senior is serving.
- An executive officer executing an order of the commanding officer.

1111. Pecuniary Dealings With Enlisted Persons

No officer should have any dealings involving money with enlisted persons except as may be required in the performance of the officer's duties or as involved in the sale of personal property. An officer may be designated by superior authority to accept deposits from enlisted personnel for the purpose of safeguarding these funds under emergency or operational situations.

1112. Lending Money and Engaging in a Trade or Business

Naval personnel shall not lend money to another member of the armed services at an interest rate, for the period of the loan, that exceeds 18 percent simple interest per year. Personnel may not act as a salesperson or an agent or engage in a business on board without permission of the commanding officer.

1115. Report of Fraud

Any suspicions of fraud, collusion, or improper conduct in matters concerning supplies and repairs should be reported to proper authority.

1125. Inspection of the Record of a Person in the Naval Service

A person's naval record is maintained by the Chief of Naval Personnel or the Commandant of the Marine Corps. The record must be available for inspection by that person or an authorized agent designated in writing by that person.

1130. Officer's Duties Relative to Laws, Orders and Regulations

All officers in the naval service shall acquaint themselves with and obey the laws, regulations, and orders relating to the Department of the Navy. They shall also, as far as their authority extends, enforce these laws, regulations, and orders. They shall faithfully and truthfully discharge the duties of their office to the best of their ability in conformance with existing orders and regulations and their solemn profession of the oath of office. In the absence of instructions, they shall act in conformity with the policies and customs of the service to protect the public interest.

1132. Compliance With Lawful Orders

All persons in the naval service are required to obey readily and strictly, and to execute promptly, the lawful orders of their superiors.

1133. Language Reflecting on a Superior

Language tending to diminish the confidence and respect due superior officers shall not be used.

1134. Exchange of Duty

An assigned duty may not be changed with another person (such as trading watches) without permission from proper authority.

1137. Obligation To Report Offenses

All offenses observed should be reported to the proper authority.

1138. Responsibilities Concerning Marijuana, Narcotics, and Other Controlled Substances

Personnel may not bring on board any naval activity, or have in their possession at any time, marijuana, narcotics, or any controlled substances.

1143. Report of a Communicable Disease

Personnel should report any suspicions of communicable disease to their medical representative.

1144. Immunization

Personnel must take the immunizations prescribed for them as scheduled.

1145. Service Examinations

No persons in the Navy, without proper authority, should have or attempt to have in their possession, any examination papers, any part or copy thereof, or any examination answer sheets. They also shall not obtain, sell, publish, give, purchase, receive, or reproduce any of these examination products.

1150. Redress of Wrong Committed by a Superior

A person who believes that a superior exercises authority in an unjust or cruel manner or is guilty of misconduct should submit a complaint to his or her commanding officer.

1151. Direct Communication With the Commanding Officer

The right of any person in the naval service to communicate with the commanding officer in a proper manner, and at a proper time and place, shall not be denied or restricted.

1154. Communications to the Congress

Personnel may not, in their official capacity, apply to Congress for congressional action of any kind or provide information requested by Congress. The only exception to this regulation is such communication as authorized by the Secretary of the Navy or as provided by law.

1155. Dealings With Members of Congress

All persons may write to their congressmen on any subject as long as they do not violate security regulations or the law.

1156. Forwarding Individual Requests

Requests from persons in the naval service shall be acted upon promptly. When addressed to higher authority, requests shall be forwarded without delay. The reason should be stated when a request is not approved or recommended.

1157. Leave and Liberty

Leave and liberty will be granted to the maximum extent practicable.

1158. Quality and Quantity of Rations

Meals served in the general mess shall be sampled regularly by an officer detailed by the commanding officer for that purpose. Should this officer find the quality or quantity of the food unsatisfactory or should any member of the mess object to the quality or quantity of the food, the commanding officer shall be notified and shall take appropriate action.

1159. Possession of Weapons

Personnel may not have any weapons or explosives in their possession without proper authority.

1160. Possession of Government Property

Personnel shall not possess, without permission, any property of the United States except what is needed in the performance of their duty.

1162. Alcoholic Liquors

The personal possession of any alcoholic liquors aboard any ship is prohibited. The transportation aboard ship of alcoholic liquors for personal use ashore is authorized subject to the discretion of, and under regulations established by, the commanding officer.

UNIFORM CODE OF MILITARY JUSTICE

Until 1951 the various branches of our armed forces operated under different military codes. The Army and Air Force were guided in the administration of discipline and in legal processes by the Army's *Articles of War*. The Navy was guided by the *Articles for the Government of the Navy* ("Rocks and Shoals"); and the Coast Guard, by the *Disciplinary Laws of the Coast Guard*. Not surprisingly, then, an act considered an offense in the eyes of the Navy may not have been judged so by the Army. Even if an act was a breach of discipline in all branches of the armed forces, the type of trial and severity of punishment awarded varied.

A standardized code of military justice was recognized as a logical and necessary unification measure. Therefore, then Secretary of Defense, James Forrestal, appointed an interservice committee to study the measure. After an intensive study, the committee drafted what is now known as the *Uniform Code of Military Justice (UCMJ).* The *UCMJ* was passed by Congress on 5 May 1950, signed into law by the President, and became effective 31 May 1951.

The *Manual for Courts-Martial, United States, 1951 (MCM)* consolidated and standardized varying military legal procedures. Effective 31 May 1951, the same date as the original *UCMJ,* it became the new touchstone of military justice. Case decisions of the Court of Military Appeals and changes in courts-martial procedures have made necessary several changes to the original manual. The current edition is the *Manual for Courts-Martial 1984.*

ARTICLES TO BE EXPLAINED

Congress and the Navy have taken steps to ensure you will know the disciplinary laws and regulations most likely to affect your daily life. Article 137 of the *UCMJ* states that certain articles of the Code must be explained carefully to every enlisted person at certain intervals. They must be explained at the time the person enters on active duty, after 6 months of active duty, and when the person reenlists. In general, these articles concern the following topics:

Article	Subject
2	Persons subject to the Code
3	Right to try certain persons even though they have been separated from service
7-14	Apprehension and restraint
15	Nonjudicial punishment (captain's mast)
25	Membership of courts-martial
27	Appointment of counsel to courts-martial
31	Compulsory self-incrimination prohibited
37	Unlawful influence on the court
38	Duties of counsel
55	Certain punishments prohibited
77-134	Punitive articles
137	Articles that must be explained
138	Complaints of wrongs
139	Payment for injury or loss of property

Navy Regulations supplements article 137 of the *UCMJ* by requiring each command to post the text of those articles in the preceding list in a conspicuous place. *Navy Regs* also requires each command to include these and other appropriate articles of *Navy Regulations* in the command's training and education program. Copies of the complete *UCMJ (140* articles), *Navy Regulations,* and other general orders are available to any person desiring to read them.

EXCERPTS FROM THE UCMJ

The purpose of this section is not to make you an expert on the *Uniform Code of Military*

Justice, but to give you an overview of each of the articles prescribed by article 137. Those articles which are self-explanatory are shown in block quotation as stated in the *UCMJ* no further explanation is given. Some of the more lengthy articles have been edited to present only portions of these articles. Articles that are lengthy and, in some cases, difficult to interpret are paraphrased to give you a brief overview of what the article contains.

The *UCMJ* uses the terms "man" or "he" to refer to all persons in the military service.

Art. 2. Persons Subject to This Code

> The following persons are subject to this code:
>
> (1) Members of a regular component of the armed forces, including those awaiting discharge after expiration of their terms of enlistment; volunteers from the time of their muster or acceptance into the armed forces; inductees from the time of their actual induction into the armed forces; and other persons lawfully called or ordered into, or to duty in or for training in, the armed forces, from the dates when they are required by the terms of the call or order to obey it.

This article includes all persons on active duty, certain retired persons, prisoners, and prisoners of war.

You should specifically note the following provisions of article 2:

Ž Any person serving a sentence imposed by a court-martial remains subject to the *UCMJ*. Thus, a prisoner who is serving a court-martial sentence may be tried for a crime committed while a prisoner. This applies even though the prisoner's term of enlistment has expired at the time of commission of the crime.

Ž A reservist on inactive-duty training is subject to the *UCMJ* when (a) the training is authorized by written orders; (b) the orders are voluntarily accepted by the reservist; and (c) the orders specify that the reservist is subject to the *UCMJ*.

Ž A reservist ordered into the active military service is subject to the *UCMJ* beginning on the date specified in the orders for the reservist to report for active duty.

Ž The United States Supreme Court has held unconstitutional the exercise of court-martial jurisdiction over civilians in time of peace.

Art. 3. Jurisdiction To Try Certain Personnel

Article 3 states that a person maybe tried by court-martial, even after leaving the service, for offenses committed while under the *UCMJ*.

Art. 7. Apprehension

> (a) Apprehension is the taking of a person into custody.
>
> (b) Any person authorized under regulations governing the armed forces to apprehend persons subject to this code or to trial thereunder may do so upon reasonable belief that an offense has been committed and that the person apprehended committed it.
>
> (c) Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein.

In addition to those listed in 7(c), security police, military police, shore patrol, and others designated to perform guard or police duties may apprehend persons subject to the *UCMJ*.

Enlisted persons performing police duties should not apprehend an officer except on specific orders of a commissioned officer. The exception is when such apprehension is necessary to prevent disgrace to the service, the commission of a serious offense, or the escape of one who has committed a serious offense. In such cases, the apprehending individual immediately notifies the officer to whom he or she is responsible or an officer of the security police, military police, or shore patrol.

An apprehension is effected by clear notification to the offender that he or she is thereby taken into custody. The order may be oral or written.

A clear distinction exists between the authority to apprehend and the authority to arrest or confine (article 9). Any person empowered to apprehend an offender, however, is authorized to secure the custody of an alleged offender until proper authority may be notified.

Art. 8. Apprehension of Deserters

Any civil officer having authority to apprehend offenders under the laws of the United States or of a State, Territory, Commonwealth, or possession, or the District of Columbia may summarily apprehend a deserter from the armed forces and deliver him into the custody of those forces.

When a military service sends out a description of a deserter, with a request for the deserter's apprehension, the notice gives civil officers the authority to apprehend the person.

Art. 9. Imposition of Restraint

(a) Arrest is the restraint of a person by an order, not imposed as a punishment for an offense, directing him to remain within certain specified limits. Confinement is the physical restraint of a person.

(b) An enlisted member may be ordered into arrest or confinement by any commissioned officer by an order, oral or written, delivered in person or through other persons subject to this code. A commanding officer may authorize warrant officers, petty officers, or noncommissioned officers to order enlisted members of his command or subject to his authority into arrest or confinement.

(c) A commissioned officer, a warrant officer, or a civilian subject to this code or to trial thereunder may be ordered into arrest or confinement only by a commanding officer to whose authority he is subject, by an order, oral or written, delivered in person or by another commissioned officer. The authority to order such persons into arrest or confinement may not be delegated.

(d) No person may be ordered into arrest or confinement except for probable cause.

(e) Nothing in this article limits the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

Art. 10. Restraint of Persons Charged With Offenses

Any person subject to this code charged with an offense under this code shall be ordered into arrest or confinement, as circumstances may require; but when charged only with an offense normally tried by a summary court-martial, he shall not ordinarily be placed in confinement. When any person subject to this code is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

As the words "normally" and "ordinarily" imply, the provisions of this article may not apply in exceptional cases. Whether to confine, arrest, or restrict a person in lieu of arrest is within the discretion of the officer having the power to do so. What this article says, in effect, is that in most instances confinement is not necessary for persons accused of minor offenses.

Art. 11. Reports and Receiving of Prisoners

(a) No provost marshall, commander or a guard, or master-at-arms may refuse to receive or keep any prisoner committed to his charge by a commissioned officer of the armed forces, when the committing officer furnishes a statement, signed by him, of the offense charged against the prisoner.

(b) Every commander of the guard or master-at-arms to whose charge a prisoner is committed shall, within twenty-four hours after that commitment or as soon as he is relieved from guard, report to the commanding officer the name of the prisoner, the offense charged against him, and the name of the person who ordered or authorized the commitment.

An arrest is imposed by notification to the person to be arrested that he or she is under

arrest and of the limits of the arrest. The order of arrest may be oral or written. A person to be confined is placed under guard and taken to the place of confinement.

Art. 12. Confinement With Enemy Prisoners Prohibited

> No member of the armed forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the armed forces.

Art. 13. Punishment Prohibited Before Trial

> Subject to . . . Article 57, no person, while being held for trial or the result of trial, may be subjected to punishment or penalty other than arrest or confinement upon the charges pending against him, nor shall the arrest or confinement imposed upon him be any more rigorous than the circumstances require to ensure his presence, but he maybe subjected to minor punishment during that period for infractions of discipline.

The minor punishment permitted under article 13 includes that authorized for violations of discipline set forth by the place in which the person is confined. The article does not prevent a person from being required to do ordinary cleaning or policing or from taking part in routine training and duties not involving the bearing of arms.

Art. 14. Delivery of Offenders to Civil Authorities

> (a) Under such regulations as the Secretary concerned may prescribe, a member of the armed forces accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.
>
> (b) When delivery under this article is made to any civil authority of a person undergoing sentence of a court-martial, the delivery, if followed by conviction in a civil tribunal, interrupts the execution of the sentence of the court-martial, and the offender after having answered to the civil authorities for this offense shall, upon the request of competent military authority, be returned to military custody for the completion of his sentence.

Art. 15. Commanding Officer's Nonjudicial Punishment

Article 15 explains commanding officer's nonjudicial punishment. For some offenses, commanders may offer an article 15 instead of court-martial. If accepted, the commander may impose punishment as permitted by regulations (usually at captain's mast). Receiving an article 15 is not a conviction, and it does not give a person a criminal record. This article will be explained in greater detail later in this chapter under "Nonjudicial Punishment."

Art. 25. Who May Serve on Courts-Martial

Any commissioned officer, including commissioned warrant officers, on active duty with the armed forces is eligible to serve on a court-martial. Any warrant officer on active duty with the armed forces is eligible to serve on a general court-martial (GCM) and special court-martial (SPCM) for the trial of any person, other than a commissioned officer. Any enlisted person on active duty with the armed forces who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of enlisted persons. However, enlisted personnel may serve as a member of a court-martial only if, before the assembling of such court, the accused has personally requested in writing that enlisted personnel serve as members of the court.

Art. 27. Detail of Trial Counsel and Defense Counsel

Each general and special court-martial must have a trial counsel and a defense counsel, with such assistants as the convening authority deems necessary. The terms "counsel," "trial counsel," and "defense counsel" should be interpreted to

mean the detailed counsel named in the convening order. The term "individual counsel" refers to the military counsel selected by the accused or the civilian counsel provided by the accused at his or her own expense.

The trial counsel and defense counsel detailed for a general court-martial must have equivalent legal qualifications. Each must be a judge advocate of the Army, Navy, Air Force, or Marine Corps who is a graduate of an accredited law school or is a member of the bar of a federal court or of the highest court of a state. Each must be certified as competent to perform such duties by the Judge Advocate General of the armed forces of which he or she is a member. A civilian counsel must be a member of the bar of a federal court or of the highest court of a state.

In a special court-martial, the accused must be afforded the opportunity to be represented by counsel qualified under article 27, *UCMJ,* unless such counsel cannot be obtained because of the geographical location or pressing military requirements. If qualified defense counsel cannot be obtained or if the accused has declined qualified counsel, the detailed defense counsel must meet the following requirements. If the detailed defense counsel does not meet the following requirements, an SPCM is not legally constituted:

Ž If the detailed trial counsel or any assistant trial counsel is qualified to act as counsel before a GCM, the detailed defense counsel must be a person similarly qualified; or

Ž If the detailed trial counsel or any assistant trial counsel is a judge advocate or a member of the bar of a federal court or the highest court of a state, the detailed defense counsel must be one of the same.

Art. 31. Compulsory Self-Incrimination Prohibited

This article explains your right not to provide evidence against yourself (self-incrimination), a right given to all citizens under the Fifth Amendment to the U.S. Constitution. The following statements explain your rights against self-incrimination:

- You cannot be forced to answer questions or give evidence that may help to prove your guilt.
- You must be told the nature of the offense of which you are accused; that you do not have to make any statement; and that if you do, it can be used against you.
- You cannot be forced to make a statement or give evidence in a trial that is not related to the case or that may degrade you.
- No statement obtained from you by threats or trickery can be used against you in a court-martial trial.

Art. 37. Unlawfully Influencing Action of Court

(a) No authority convening a general, special, or summary court-martial, nor any other commanding officer, may censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or his functions in the conduct of the proceeding. No person subject to this code may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts.

Article 37 is designed to ensure that every court, its members, and its officers shall be completely free to fulfill their functions without fear of reprisal.

Art. 38. Duties of Trial Counsel and Defense Counsel

The trial counsel prosecutes in the name of the United States and, under the direction of the

court, prepares the record of proceedings. The duties of the trial counsel might be compared to those of a civil district attorney. The prosecution must prove beyond a reasonable doubt the guilt of the accused for each offense charged. Of course, such burden of proof is relieved by a plea of guilty. The many duties of the trial counsel vary widely beginning at the time of assignment to the trial. The duties change throughout the preparation for trial, the trial itself, and the preparation and disposition of the record of trial.

All accused persons have the right to be represented before special and general courts-martial by defense counsel. This counsel may be a civilian or military lawyer selected by the accused or may be a defense counsel appointed by the convening authority. If a civilian counsel is selected, the accused must pay the counsel's expenses. If the accused prefers to select counsel, the detailed counsel and assistant counsel act as associate counsel if the accused so desires; otherwise, they may be excused.

Some of the duties of the defense counsel are as follows:

- To advise the accused of the right to have enlisted membership on the court
- To explain the meaning and effect of a guilty plea, if appropriate
- To advise the accused of the right to introduce evidence; to testify or to remain silent; if after findings of guilty are announced, to make an unsworn statement and to introduce evidence as to matters in extenuation and mitigation; and to assert any proper defense or objection

Art. 55. Cruel and Unusual Punishments Prohibited

This article prohibits any cruel or unusual punishment. In particular, courts-martial are forbidden to award sentences that include whipping, branding, marking, or tattooing the body. The use of irons is also prohibited, except for the purpose of safe custody.

PUNITIVE ARTICLES OF THE UCMJ

The punitive articles of the *UCMJ* are those numbered 77 through 134. They are the laws of Congress telling you what you must do and must not do, under pain of punishment.

What about civil laws? Can you be given military punishment for nonmilitary offenses? Yes, you can. For example, the only *UCMJ* regulations against drunkenness are for drunken driving and being drunk on duty. Many civilian communities, though, have laws against drunkenness in public. If you are found guilty in civil court and spend time in jail for being drunk in public, the Navy can try you for being absent without leave *(UCMJ,* article 86) and for bringing discredit upon the Navy *(UCMJ,* article 134).

If you willfully refuse to pay just debts, you will be warned to pay them by your commanding officer. Continued failure to pay your debts can lead to an undesirable type of discharge. The Navy has no use for people who do not exhibit integrity and honesty. On the other hand, if you are being gouged by unscrupulous dealers, see your legal officer for assistance.

The punitive articles that follow are those you are required to know. If you have any questions about their meaning, ask your division officer for guidance.

Art. 77. Principals

The mere fact that a person is at the scene of a crime does not make the person a principal. To be a principal of a crime, the person must be guilty of an intent to aid or encourage the persons who committed the crime.

A person who witnesses a crime can be a principal. Evidence must show the witness had a duty to interfere and the witness's noninterference was intended to operate and did operate to encourage or protect the perpetrator.

A person maybe a principal even though not at the scene of the crime if he or she commanded, advised, or obtained another person to commit an offense.

Art. 78. Accessory After the Fact

> Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a court-martial may direct.

A person who voluntarily gives an escaped prisoner provisions that permit him or her to

avoid pursuers becomes an accessory after the fact to the prisoner's escape. Provisions include transportation, clothing, money, or any other necessities.

Art. 79. Conviction of Lesser Included Offense

> An accused maybe found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein.

A military tribunal may only try a person who has been charged with violating a particular article or articles of the *UCMJ*. Quite simply, if a person committed what is considered a crime but the code did not include that crime in one of its punitive articles, no court-martial could try him or her. Articles 77, 78, 80, 81, and 82 of the code, thus, encompass persons who may not have taken an active part in or successfully committed an offense. These articles permit persons to be tried for being an accomplice in a crime, even though the crime isn't included in the *UCMJ*.

Article 79 goes a step further by authorizing the finding of guilty of a lesser included offense when a finding of guilty cannot be sustained for the offense charged. For this reason, a charge has three permissible findings: guilty; not guilty; not guilty, but guilty of a violation of article _____ .

The key words in article 79 are "offense necessarily included in the offense charged." For example, a violation of article 85 (Desertion) "with intent to remain away therefrom permanently"—invariably is also an uncharged violation of the lesser charge of article 86 (Absent without leave). Proving that an accused deserter had no intention of ever returning might be impossible. But the date the person absented himself or herself and the date the person (was) returned to military jurisdiction are clear. Thus, many deserters are, for lack of proof of intent, found not guilty, but guilty of a violation of article 86.

Other examples of what generally are held to be lesser included offenses contained in a principal offense include the following:

Article	Principal Offense	Article	Lesser Included Offense
83	Fraudulent enlistment, appointment, or separation	3	Jurisdiction to try certain personnel
94	Mutiny	92	Failure to obey lawful order
94	Sedition	116	Breach of the peace
95	Breach of arrest	134	Breach of restriction
118	Murder	119	Manslaughter
122	Robbery	121	Larceny
124	Maiming	128	Assault with a dangerous weapon

Art. 80. Attempts

(a) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

(b) Any person subject to this code who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

(c) Any person subject to this code may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

An accused maybe guilty of an attempt even though the crime turns out to be impossible to commit because of an outside intervening circumstance. For example, a pickpocket who puts a hand in the pocket of another person with the intent to steal a billfold is guilty of an attempt to commit larceny, even though the pocket is empty.

Art. 81. Conspiracy

"Conspiracy" is defined as an agreement between two or more persons to commit a crime. Conspiracy refers to such a plan by a group whose intent usually is to commit a crime of a bold nature, such as overthrowing a government.

The agreement in a conspiracy need not be formal. The agreement need only be a common understanding in the minds of the parties to accomplish the objective of the conspiracy.

Art. 82. Solicitation

(a) Any person subject to this code who solicits or advises another or others to desert in violation of . . . article 85 or mutiny in violation of . . . Article 94 shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a court-martial may direct.

(b) Any person subject to this code who solicits or advises another or others to commit an act of misbehavior before the enemy in violation of . . . Article 99 or sedition in violation of . . . Article 94 shall, if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, he shall be punished as a court-martial may direct.

Solicitation may be accomplished by other means than by word of mouth or by writing. Any act or conduct that reasonably maybe considered as a serious request or advice to commit one of the offenses named in the article may constitute solicitation. The accused may act through other persons in committing this offense.

Art. 83. Fraudulent Enlistment, Appointment, or Separation

Any person who:

(1) procures his own enlistment or appointment in the armed forces by knowingly false representation or deliberate concealment as to his qualifications for that enlistment or appointment and receives pay or allowances thereunder; or

(2) procures his own separation from the armed forces by knowingly false representation or deliberate concealment as to his eligibility for that separation;

shall be punished as a court-martial may direct.

An essential element of the offense of fraudulent enlistment or appointment is that the accused shall have received pay or allowances while under that enlistment or appointment. Acceptance of food, clothing, shelter, or transportation from the government constitutes receipt of allowances.

After apprehension, an accused charged with having fraudulently obtained separation from a branch of the armed forces is subject to the *UCMJ*. The accused is subject to the *UCMJ* while in the custody of the armed forces and while awaiting trial for the fraudulent separation.

Art. 84. Unlawful Enlistment, Appointment, or Separation

Any person subject to this code who effects an enlistment or appointment in or a separation from the armed forces of any person who is known to him to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation, or order shall be punished as a court-martial may direct.

Art. 85. Desertion

This article states that members of the armed forces who, without permission, leave their place of duty or organization with the intent to remain away permanently are guilty of desertion.

The status of an absentee changes to that of a deserter after 30 days of absence, or sooner if the intent to desert is apparent. For example, suppose a Navy member goes ashore without permission, taking all personal belongings and announcing to shipmates that he or she is leaving the service for good. That person could be immediately declared a deserter.

After an individual is declared a deserter, notification is forwarded to the next of kin; the deserter's hometown police; and various other law enforcement agencies, including the FBI. Deserters are nearly always caught and identified because of nationwide fingerprinting and identification practices. Furthermore, expenses incurred in the return of the deserter to military control are chargeable to the returned absentee.

The effects of desertion can be many; some can be severe. If tried and convicted of desertion, the deserter is almost certainly imprisoned; in time of war, the deserter may be executed. A person whose conviction of desertion in time of war results in a dishonorable discharge can never hold any office of trust or profit in the United States government.

Art. 86. Absence Without Leave

Any member of the armed forces who, without authority—

(1) fails to go to his appointed place of duty at the time prescribed;
(2) goes from that place; or
(3) absents himself or remains absent from his unit, organization, or place of duty at which he is required to be at the time prescribed;

shall be punished as a court-martial may direct.

This article covers every case not provided for in the other punitive articles in which an armed forces member, through that member's own fault, is not in a required location at a specified time. As opposed to desertion, whether or not the member intended to remain away makes no difference. The intent is expressed by the member's absence.

Make sure you avoid the bad habit of taking the last bus, train, or plane when returning from leave. Always allow time for unexpected delays.

Art. 87. Missing Movement

Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which he is required in the course of duty to move shall be punished as a court-martial may direct.

Provisions of article 87 should be self-explanatory. However, note that the violator, to be found guilty, need not have known the exact hour or even the exact date of the scheduled movement. If a person had knowledge of only the approximate date, the court may convict the absentee on the charge of missing movement. Missing ship is a serious offense to the Navy. It leaves the ship shorthanded and requires somebody to do the absentee's work and stand the absentee's watches.

Art. 88. Contempt Toward Officials

Any commissioned officer who uses contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a military department, the Secretary of the Treasury, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which he is on duty or present shall be punished as a court-martial may direct.

Art. 89. Disrespect Toward Superior Commissioned Officer

Any person subject to this code who behaves with disrespect toward his superior commissioned officer shall be punished as a court-martial may direct.

A superior commissioned officer is a commissioned officer who is superior in rank or command. Disrespect includes insulting words, insolence, impertinence, undue familiarity or other rudeness, and failing to salute.

Art. 90. Assaulting or Willfully Disobeying Superior Commissioned Officer

Any person subject to this code who—

(1) strikes his superior commissioned officer or lifts up any weapon or offers any violence against him while he is in the execution of his office; or

(2) willfully disobeys a lawful command of his superior commissioned officer;

shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment, other than death, as a court-martial may direct.

An officer is in the "execution of his office" when performing any act the officer is required or authorized to do. Note that the article is not confined to striking a superior commissioned officer; it takes in brandishing a weapon or waving a fist under the officer's nose.

Willful disobedience, as used here, means intentional defiance of a lawful order. You must presume that any order given by an officer is legal. If you disobey because you think otherwise, you do so at your own risk. It is better to do your questioning after you have carried out the order.

Art. 91. Insubordinate Conduct Toward Warrant Officer, Noncommissioned Officer, or Petty Officer

Any warrant officer or enlisted member who—

(1) strikes or assaults a warrant officer, noncommissioned officer, or petty officer, while that officer is in execution of his office;

(2) willfully disobeys the lawful order of a warrant officer, noncommissioned officer, or petty officer; or

(3) treats with contempt or is disrespectful in language or deportment toward a warrant officer, noncommissioned officer, or petty officer, while that officer is in the execution of his office;

shall be punished as a court-martial may direct.

This article has the same general objectives with respect to warrant officers, noncommissioned officers, and petty officers as articles 89 and 90 have with respect to commissioned officers. Namely, it ensures obedience to their lawful orders and protects them from violence, insult, or disrespect.

Art. 92. Failure To Obey Order or Regulation

Any person subject to this code who—

(1) violates or fails to obey any lawful general order or regulation;

(2) having knowledge of any other lawful order issued by a member of the armed forces, which it is his duty to obey, fails to obey the order; or

(3) is derelict in the performance of his duties;

shall be punished as a court-martial may direct.

A general order or regulation is one that applies generally to an armed force. It may be issued by the President or the Secretary of Defense, the Secretary of Transportation, or the Secretary of a military department. It may also be issued by an officer having general court-martial jurisdiction, a general or flag officer in command, or a commander superior to one of these.

Disobedience of "any other lawful order" requires that the person must have had a duty to obey the order and must have had knowledge of the order. An accused may be charged with disobedience of the lawful order of one not a superior, provided the accused had a duty to obey

such order. Examples are lawful orders of a sentinel or of members of the armed forces police.

Dereliction in the performance of duties occurs when a person willfully or negligently fails to perform them or performs them in a culpably inefficient manner. To be culpably inefficient, an accused must have had the ability and opportunity to perform the assigned duties efficiently, but performed them inefficiently nevertheless.

Art. 93. Cruelty and Maltreatment

Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct.

The cruelty, oppression, or maltreatment must be real, although not necessarily physical. To assault and to subject to improper punishment are examples of this offense. The assignment of necessary or proper duties and the requirement for their correct performance will not constitute this offense even though such duties are arduous or hazardous or both.

Art. 94. Mutiny or Sedition

There are two distinct types of mutiny, both requiring an intent to usurp (to seize and hold by force without the legal right or authority) or override military authority. One type would be the creation of violence or disturbance with the intent to commit mutiny. This act may be committed by one person acting alone or by more than one. The other type of mutiny consists of a refusal in concert (in agreement) with any other person to obey or otherwise do one's duty. This second type of mutiny constitutes what is termed *collective insubordination;* it necessarily includes some combination of two or more persons in resisting lawful military authority.

Art. 95. Resistance, Breach of Arrest, and Escape

Any person subject to this code who resists apprehension or breaks arrest or who escapes from custody or confinement shall be punished as a court-martial may direct.

Art. 96. Releasing Prisoner Without Proper Authority

Any person subject to this code who, without proper authority, releases any prisoner committed to his charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial may direct, whether or not the prisoner was committed in strict compliance with law.

Art. 97. Unlawful Detention

Any person subject to this code who, except as provided by law, apprehends, arrests, or confines any person shall be punished as a court-martial may direct.

Any unlawful restraint of another's freedom will result in a violation of this article, whether or not such action is taken under the appearance of authority.

Art. 98. Noncompliance With Procedural Rules

Any person subject to this code who—

(1) is responsible for unnecessary delay in the deposition of any case of a person accused of an offense under this code; or

(2) knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused;

shall be punished as a court-martial may direct.

Art. 99. Misbehavior Before the Enemy

Any member of the armed forces who before or in the presence of the enemy—

(1) runs away;

(2) shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his duty to defend;

(3) through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;

(4) casts away his arms or ammunition;

(5) is guilty of cowardly conduct;

(6) quits his place of duty to plunder or pillage;

(7) causes false alarms in any command, unit, or place under control of the armed forces;

(8) willfully fails to do his utmost to encounter, engage, capture, or destroy any enemy troops, combatants, vessels, aircraft, or any other thing, which it is his duty so to encounter,, engage, capture, or destroy; or

(9) does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the armed forces belonging to the United States or their allies when engaged in battle;

shall be punished by death or such other punishment as a court-martial may direct.

Art. 100. Subordinate Compelling Surrender

Any person subject to this code who compels or attempts to compel the commander of any place, vessel, aircraft, or other military property, or of any body of members of the armed forces, to give it up to an enemy or to abandon it, or who strikes the colors or flag to an enemy without proper authority, shall be punished by death or such other punishment as a court-martial may direct.

Although these offenses are similar to mutiny, they do not require concert of action. The compulsion to surrender must be by acts rather than words. To "strike the colors or flag" is to surrender. The offense is committed by anyone subject to the *UCMJ* who assumes the authority to surrender a military force or position when that person is not authorized to do so either by competent authority or by the necessities of battle.

Art. 101. Improper Use of Countersign

Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another who is entitled to receive and use the parole or countersign a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished by death or such other punishment as a court-martial may direct.

A "countersign" is a word designated by the principal headquarters of a command to aid guards and sentinels in their scrutiny of persons who apply to pass the lines. It consists of a secret challenge and a password. A "parole" is a word used as a check on the countersign; it is imparted only to those who are entitled to inspect guards and to commanders of guards.

Art. 102. Forcing a Safeguard

Any person subject to this code who forces a safeguard shall suffer death or such other punishment as a court-martial may direct.

A "safeguard" is a detachment, guard, or detail posted by a commander. It protects persons, places, or property of the enemy or of a neutral affected by the relationship of the opposing forces in their prosecution of war or during a state of conflict. The term also includes a written order left by a commander with an enemy subject or posted upon enemy property for the protection of the individual or property concerned. The effect of a safeguard is a pledge of honor by a nation that its armed force will respect the person or property concerned.

Art. 103. Captured or Abandoned Property

(a) All persons subject to this code shall secure all public property taken from the enemy for the service of the United States, and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.

(b) Any person subject to this code who—

(1) fails to carry out the duties prescribed in subsection (a);

(2) buys, sells, trades, or in any way deals in or disposes of captured or abandoned property, whereby he receives or expects any profit, benefit, or advantage to himself or another directly or indirectly connected with himself; or

(3) engages in looting or pillaging;

shall be punished as a court-martial may direct.

Immediately upon its capture from the enemy, public property becomes the property of the United States. Persons subject to military law have an immediate duty to take those steps within their power and functions to secure such property to the service of the United States. They then have the duty to protect that property from destruction or loss.

Art. 104. Aiding the Enemy

Any person who—

(1) aids, or attempts to aid, the enemy with arms, ammunition, supplies, money or other things; or

(2) without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy, either directly or indirectly;

shall suffer death or such other punishment as a court-martial or military commission may direct.

This article applies to all persons whether or not they are otherwise subject to military law. "Enemy" denotes citizens as well as members of military organizations. All the citizens of hostile nations, as well as their government, are our enemies.

Art. 105. Misconduct as Prisoner

Misconduct covers unauthorized conduct by a prisoner of war that tends to improve his or her condition to the detriment of other prisoners. Such acts may be the reporting of plans to escape or the reporting of secret caches of food, equipment, or arms. The acts must be related to the captors and tend to have the probable effect of bestowing upon the accused some favor with, or advantage from, the captors. The act of the accused must be contrary to law, custom, or regulation. For example, the escape of a prisoner might result in closer confinement or other measures against fellow prisoners still in the hands of the enemy. Such escape, however, is not an offense under this article, as escape from the enemy is regarded as authorized by custom.

Art. 106. Spies

Any person who in time of war is found lurking as a spy or acting as a spy in or about any place, vessel, or aircraft, within the control or jurisdiction of any of the armed forces, or in or about any shipyard, any manufacturing or industrial plant, or any other place or institution engaged in work in aid of the prosecution of the war by the United States, or elsewhere, shall be tried by a general court-martial or by a military commission and on conviction shall be punished by death.

The words "any person" bring within the jurisdiction of courts-martial and military commissions all persons of whatever nationality or status who commit the offense of spying.

Art. 107. False Official Statements

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document, knowing it to be false, or makes any other false official statement knowing it to be false, shall be punished as a court-martial may direct.

Several articles of the *UCMJ* provide for the punishment of untruths: articles 83 and 84 (Fraudulent and unlawful enlistment, appointment, or separation), article 107 (False official statements), article 131 (Perjury), and article 132 (Fraud). You can see how highly truth is regarded in the military service.

A statement, whether oral or in writing, is official when it is made pursuant to regulations. A statement is also official when made in response to a request or question from one's commanding officer or a person acting under the commanding officer's authority. Official statements thus include all those made in the line of duty.

Art. 108. Military Property of the United States—Loss, Damage, Destruction, or Wrongful Disposition

Any person subject to this code who, without proper authority—

(1) sells or otherwise disposes of;

(2) willfully or through neglect damages, destroys, or loses; or

(3) willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;

any military property of the United States, shall be punished as a court-martial may direct.

Whether the property in question was issued to the accused, whether it was issued to someone other than the accused, or whether it was issued at all is immaterial.

"Willful" means intentional. "Neglect" means inattention to duty or failure to take action that, under the circumstances, should have been taken to prevent the loss, destruction, or damage.

Art. 109. Property Other Than Military Property of United States—Waste, Spoilage, or Destruction

Any person subject to this code who willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States shall be punished as a court-martial may direct.

"Wastes" and "spoils" refer to wrongful acts of voluntary destruction, such as burning down buildings, burning piers, tearing down fences, or cutting down trees. To be destroyed, property need be only sufficiently injured to be useless for the purpose for which it was intended. "Damage" consists of any physical injury to the property. The property must be other than military property of the United States and must belong to one other than the accused.

Art. 110. Improper Hazarding of Vessel

(a) Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel of the armed forces shall suffer death or such other punishment as a court-martial may direct.

(b) Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the armed forces shall be punished as a court-martial may direct.

The word "suffers" means to allow or permit. A person "suffers" a ship to be hazarded who, although not in direct control of the vessel, knows a danger to be imminent but takes no steps to prevent it. For example, a plotting officer of a ship underway inadvertently fails to report observation of a radar target on a collision course with, and dangerously close to, the ship. The officer has negligently suffered the ship to be hazarded.

Art. 111. Drunken or Reckless Driving

Any person subject to this code who operates any vehicle while drunk, or in a reckless or wanton manner, shall be punished as a court-martial may direct.

Operating a vehicle includes not only driving or guiding it while in motion. It also includes the setting of its motive power in action or the manipulating of its controls to cause the vehicle to move. The term "vehicle" applies to all types of land transportation, whether motor-driven or passenger-carrying. Drunken or reckless operation of water or air transportation may be charged as a violation of article 134. For the meaning of "drunk," see the remarks following article 112.

Art. 112. Drunk on Duty

Any person subject to this code, other than a sentinel or lookout, who is found drunk on duty, shall be punished as a court-martial may direct.

The term "on duty" in article 112 refers to routine or detailed duties on board a ship or station. The term does not cover periods of leave or liberty (which come under a different article), but does include duties of a standby nature. A person whose mental or physical abilities are impaired by either liquor or drugs may be considered drunk.

Art. l12a. Wrongful Use, Possession, etc., of Controlled Substances

(a) Any person subject to this code who wrongfully uses, possesses, manufactures, distributes, imports into the customs territory of the United States, exports from the United States, or introduces into an

installation, vessel, vehicle, or aircraft used by or under the control of the armed forces a substance described in subsection (b) shall be punished as a court-martial may direct.

(b) The substances referred to in subsection (a) are the following:

(1) Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any such substance.

(2) Any substance not specified in clause (1) that is listed on a schedule of controlled substances prescribed by the President for the purposes of this article.

(3) Any other substance not specified in clause (1) or contained on a list prescribed by the President under clause (2) that is listed in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

Art. 113. Misbehavior of Sentinel

Any sentinel or lookout who is found drunk or sleeping upon his post, or leaves it before he is regularly relieved, shall be punished, if the offense is committed in time of war, by death or such other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment other than death as a court-martial may direct.

A post is not limited by some actual or imaginary line, nor is it confined to those times when you may be on watch as a sentry. This article covers all periods when you are standing a watch of any kind, such as guarding stores or prisoners or acting as a bow lookout. It also covers periods when you are performing any other duty that requires you to remain alert at all times.

A sentinel on post who is found asleep or drunk is guilty of a serious offense; in time of war, the offense may be punishable by death. For persons in the armed forces, drunkenness is prejudicial to good order and discipline whenever and wherever it appears. Being drunk in public, whether a person is in uniform or civilian clothes, may bring discredit upon the service, while being drunk on station is a breach of military discipline. But being drunk while on duty as a sentinel or lookout in time of war might endanger every person in the command.

Art. 114. Dueling

Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

Art. 115. Malingering

Any person subject to this code who for the purpose of avoiding work, duty, or service—

(1) feigns illness, physical disablement, mental lapse or derangement; or

(2) intentionally inflicts self-injury;

shall be punished as a court-martial may direct.

"Malingering" is an offense defined as any act to avoid duty by pretending to be ill or physically/mentally disabled.

Art. 116. Riot or Breach of Peace

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial may direct.

The term "riot" is used when a disturbance is caused by a group of three or more persons engaged in a concerted action against anyone who may oppose them.

"Breach of the peace" is an unlawful disturbance by violent or turbulent means that disturbs the peace of the community. Engaging in a fight or using abusive words in public are examples of breach of the peace. As used in this article, "community" includes any military installation or ship as well as a civilian community.

Art. 117. Provoking Speeches or Gestures

Any person subject to this code who uses provoking or reproachful words or gestures towards any other person subject to this code shall be punished as a court-martial may direct.

"Provoking" and "reproachful" describe those words or gestures used in the presence of the person to whom they are directed which tend to induce breaches of the peace. They do not include reprimands, censures, reproofs, and the like, which may properly be administered in the interests of training, efficiency, or discipline in the armed forces.

Art. 118. Murder

Any person subject to this code who, without justification or excuse, unlawfully kills a human being, when he—

(1) has a premeditated design to kill;
(2) intends to kill or inflict great bodily harm;
(3) is engaged in an act which is inherently dangerous to others and evinces a wanton disregard of human life; or
(4) is engaged in the perpetration or attempted perpetration of burglary, sodomy, rape, robbery, or aggravated arson;

is guilty of murder, and shall suffer such punishment as a court-martial may direct, except that if found guilty under clause (1) or (4), he shall suffer death or imprisonment for life as a court-martial may direct.

Art. 119. Manslaughter

(a) Any person subject to this code who, with an intent to kill or inflict great bodily harm, unlawfully kills a human being in the heat of sudden passion caused by adequate provocation is guilty of voluntary manslaughter and shall be punished as a court-martial may direct.

(b) Any person subject to this code who, without an intent to kill or inflict great bodily harm, unlawfully kills a human being—

(1) by culpable negligence; or
(2) while perpetrating or attempting to perpetrate an offense, other than those named in clause (4) of . . . Article 118, directly affecting the person;

is guilty of involuntary manslaughter and shall be punished as a court-martial may direct.

Manslaughter is the unlawful killing of another. There are two basic types of manslaughter: voluntary and involuntary.

Voluntary manslaughter is the unlawful killing of another when there is an intent to kill or inflict great bodily harm, but the act is committed in the heat of sudden passion caused by adequate provocation.

Involuntary manslaughter is the unlawful killing of another committed without an intent to kill or inflict great bodily harm.

Art. 120. Rape and Carnal Knowledge

(a) Any person subject to this code who commits an act of sexual intercourse with a female not his wife, by force and without her consent, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

(b) Any person subject to this code who, under circumstances not amounting to rape, commits an act of sexual intercourse with a female not his wife who has not attained the age of sixteen years, is guilty of carnal knowledge and shall be punished as a court-martial may direct.

(c) Penetration, however slight, is sufficient to complete these offenses.

Art. 121. Larceny and Wrongful Appropriation

"Larceny" is stealing something and keeping it; "wrongful appropriation" is taking something not your own, but only temporarily. Legally, taking or withholding is wrong if done without the consent of the owner; obtaining usually implies getting something under false pretenses. All of these meanings denote theft.

The most common example of larceny, of course, is outright theft. An example of obtaining something under false pretenses is to obtain a

radio from a person who borrowed it from the owner, saying you will return it to the owner, but instead, selling it.

An example of wrongful appropriation is taking someone's car without permission and going for a joyride, later returning or abandoning the car.

Art. 122. Robbery

> Any person subject to this code who with intent to steal takes anything of value from the person or in the presence of another, against his will, by means of force or violence or fear of immediate or future injury to his person or property or to the person or property of a relative or member of his family or of anyone in his company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.

When a robbery is committed by force or violence, evidence must exist of actual force or violence to the victim preceding or accompanying the taking against the victim's will. Whether or not fear is engendered in the victim is immaterial.

When a robbery is committed by means of fear, no evidence is required of actual force or violence. However, evidence of demonstrations of force or menaces that place the victim in such fear that the victim is warranted in offering no resistance is required.

Art. 123. Forgery

> Any person subject to this code who, with intent to defraud—
>
> (1) falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his legal right or liability to his prejudice; or
>
> (2) utters, offers, issues, or transfers such a writing, known by him to be so made or altered;
>
> is guilty of forgery and shall be punished as a court-martial may direct.

A forgery may be committed by a person's signing his or her own name to an instrument. For example, presume a check payable to the order of a certain person comes into the hands of another person of the same name. The receiver commits forgery if, knowing the check to be another person's, he or she endorses it with his or her own name with the intent to defraud.

Some of the instruments most frequently subject to forgery are checks, orders for delivery of money or goods, military orders directing travel, and receipts. A writing may be falsely "made" by materially altering an existing writing; by filling in or signing the blanks in a paper, such as a blank check; or by signing an instrument already written.

Art. 123a. Making, Drawing, or Uttering Check, Draft, or Order Without Sufficient Funds

This article provides specific statutory authority for the prosecution of bad check offenses. In the absence of evidence indicating otherwise, bad faith might be shown by the maker's or drawer's failure to effect redemption within the 5-day period provided for in the article. The offense of wrongfully and dishonorably failing to maintain sufficient funds for payment of checks upon presentment is a violation of article 134. This offense is a lesser included offense under article 123, not requiring proof of fraudulent intent.

Art. 124. Maiming

> Any person subject to this code who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury, which—
>
> (1) seriously disfigures his person by any mutilation thereof;
>
> (2) destroys or disables any member or organ of his body; or
>
> (3) seriously diminishes his physical vigor by the injury of any member or organ;
>
> is guilty of maiming and shall be punished as a court-martial may direct.

Maiming includes putting out a person's eye; cutting off a person's hand, foot, or finger; or knocking out a person's front teeth, as these injuries destroy or disable those members or organs. Maiming also includes cutting off a person's ear or scaring a person's face, as these injuries seriously disfigure the person. Injuring an internal organ so as to seriously diminish the

physical vigor of a person is also considered maiming.

The disfigurement, diminishment of vigor, or destruction or disablement of any member or organ must be a serious injury, one of a substantially permanent nature. However, the offense is complete if such an injury is inflicted, even though the victim may eventually recover the use of the member or organ or the disfigurement may be cured by surgery.

Art. 125. Sodomy

> (a) Any person subject to this code who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.
>
> (b) Any person found guilty of sodomy shall be punished as a court-martial may direct.

Any unnatural method of carnal copulation is prohibited by this article. Any penetration, however slight, is sufficient to complete the offense; emission is not necessary.

Art. 126. Arson

> (a) Any person subject to this code who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.
>
> (b) Any person subject to this code who willfully and maliciously burns or sets fire to the property of another, except as provided in subsection (a), is guilty of simple arson and shall be punished as a court-martial may direct.

In aggravated arson, danger to human life is the essential element; in simple arson, it is injury to the property of another. In either case, the fact that no one is injured is immaterial.

Art. 127. Extortion

> Any person subject to this code who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

A threat may be communicated by word of mouth or in writing, the essential element of the offense being the knowledge of the threat to the victim. An acquittance is, in general terms, a release or discharge from an obligation. An intent to obtain any advantage or immunity of any description may include an intent to make a person do an act unwillingly.

The threat sufficient to constitute extortion may be a threat against the person or property of the individual threatened. It may also be a threat of unlawful injury or any other harm to any family member or other person held dear to the victim.

Art. 128. Assault

> (a) Any person subject to this code who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.
>
> (b) Any person subject to this code who—
>
> (1) commits an assault with a dangerous weapon or other means of force likely to produce death or grievous bodily harm; or
>
> (2) commits an assault and intentionally inflicts grievous bodily harm with or without a weapon;
>
> is guilty of aggravated assault and shall be punished as a court-martial may direct.

Section (a) describes the offense of simple assault. Swinging your fist, pointing a gun at a person, or raising a club over someone's head, even though no harm is actually done, is each an act of simple assault. When the threat is consummated and force is applied to the victim, the offense becomes assault and battery.

Section (b) describes aggravated assault, of which there are two types. The first is assault with a dangerous weapon and other means of force likely to kill or grievously harm the victim (like shoving a person over the fantail). The second type takes place when an assailant intentionally

inflicts severe bodily harm, with or without a weapon. If, after you have knocked an individual down, you repeatedly kick him or her so as to break the person's ribs, you have committed aggravated assault.

Art. 129. Burglary

> Any person subject to this code who, with intent to commit an offense punishable under . . . Articles 118-128, breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct.

The house must be a dwelling place at the time of the breaking and entry, but the residents do not have to actually be in it. A simple act such as opening a closed door or window or some other similar fixture or cutting out the glass of a window or the netting of a screen constitutes breaking Entry gained through a trick, false pretense, impersonation, intimidation, or collusion also constitutes breaking. For the intruder to succeed in carrying out the intent for which the house was broken into is not an essential element.

Art. 130. Housebreaking

> Any person subject to this code who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct.

The initial entering must amount to trespassing; this article is not violated if the accused entered the building or structure lawfully, even though the person had the intent to commit an offense therein. This offense is broader than burglary in that the place entered need not be a dwelling house; also, the place need not be occupied. A breaking is not essential. The entry may be either in the nighttime or in the daytime. The criminal intent is not limited to those offenses punishable under articles 118 through 128.

Art. 131. Perjury

> Any person subject to this code who in a judicial proceeding or in a course of justice willfully and corruptly gives, upon a lawful oath or in any form allowed by law to be substituted for an oath, any false testimony material to the issue or matter of inquiry is guilty of perjury and shall be punished as a court-martial may direct.

"Judicial proceeding" includes a trial by court-martial, and "course of justice" includes an investigation conducted under article 32.

For false testimony to be "willfully and corruptly" given, the accused must appear not to believe his or her testimony to be true.

The false testimony must be with respect to a material matter, but that matter need not be the main issue in the case. Thus, a person may commit perjury by giving false testimony about the credibility of a material witness, as well as by giving false testimony concerning either direct or circumstantial evidence.

Art. 132. Frauds Against the United States

This article deals with frauds against the United States. It pertains to making false claims against the government to obtain money or property.

It also pertains to the offense of making a writing or other paper known to contain a false statement for the purpose of obtaining the approval, allowance, or payment of a claim. The offense is complete when the writing or paper is made for that purpose, whether or not the use of either one has been attempted and whether or not the claim has been presented.

Art. 133. Conduct Unbecoming an Officer and a Gentleman

> Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

Art. 134. General Article

> Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the armed forces, all conduct of a nature to bring discredit upon the armed forces, and crimes and offenses not capital, of which persons subject to this code may be guilty, shall be taken cognizance of by a general, special, or summary court-martial, according to the nature and degree of the

offense, and shall be punished at the discretion of that court.

Article 134 makes punishable acts or omissions not specifically mentioned in other articles. They include wearing an improper uniform, abusive use of a military vehicle, the careless discharge of a firearm, and impersonating an officer. They also include offenses involving official passes, permits, and certificates, and the wrongful possession of a habit-forming narcotic drug.

"Discredit" means to injure the reputation of; that is, to bring the service into disrepute. Examples include acts in violation of state or foreign laws, failure to pay one's debts, adultery, bigamy, and indecent acts.

Crimes and offenses not capital include those acts or omissions, not punishable by another article, denounced as crimes or offenses by enactments of Congress or under authority of Congress and made triable in the federal civil courts. Certain of such offenses are made punishable wherever committed; others are punishable only if committed within the geographical boundaries of the areas in which they are applicable.

Art. 137. Articles To Be Explained

Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134 and 137-139 of this code shall be carefully explained to each enlisted member at the time of his entrance on active duty, or within six days thereafter. They shall be explained again after he has completed six months of active duty, and again at the time when he reenlists. A complete text of the *Uniform Code of Military Justice* and of the regulations prescribed by the President thereunder shall be made available to any person on active duty upon his request, for his personal examination.

Art. 138. Complaints of Wrongs

Any member of the armed forces who believes himself wronged by his commanding officer, and who, upon due application to that commanding officer, is refused redress, may complain to any superior commissioned officer, who shall forward the complaint to the officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, send to the Secretary concerned a true statement of that complaint, with the proceedings had thereon.

This article provides for redress of wrongs inflicted by a commanding officer on subordinates, and it prescribes the procedure to be followed by subordinates to apply for such redress.

Art. 139. Redress of Injuries to Property

(a) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that his property has been wrongfully taken by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint. The board shall consist of from one to three commissioned officers and, for the purpose of that investigation, it has power to summon witnesses and examine them upon oath, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by the board is subject to the approval of the commanding officer, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is conclusive on any disbursing officer for the payment by him to the injured parties of the damages so assessed and approved.

(b) If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as maybe considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

ENFORCEMENT OF THE UCMJ

The UCMJ gives the rules and regulations that should govern our behavior. These rules, as with any rules, however, are not always obeyed. When these rules are broken, the offender must be punished. This is done according to the provisions of article 15 (Commanding officer's nonjudicial punishment) or, in some cases, by courts-martial.

Nonjudicial Punishment

Commanding officer's nonjudicial punishment is often referred to as captain's mast. Captain's mast gets its name from the old sailing days when the setting for this form of naval justice was the weather deck near the ship's mainmast.

Cases are heard and punishments given at captain's mast. Anyone who is not attached to or embarked in a vessel may, however, demand trial by court-martial in lieu of punishment at mast, before such punishment is imposed. Anyone attached to a vessel may not request trial by court-martial in lieu of captains's mast.

The punishments permitted at captain's mast depend upon the rank of the officer holding mast. Figure 6-2 shows the punishment that may be awarded.

A commanding officer who decides an offense deserves a punishment more severe than he or she is authorized to award at mast may order a court-martial.

The following paragraphs explain some of the punishments that may be given at captain's mast.

RESTRICTION. —Restriction is the requirement to remain within certain specified limits (ship, station, etc.). Although required to muster at certain times, the restricted person usually continues to perform his or her regular duties.

CORRECTIONAL CUSTODY. —Correctional custody is the physical restraint (confinement) of a person during duty or nonduty hours, or both. The person may be required to perform extra duties or hard labor. A typical example is an individual who is free to carry out regular duties during the day but is confined in the brig at night.

CONFINEMENT ON BREAD AND WATER OR DIMINISHED RATIONS. —Confinement on bread and water or diminished rations may be imposed only on enlisted persons aboard ship. Correctional custody and confinement on bread and water may be imposed only on enlisted persons below the rank of petty officer.

EXTRA DUTY. —Extra duty is the assignment of any duty (except guard duty) to be performed after the person's regular working hours. Extra duty is not to exceed 2 hours daily or to be performed on holidays. Petty officers may not be assigned extra duties that would demean their grade or position.

FORFEITURE OF PAY. —Forfeiture of pay is a permanent loss of a specified amount or a temporary withholding of a certain amount of pay. The detention period must be specified. The money detained is normally returned at the end of the detention period, but it can be detained for a period of 1 year.

DETENTION OF PAY. —Detention of pay is the temporary withholding of a certain amount of pay. The detention period must be specified. The money detained is normally returned at the end of the detention period, but it can be detained for a period of 1 year.

APPEALS. —If persons consider their punishment under article 15 to be unjust or out of proportion to the offense, they may appeal to the next superior authority in the chain of command. The appeal must be made within a reasonable time (generally 15 days) and promptly forwarded. If the superior authority upholds the appeal, all rights, privileges, and property are restored.

PROTECTION AGAINST SELF-INCRIMINATION. —Under article 31 of the *UCMJ,* compulsory self-incrimination is prohibited. The accused must be informed of the nature of the

	PUNISHMENT	PUNISHMENT IMPOSED BY			
		Flag or general officer in command	CO if LCDR or above	CO if below LCDR	OIC—any grade
OFFICER	Admonition or reprimand	Yes	Yes	Yes	No
	Restriction	60 days	30 days	15 days -JAG man. 0101-	No
	Arrest in quarters	30 days	No	No	No
	Forfeiture of pay	1/2 of 1 mo. pay per mo. for 2 mo.	No	No	No
	Detention of pay	1/2 of 1 mo. pay per mo. for 3 mo.	No	No	No
		Any officer commanding, LCDR and above		Commanding officers below LCDR; OICs, any grade	
ENLISTED	Admonition or reprimand	Yes		Yes	
	Confinement on B&W or diminished rations	3 consecutive days (only on E-3 and below, aboard ship) -JAG Man. 0101-		3 consecutive days (only on E-3 and below, aboard ship) -JAG Man. 0101-	
	Correctional custody	30 consecutive days (only on E-3 and below) -JAG Man. 0101-		7 consecutive days (only on E-3 and below) -JAG Man. 0101-	
	Forfeiture of pay	1/2 of 1 mo. pay per mo. for 2 mo.		7 days' pay	
	Reduction in grade	To next inferior grade -JAG Man. 0101-		To next inferior grade	
	Extra duty	45 days		14 days	
	Restriction	60 days		14 days	
	Detention of pay	1/2 of 1 mo. pay per mo. for 3 mo.		14 days' pay	

Figure 6-2.-One or more of the maximum punishments authorized by article 15, UCMJ, may be imposed upon military personnel of the commands by the categories of commanding officers (including officers in charge) shown above. Punishments authorized by article 15 are primarily corrective in nature.

charges against him or her. The accused must also be advised that he or she does not have to make any statement regarding the offense of which accused, but that any statement made may be used as evidence against him or her in a trial by court-martial. No statement obtained through the use of coercion, unlawful influence, or unlawful inducement may be used as evidence against the accused.

MERITORIOUS AND REQUEST MASTS. — Not all masts are for disciplinary purposes. A meritorious mast may be held by the commanding officer to give awards or commendations to those persons who have earned them.

Article 1107 of *Navy Regs* grants the right for any person to communicate with the commanding officer. You can't just walk up to the captain, however, and start talking. Certain times are set aside by the CO for the purpose of hearing valid requests or complaints from crew members. This practice is called request mast. The person having a request or grievance should first try to resolve the problem with the division officer. Failing that, the person may request a mast. Usually, the person will talk to the executive officer first. If the executive officer cannot settle the matter, then the person may see the commanding officer.

Courts-martial

Based on article 16 of the *UCMJ,* courts-martial are of three types: summary, special, and general. The captain decides the type of court-martial to award based on the nature, time, and place of the offense.

SUMMARY COURT-MARTIAL (SCM). — A summary court-martial (SCM) consists of one commissioned officer. If the commanding officer is the only officer with the command, that officer acts as the summary court officer. A summary court can award any sentence that may be given at mast. It can also award the additional punishments of confinement for 1 month and hard labor without confinement for 45 days. Any person awarded a summary court-martial will then be held, as appropriate.

SPECIAL COURT-MARTIAL (SPCM). — A special court-martial (SPCM) consists of not less than three members. The accused can request that enlisted personnel serve on the court. In that event, enlisted personnel make up at least one-third of the court membership. When a military judge (a qualified lawyer) is detailed to the court, the accused has the right to know the identity of the military judge. The accused also has the right to consult with the defense counsel and to request that the court consist of only the military judge. The request must be in writing, submitted before the court is assembled, and approved by the military judge. A special court-martial may award the same punishment as a summary court, or it may award a more severe punishment. For example, it can award a bad conduct discharge, confinement for 6 months, loss of two-thirds pay per month for 6 months, and hard labor without confinement for 3 months.

GENERAL COURT-MARTIAL (GCM). — A general court-martial (GCM) consists of a military judge and not less than five members. As in a special court-martial, the accused may request that enlisted personnel serve on the court. Under the conditions described for a special court, the accused may request that the court consist of only a military judge. A general court-martial can award any punishment not forbidden by the *UCMJ,* including death when specifically authorized for the offense.

STANDARD ORGANIZATION AND REGULATIONS OF THE U.S. NAVY

The *Standard Organization and Regulations of the U.S. Navy* (OPNAVINST 3120.32B) provides regulations and guidance governing the conduct of all members of the Navy. This publication specifies duties and responsibilities of personnel within a unit organization—from the commanding officer down to the messenger of the watch.

The information quoted in italicized type in this instruction is regulatory; these regulations apply to each member of the U.S. Navy. Failure to comply with the provisions of the regulatory material is punishable in accordance with the

Uniform Code of Military Justice (UCMJ). Regulatory articles are printed on large posters, which are posted in conspicuous locations aboard naval units.

Quoted material in plain type is guidance for commanders, commanding officers, and officers in charge.

Because the explanation of these regulations is beyond the scope of this book, only a selected few of the regulatory articles will be given as examples. Our concern in this section is with chapter 5, "Regulations," of the *Standard Organization and Regulations of the U.S. Navy.*

510.5 Armed Forces Identification Cards and Leave Papers

No person without proper authority shall:

a. Have in his/her possession more than one properly validated Armed Forces Identification Card.

b. Depart on liberty without his/her own properly validated identification card; or, in the case of leave, without his/her own properly validated leave papers and identification card.

c. Have in his/her possession a false or unauthorized identification card; or a mutilated, erased, altered, or not properly validated identification card; or an identification card bearing false or inaccurate information concerning a name, grade, service number, or date of birth.

d. Return from leave without depositing his/her leave papers with the proper authority. Any person returning without an identification card shall report the loss to the OOD in person.

510.14 Customs

Upon arrival of a naval unit in United States territory after visiting a foreign port, it is subject to customs and other inspections by Federal authorities.

a. On such occasions, customs declarations will be distributed to all hands in sufficient time to be filled out and returned before arrival in port.

b. It shall be the duty of all personnel to complete customs declarations accurately prior to arrival in port.

c. No person, without permission from the Commanding Officer, shall bring on board any article, animal, or any other thing, the introduction of which into U.S. territory is forbidden or restricted under current regulations.

510.16 Divine Services

Accessible and appropriate space shall be provided for divine services. No person shall conduct himself/herself in a manner which would interfere with properly authorized divine services.

510.18 Emergency Equipment

No person shall use emergency equipment for any purpose other than that for which it is intended. Emergency equipment includes items such as battle lanterns, emergency first aid boxes, shoring, wrenches, life rings, equipment in life rafts and boats, portable fire pumps, fire hoses, and fuel for emergency machinery.

510.21 Government Property

No person shall:

a. Conceal or fail to report to proper authority the loss, removal, destruction, or damage of Government property entrusted to his/her care or custody.

b. Remove without proper authority from its regular place of stowage or location, for any purpose whatever, any article of Government property, including hull and damage control fittings, first aid

equipment, life saving and emergency equipment, and stores and foodstuffs.

c. Have in his/her possession any article of Government property except as may be necessary for the performance of his/her duty or as may be authorized by proper authority.

510.22 Grooming and Personal Appearance

It is the responsibility of officers in command to ensure their personnel are neat and well groomed at all times. (See *U.S. Navy Uniform Regulations,* NAVPERS 15665G, for current standards.)

510.24 Hitchhiking

No naval personnel will, on a public road, street, or highway, endeavor by words, gestures, or otherwise to beg, solicit, or hitchhike a ride in or on any motor vehicle. Accepting rides at established service personnel pickup stations is authorized.

510.25 Indebtedness

Since indebtedness brings a discredit to the naval service, debts shall not be incurred when there is no reasonable expectation of repaying them. The Commanding Officer's interest in the matter of indebtedness of personnel attached to a naval unit will be directed principally to the establishment of facts so that corrective or disciplinary measures may be taken.

510.27 Intoxicated Persons

All persons intoxicated to such an extent as to create a disturbance or to make their being at large dangerous to their personal safety or to the safety of the unit shall be placed under protective restraint upon direction of the Commanding Officer, the Command Duty Officer, or the Officer of the Deck.

a. The Officer of the Deck or the Command Duty Officer shall ensure that all persons who return on board in an intoxicated condition, or found on board intoxicated, shall be promptly examined by the medical officer or a qualified representative.

b. When restraint is imposed on an individual, it should be in such a manner as to accomplish the desired degree of restraint with a minimum of force. Attachment of an individual to a fixed or immovable object should only be authorized when all else fails, and then a continuous guard should be posted with specific instructions to care for the welfare of the person under restraint in the event of an emergency.

510.28 Leave and Liberty

No person will:

a. Proceed from the confines of a naval unit without permission of proper authority.

b. Proceed from the confines of a naval unit while knowingly in a restraint status without permission of the Commanding Officer, the Executive Officer, or in emergencies, the Command Duty Officer.

c. Proceed from the confines of a naval unit while knowingly on the sick list, binnacle list, or the medical quarantine list.

d. Fail to report his/her departure from or return to a naval unit to the OOD or an authorized representative.

510.34 Motor Vehicles

The following provisions relate to personnel operating motor vehicles assigned to Navy units:

a. No person shall operate a Government-owned motor vehicle assigned to a naval unit unless specifically designated to do so by the Commanding Officer, and then only for official unit business.

b. Military personnel operating Government-owned motor vehicles shall comply with all post, station, local, state, and Federal directives. U.S. Government operator's permit is not required for vehicles under one ton.

c. All persons operating Government-owned motor vehicles assigned to a naval unit shall obtain the permission of the OOD before driving away from the unit and shall report to the OOD upon their return. Arrival and departure reports of vehicles assigned to naval vessels may be made to the beach guard.

510.40 Personal Effects

The command and individuals have a shared responsibility to safeguard the personal property of members of the unit.

a. No person will maintain personal belongings or other articles in any locker closet, peacoat locker, or space other than that regularly assigned to him/her or authorized by proper authority to use.

b. Each person is responsible for obtaining a lock and keeping his/her locker locked at all times. Any evidence of tampering with locks or unauthorized entry into a personal locker will be reported to the Chief Master-At-Arms immediately.

c. When any enlisted person on board a naval unit is declared a deserter or becomes mentally or physically incapacitated to the extent that he/she can no longer care for his/her personal effects, they will be collected, inventoried, and sealed by a division petty officer in the presence of the division officer and a master-at-arms and delivered to the Chief Master-At-Arms for safekeeping and disposition in accordance with current instructions. Only personnel designated will handle or disturb in any way the personal effects of another person.

d. The personal effects of an absent or incapacitated officer will be inventoried and packed by two officers designated by the Executive Officer and will be delivered to the supply office for safekeeping and disposition per current instructions.

510.44 Photographic Equipment

No person shall:

a. Possess or introduce on board a naval unit any camera or other photographic equipment capable of exposing a photographic plate or film without permission of the Commanding Officer or his authorized representative.

b. Make photographs of a naval unit or its equipment, or of objects from the unit, without permission of the Commanding Officer, and then only of the objects for which permission was specifically given.

c. While on watch or duty as a sentry or member of a patrol, knowingly permit the introduction of any camera or photographic equipment on board a naval unit unless such equipment is authorized by the Commanding Officer or authorized representative.

510.45 Plan of the Day

A plan of the day will be published daily by the Executive Officer or an authorized representative and will issue such orders and directives as the Executive Officer may issue. When the Executive Officer is absent from the unit it will be issued by the Command Duty Officer.

a. The Plan of the Day will be posted on all department and division bulletin boards.

b. All persons will read the Plan of the Day each day. They are responsible for obeying applicable orders contained therein. In port, the Plan of the Day will be read at quarters.

510.46 Profane Language

No person will use profane, obscene, or vulgar words or gestures on board a naval unit.

SUMMARY

Although most of us could not possibly memorize each article of *Navy Regs,* the *UCMJ,* or the *SORN,* we should all be familiar with them. The intent of this chapter is just that: to familiarize you with these articles; therefore, we only scratch the surface. You would be wise to read *Navy Regs,* the *UCMJ,* and the *SORN* in their entirety. Even then you should go back and review them periodically, because all are often

used in the process of running a division and the Navy.

REFERENCES

Basic Military Requirements, NAVEDTRA 12043, Naval Education and Training Program Management Support Activity, Pensacola, Fla., 1992.

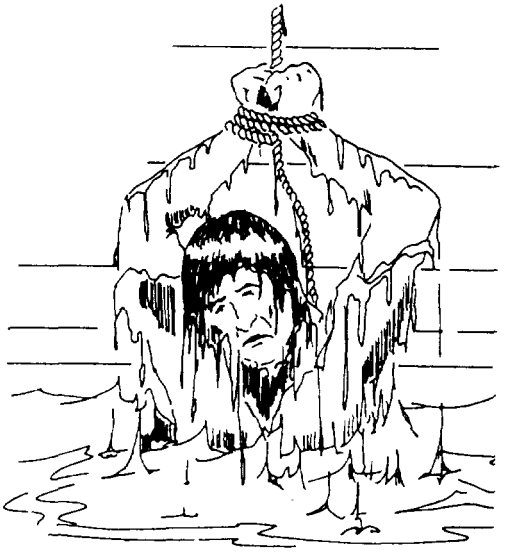
Manual for Courts-Martial, United States, 1984, Washington, D.C., 1984.

Standard Organization and Regulations of the U.S. Navy, OPNAVINST 3120.32B, Chief of Naval Operations, Washington, D.C., 1986.

United States Navy Regulations, 1990, Secretary of the Navy, Washington, D.C., 1990.

KEELHAUL

TO BE KEELHAULED TODAY IS MERELY TO BE GIVEN A SEVERE REPRIMAND FOR SOME INFRACTION OF THE RULES. AS LATE AS THE 19TH CENTURY, HOWEVER, IT MEANT THE EXTREME. IT WAS A DIRE AND OFTEN FATAL TORTURE EMPLOYED TO PUNISH OFFENDERS OF CERTAIN NAVAL LAWS.

AN OFFENDER WAS SECURELY BOUND BOTH HAND AND FOOT AND HAD HEAVY WEIGHTS ATTACHED TO HIS BODY. HE WAS THEN LOWERED OVER THE SHIP'S SIDE AND SLOWLY DRAGGED ALONG UNDER THE SHIP'S HULL. IF HE DIDN'T DROWN-- WHICH WAS RARE --BARNACLES USUALLY RIPPED HIM, CAUSING HIM TO BLEED TO DEATH.

ALL NAVIES STOPPED THIS CRUEL AND UNUSUAL PUNISHMENT MANY YEARS AGO AND TODAY ANY SUCH PUNISHMENT IS FORBIDDEN.