

VOLUME 14

**“ENLISTED NONJUDICIAL PUNISHMENT MATTERS AND
PREPARATION OF THE UNIT PUNISHMENT BOOK”**

SUMMARY OF VOLUME 14 CHANGES

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VOLUME 14: ENLISTED NONJUDICIAL PUNISHMENT MATTERS AND PREPARATION OF THE UNIT PUNISHMENT BOOK

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REFERENCES

- (a) SECNAVINST 5430.7R CH -2
- (b) SECNAVINST 5430.27E
- (c) SECNAVINST 5430.25F
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 8046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2019, ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62B
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6D
- (n) Uniform Code of Military Justice, (2019)
- (o) MCO 1610.7A
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7G
- (s) SECNAVINST 5211.5F
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2B
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1401, et. seq.
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5148.13
- (gg) Executive Order 12333, (December 4, 1981), as amended.
- (hh) DoD Directive 5240.01
- (ii) DoDM 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.32
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Instruction 5530.03
- (pp) DoDM 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

VOLUME 14

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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**ENLISTED NONJUDICIAL PUNISHMENT MATTERS AND
PREPARATION OF THE UNIT PUNISHMENT BOOK**

0101. PURPOSE

This Volume provides information and instruction on enlisted nonjudicial punishment (NJP) matters and the preparation of the Unit Punishment Book (UPB).

0102. GENERAL

NJP provides commanders with an essential and prompt means of maintaining good order and discipline and also promotes positive behavior changes in Service members without the stigma of a court-martial conviction. Although a disciplinary measure more serious than administrative corrective measures, NJP is less serious than trial by court-martial.

0103. AUTHORITY TO IMPOSE NONJUDICIAL PUNISHMENT

010301. Commanding Officers

Commanding officers, as defined in reference (h) and (r), may impose punishment under Article 15, Uniform Code of Military Justice (UCMJ), upon military personnel of their command. For purposes of this paragraph, "commanding officer" is defined as one who is properly appointed to command an organization, or who, under applicable provisions of law, regulations, or orders, succeeds to such command due to transfer, incapacity, death, or absence of the previous commander. For this Volume, "absence" means a condition that prevents effective command and control of the unit by the commander. For example, a commander who is sitting on a board without regular access to e-mail and phone communication would normally be considered absent, whereas a commander who is taking leave in the area and is maintaining contact with the command via e-mail and phone would not normally be absent. "Commanding officer" includes a commissioned warrant officer, who by virtue of rank and assignment, exercises primary command authority over a military organization or prescribed territorial area, or as otherwise defined in reference (r) section. 0106. Marine Corps commanding officers are titled as Commandant, Commander, Commanding General, Commanding Officer, and Inspector-Instructor. Other titles used to designate Marine Corps commanders shall be made only with the specific approval of the Commandant of the Marine Corps. With the exception of delegations of authority to impose NJP from a general officer in command to a designated assistant, which require the express prior approval of the Commandant of the Marine Corps (see reference (r), section 0106), the authority to impose NJP cannot be delegated unless by specific authorization of the Secretary of the Navy.

010302. Major or Lieutenant Commander or Above

Pursuant to Manual for Courts-Martial (MCM), Part V, paragraph 5.b.(2)(B), a commanding officer of the grade of major or lieutenant commander or above, or a principal assistant, as defined in paragraph 2.c. of Part V, even if filling a billet traditionally filled by a captain or lieutenant (O-3), may impose the following punishments:

- A. Correctional custody for not more than 30 consecutive days.

B. Forfeiture of not more than one-half of one month's pay per month for two months.

C. Reduction at NJP may only be imposed if the grade from which demoted is within the promotion authority of the officer imposing reduction, as provided in paragraph 1200.3b of MCO P1400.32D. Commanders or officers-in-charge not listed in paragraph 1200.3.b may submit a request for promotion authority to CMC (MMPR-2) via the chain of command. Marines may only be reduced to the next inferior paygrade. Marines in the grade of E-6 or above and Sailors in the grade of E-7 or above may not be reduced in paygrade.

D. Extra duties, including fatigue or other duties, for not more than 45 consecutive days.

E. Restriction to specified limits, with or without suspension from duty, for not more than 60 consecutive days.

010303. Captain or Lieutenant (O-3) and Below

Pursuant to (MCM), Part V, paragraph 5b (2) (a), a commanding officer of the grade of captain or lieutenant (O-3) and below exercising company command may impose the following punishments:

A. Correctional custody for not more than 7 consecutive days.

B. Forfeiture of not more than 7 days' pay.

C. Reduction in grade if authorized as outlined above in 010302.C.

D. Extra duties, including fatigue or other duties, for not more than 14 consecutive days.

E. Restriction to specified limits, with or without suspension from duty, for not more than 14 consecutive days.

010304. Officer-in-Charge

Officers-in-charge of units designated by: departmental orders; tables of organization; manpower authorizations; orders of a flag or general officer in command (including one in command of a multiservice command to which members of the naval service are attached); orders of the senior officer present; or designated as a special court-martial convening authority are empowered to impose NJP upon enlisted personnel assigned to their unit. An officer-in-charge, regardless of grade, may impose upon enlisted persons assigned to the unit an admonition or reprimand, and one or more of those punishments listed in Part V of reference (n).

010305. A "command" in the meaning of subparagraph 010301 above is a company or higher unit recognized in an official table of organization.

0104. JURISDICTION OVER ACCUSED

010401. When nonjudicial punishment is imposed, the accused must be a member of the command or of the unit of the officer (commander or officer-in-charge) imposing the punishment. A person is “of the command” or “of the unit” if assigned or attached thereto, and a person may be “of the command” or “of the unit” of more than one command or unit at the same time, such as persons assigned or attached to commands or units for the purpose of performing temporary duties. However, paragraph 1.f. (1) of Part V, MCM, prohibits, subject to exceptions found in paragraph 1.e. of Part V, MCM, double punishment (specifically, when NJP has been imposed for an offense, punishment may not again be imposed for the same offense under Article 15, UCMJ).

010402. For the imposition of NJP, a person who has been designated a party before a fact-finding body convened under reference (r) chapter II remains thereafter “of the command” of the unit or organization to which assigned or attached at the time of such designation. This is for the limited purpose, however, of imposing a letter of admonition or reprimand, and imposition of NJP is valid even though, for other purposes, that person may have been assigned or attached to another command before such letter was delivered. This status terminates automatically when all action contemplated by Article 15, UCMJ, including action on an appeal, has been completed (see reference (r), section 0107a (2)).

010403. Command authority and administrative control over members of the supported command may pass to an Inspector-Instructor (I-I) or Site Commander in the absence of the Reserve Commanding Officer or other officers that could act for the Commanding Officer when the reserve officers are not in a duty status, or are otherwise unavailable to execute command functions, unless this succession of command authority is otherwise directed by Commander, Marine Forces Reserve or the unit’s General Court-Martial Convening Authority. This delegation of authority is authorized for routine matters and expressly excludes establishing organizational policy, changing the unit’s mission, or countermanding the Reserve Commanding Officer’s guidance.

010404. Except as provided in paragraph 010402, if, at the time NJP is to be imposed, the accused is no longer assigned or attached to the same unit or command, the alleged offense should be referred for appropriate action to a competent authority in the accused’s chain of command. In the case of an officer, the referral normally should be made to the officer who exercises general court-martial jurisdiction.

0105. JURISDICTION OVER RESERVISTS

010501. Members of the Reserve component on active duty or inactive duty training are subject to the UCMJ. Such members are not, by virtue of termination of a period of active duty or inactive duty training, relieved from amenability to jurisdiction of the UCMJ for offenses committed during such periods of active duty or inactive duty training and may be ordered to active duty for the sole purpose of disciplinary proceedings (see reference (r), section 0107 and 0123)).

010502. Any NJP punishment amounting to a deprivation of liberty (for example, restriction, correctional custody, extra duties, or arrest in quarters) imposed upon a member of the reserve component during a period of inactive duty training, may be served during a normal period of

inactive-duty training and/or a subsequent period of active duty. Unserved punishments may be carried over to subsequent periods of inactive duty training or active duty.

0106. EFFECT OF EXPIRATION OF ACTIVE SERVICE (EAS) OR RESERVE EXPIRATION OF CURRENT CONTRACT (RECC) OF MARINES PENDING OR UNDERGOING NONJUDICIAL PUNISHMENT

A Marine may not be involuntarily retained beyond their normal EAS or RECC for the purpose of imposing NJP or to serve punishment previously imposed at NJP or to be a witness at NJP. However, a Marine previously involuntarily extended beyond his or her EAS or RECC for an authorized purpose (for example, pending charges at a court-martial) may agree to have those charges disposed of at NJP in lieu of trial by court-martial.

0107. ADVICE TO ACCUSED BEFORE IMPOSITION OF NONJUDICIAL PUNISHMENT

010701. An accused may have NJP imposed without first being afforded the opportunity to consult with counsel, but the results of any such NJP are not admissible as a matter in aggravation at any subsequent court-martial proceeding. As a matter of policy, however, an opportunity to consult with a judge advocate should be afforded to those who request such, if at all practicable (telephonic consultation may be used). This will ensure the accused has been afforded all legal rights prior to the imposition of NJP as provided by reference (r), section. 0109 (see also reference (r), Appendices A-1-b, A-1-c, and A-1-d). While preferred, counsel need not be a member of the DSO. If an accused is afforded the chance to consult with counsel, such counsel may be a military lawyer, or a civilian lawyer obtained by the accused at his or her personal expense. A military lawyer who provides such advice should be “independent.” A military lawyer who, in the course of his or her duties, acts as the principal legal advisor to the officer who would exercise nonjudicial punishment authority, is not “independent.”

010702. NJP may not be imposed for an offense committed more than two years before the imposition of punishment. An accused may affirmatively agree to accept NJP in lieu of trial by court-martial for offenses that are over two years old, but within the court-martial statutes of limitations provided in Article 43, UCMJ. In such cases, the accused must knowingly and intelligently waive any claim that punishment is barred by the Article 43, UCMJ, statute-of-limitations provision. It is advisable to memorialize this understanding in a pretrial agreement or other similar written document.

0108. QUANTUM OF PUNISHMENTS-COMBINATION

Paragraph 5.d. of Part V, MCM, contains instructions concerning combination of NJP.

0109. FORFEITURE IMPOSED AS NONJUDICIAL PUNISHMENT

010901. Forfeiture imposed as NJP must be expressed in whole-dollar amounts only, not in dollars and cents (e.g., \$300.25), not in “days’ pay” (e.g., 10 days’ pay), and not in fractions (e.g., 1/2 of a month’s pay) (see paragraph 5 of Part V, MCM).

010902. The maximum permissible forfeiture is determined by rounding down to whole-dollar amounts.

010903. The maximum permissible forfeiture that may be imposed at NJP by a company grade officer or officer-in-charge is determined by dividing a month's base pay by 30, multiplying the result by seven, and rounding down to a whole-dollar amount.

010904. If a reduction is also imposed, whether or not such reduction is suspended, the maximum permissible forfeiture must be computed on the pay of the grade to which reduced (see paragraph 5 of Part V, MCM).

010905. Selected Marine Corps Reserve (SMCR) Marine Forfeiture Calculation

A. To calculate 1/2 month's pay for an SMCR Marine to determine maximum forfeitures at NJP imposed by a company grade officer or officer-in-charge, use the following formula: $([\text{One Drill Pay}] \times [\text{Number of Drills scheduled within the next 60 days}] \times 0.2333 + [\text{Active Duty Basic Pay}]) / (30 \times [\text{Number of Days assigned to active duty orders within the next 60 days}] / 2)$.

B. To calculate 1/2 month's pay for an SMCR Marine to determine maximum forfeitures at NJP imposed by a field grade officer of higher, use the following formula: $([\text{One Drill Pay}] \times [\text{Number of Drills scheduled within the next 60 days}] \times 0.5) + ([\text{Active Duty Basic Pay}] / 30 \times [\text{Number of Days assigned to active duty orders within the next 60 days}] / 2)$.

C. One Drill Pay is based on current year's drill pay chart. Active Duty Basic Pay is based upon current year's active duty basic pay chart.

D. Scheduled drills are assessed on the date the notification of NJP is signed by the Convening Authority. Scheduled drills include any type of drills for which pay is authorized, per the Marine Corps Reserve Administrative Management Manual (MCRAMM).

E. The 60-day time period is measured as 60 consecutive calendar days. This 60-day period for calculating total drills and active duty days begins on the date of NJP. This 60-day period cannot be adjusted even if the unit is not drilling during one or both of the next two months.

0110. SUSPENSION, REMISSION, MITIGATION, SETTING ASIDE

011001. Article 15 (d), UCMJ, paragraph 6 of Part V, MCM, and reference (r), section 0118 provide that an officer who imposes NJP may: (1) suspend, remit, or mitigate any part or amount of the unexecuted portion of that punishment; (2) set aside in whole or in part that punishment, whether executed or unexecuted; and (3) may restore all rights, privileges and property affected by that punishment.

011002. In addition to the officer who imposed the punishment, the following officers may also take remedial action: a successor in command to the imposing officer; the commander of any command to which the Marine is subsequently transferred; the commander who acts on appeal of the NJP, and any other officer authorized to act on the punishment imposed.

011003. There are certain restrictions on remedial action concerning punishment:

A. The power to set aside punishments and to restore some or all rights, privileges, and property affected by the executed portions of a punishment should ordinarily be exercised only when the authority considering the case believes that, under all circumstances of the case, the punishment has resulted in a clear injustice.

B. The power to set aside an executed punishment or to mitigate an executed or unexecuted reduction in grade to a forfeiture of pay should ordinarily be exercised within four months after the date of execution (see paragraph 6 of Part V, MCM).

C. Suspension of an executed punishment of reduction or forfeiture of pay may be accomplished only within four months of the date the punishment is executed.

D. Removal and set aside. Pursuant to reference (r), section 0114, material properly placed in an official record may not normally be removed or destroyed.

1. If a factual error or other reasons indicate that a punitive letter issued under Article 15, UCMJ, and filed in the addressee's official record results in a clear injustice, the officer referred to in paragraph 6 of Part V, MCM, and reference (r), section 0118 may set aside or remove—direct the set-aside or removal of—the punitive letter. Removal or set aside occurs by issuing a second letter to the officer or enlisted member concerned announcing the cancellation of the punitive letter and setting forth in detail the reason for cancellation.

2. If a punitive letter is removed or set aside by a superior authority before a copy of the original of such letter is forwarded to the Navy Personnel Command or the Commandant of the Marine Corps, the punitive letter will not be forwarded and copies of the punitive letter will be removed from all files relating to the member and destroyed.

3. If the removal or set aside occurs after a copy of the punitive letter has been forwarded, a copy of the letter of cancellation shall be forwarded to MMRP via encrypted email to SMB.MANPOWER.MMRP@USMC.MIL. The letter of cancellation must contain the Marine's full name, date of NJP, the reason/rationale for the cancellation, and actions by the Commander, e.g. all rights, privileges, and property affected by the punishment are restored. The commander should also forward the letter of cancellation to any other addressees to whom copies of the punitive letter were forwarded. Upon receipt of the copy of the letter of removal or set aside, addressees will ensure that copies of the punitive letter shall not be filed in or, if already filed, shall be removed from, the member's official record and destroyed. The order or letter of removal or set aside or a copy thereof shall not be filed in the member's official records.

4. If a punitive letter is filed by mistake, such document may be removed only by Navy Personnel Command or the Commandant of the Marine Corps (MMRP), as appropriate. In other cases, only the Secretary of the Navy acting through the Board for Correction of Naval Records may order removal of punitive letters and other documents in official records.

0111. UNIT PUNISHMENT BOOK

011101. A UPB form (NAVMC 10132) will be used to record the imposition of NJP for U.S. Marine Corps enlisted personnel. When reporting NJP of officers, comply with Volume 15 of this Manual.

011102. When an officer exercising Article 15, UCMJ, authority receives information that an offense punishable under the UCMJ was allegedly committed by an enlisted person under that officer's jurisdiction, and that officer further determines that the possible offense should either be disposed of at NJP or be referred to higher authority, a UPB form will be prepared.

011103. The original UPB form will be prepared electronically, typewritten, or handwritten (legibly) in black or blue-black ink. The completed original UPB form will be maintained in the originating command's correspondence files (Standard Subject Identification Code 5812) until all proceedings are complete, and all signatures and required entries made. Once the UPB is complete with all signatures, provide a copy to the member, a copy to the Installation Personnel Administration Center (IPAC) or Administrative section for unit diary reporting and scanning into the Marine's official military personnel file (OMPF) and electronic service record (ESR). The copy UPB form does not require original signatures or initials. Authorized abbreviations are encouraged (see MCO P1070.12K, Individual Records Administration Manual (IRAM)). When there is insufficient space for an item, type "See Supplemental Page" and any additional information shall be listed on page 2. Additional sheets will be securely stapled to the UPB form and must contain the Marine's name and EDIPI, as appropriate.

011104. The use of correction tape and/or fluid is not authorized. Changes and corrections will be made by drawing a thin-inked line (using black or blue-black ink) through the character(s)/numeral(s)/word(s) to be changed or corrected. The individual making the correction will then legibly initial next to the correction. The new information will be entered directly above or below the original information, or explained in item 16, as applicable. See paragraphs 011105.F and 011105.G for corrective action requirements specific to blocks 6 and 7 of the UPB.

011105. Detailed Preparation Instructions

A. Item 1. Enter the UCMJ article(s) allegedly violated and a summary of each offense, to include date, time, and place of the alleged offense. It is not necessary to use model charges and specifications as in courts-martial, however, it is permissible to do so. If there are multiple infractions of an article of the UCMJ, repeat the article as indicated below. Examples:

(1) Art. 90. Struck Capt Smith with fists at HqCo, HqBn, 3d MarDiv, at 0930, 10 Nov 12.

(2) Art. 90. At Co A, 1st Bn, 7th Mar (deployed) on 11 Mar 12, willfully disobeyed Capt Green's order to get a haircut.

(3) Art. 86. UA fr HqCo, HqBn, 3d MarDiv dur the prd 0800, 11 May 12 through 2359, 15 May 12.

(4) Art. 86. At HqCo, HqBn, 3d MarDiv, failed to go at the time prescribed to morning formation at 0800 on 15 Nov 12.

B. Item 2. After advising the Marine in accordance with Article 31, UCMJ, and reference (r), require the Marine to indicate intentions by striking out inapplicable portions, unless the Marine is attached to or embarked aboard a naval vessel. In such cases, strike out with a single black or blue-black ink line all sentences after the first sentence (see reference (r), section 0109). Thereafter, require the Marine to date and sign the item. When a Marine refuses to indicate an intention and/or refuses to sign, process charges as a refusal to accept NJP and forward the UPB to the officer exercising court-martial jurisdiction for disposition. Note in item 2, "See item 16." Note in item 16, "Marine refuses to indicate intentions or to sign item 2. Case forwarded recommending (special court-martial), (summary court-martial), (etc.)."

C. Item 3. Upon ensuring that the individual has been informed of the rights enumerated in item 2, the immediate commanding officer will date and sign item 3. This action must be accomplished prior to imposition of NJP and this item must, therefore, be dated on or before the date NJP is imposed.

D. Item 4. After allowing the Marine the opportunity to consult with individual counsel, require the Marine to indicate that he has had the opportunity to do so by striking out the inapplicable provisions and signing item 4.

E. Item 5. If unauthorized absence (UA) is not a part of the NJP, leave item 5 blank. If the Marine was UA in excess of 24 hours, then enter the period of time over which the absence occurred as well as any marks of desertion.

F. Item 6. Enter punishment imposed and date of imposition. The entry "No punishment" is invalid. Unless a punishment listed in Article 15, UCMJ, is levied at the proceedings, NJP has not been imposed, no record will be maintained in the UPB binder and no unit diary action will be taken. In the case where all punishment is suspended, the NJP is valid and a record of the NJP shall be maintained in the UPB even if all suspended punishment is later remitted. Any corrections or changes made in block 6 (Final Disposition Taken) may only be made by and initialed by the officer who imposed or is imposing punishment (see paragraph 011104 for corrective action guidelines). Sample forms of authorized punishments follow. Certain phrases in these examples are underscored merely to highlight areas where deviation from the prescribed wording frequently has resulted in ambiguity. Other guidance is provided in parentheses. UPB form entries need not contain underlines or references.

(1) Restr to the limits of HQSVCCo, 1st Bn, 3d Mar for 14 days, w/o susp fr du. 2 Jun 12 (see para. 5c (2) of Part V, MCM).

(2) Forf of \$250 pay per month for 2 months. Total forf \$500. 2 Jun 12. (Note: always state forfeitures in whole dollar amounts.)

(3) Corr cust for 7 days w/susp fr du. 2 Jun 12.

(4) Corr cust for 6 days w/o susp fr du. 2 Jun 12.

(5) Restr to the limits of place of mess, bil, du and worship and most dir route to and fr w/o susp fr du for 14 days and extra du for 14 days, to run concurrently. 2 Jun 12.

(6) To be red to LCpl, E-3, and to be orally reprimanded. 2 Jun 12.

G. Item 7. Enter the date and the specific terms of the suspension. If no part of the punishment is suspended, enter the word "None." When suspending all or portions of the punishment, the specific punishment, the length of the suspension, and the terms for automatic remission will be reflected. Example: 2 Jun 12. Red to LCpl, E-3, susp for 3 mos, at which time, unless sooner vacated, the red will be remitted w/o further action. Any corrections or changes made in block 7 (Suspension of Execution of Punishment) may only be made by and initialed by the officer who imposed or is imposing punishment. See paragraph 011104 for corrective action guidelines.

H. Item 8. Enter name, grade, and title of the officer who took the action listed in item 6.

I. Item 9. When the officer imposing punishment determines that the offenses are properly punishable under Article 15, UCMJ, the officer so determining will sign this item.

J. Item 10. Enter the date of notification to the Marine. This will normally be the same date as item 6, except where a formal investigation is used as a basis for the NJP or notification is done by mail.

K. Item 11. When NJP has been imposed, notify the Marine of the right to appeal (see paragraph 7 of Part V, MCM, and reference (r), section 0110f). The officer imposing NJP shall date and sign the item. This will normally be the same date as item 6 and will, in no case, be prior to the date in item 6.

L. Item 12. The Marine upon whom NJP is imposed shall date and sign this item indicating an understanding of the right to appeal the NJP imposed. When a Marine refuses to indicate an understanding of the right to appeal and/or refuses to sign item 12, note in item 12, "See item 16" and place the following entry in item 16: "Marine refuses to indicate intentions or sign item 12."

M. Item 13. Enter the date of the appeal of the NJP. If not appealed, enter the words "Not appealed."

N. Item 14. If an appeal is made, enter the final action and date thereof. This item will be signed by the officer acting on the appeal, or it may be signed "By direction" of the officer acting on the appeal. Examples:

(1) Appeal denied - 25 Jun 12.

(2) Appeal granted, punishment set aside- 25 Jun 12.

(3) Red set aside, no further relief granted - 25 Jun 12.

O. Item 15. Enter the date the Marine was notified of the decision on the appeal. If the Marine has been transferred or discharged, enter the date of the endorsement forwarding the decision to the Marine's new command or to the Marine's permanent mailing address.

P. Item 16. Entries are required in this item under the following conditions:

1. If the Marine refuses to sign either item 2 or item 12, enter the following remark: "Marine refuses to indicate intentions or to sign item 2 and/or item 12" as applicable.

2. When the offenses are forwarded to higher authority for disposition, a general or specific recommendation as to disposition may be entered. Examples:

(a) General Recommendation - "Fwd to BnCO recom NJP."

(b) Specific Recommendation - "Fwd to BnCO recom red."

3. Enter any subsequent vacation of any suspended punishment included in item 7 and the date of vacation. Examples:

(a) Forf of \$250 per mo for 1 mo imposed and susp on 10 Dec 12 vacated - 26 Dec 12.

(b) Red to PFC, E-2, imposed on 10 Dec 12 and susp on 15 Dec 12 vacated - 26 Dec 12.

4. A Marine who has appealed may be required to undergo any punishment imposed while the appeal is pending, except that if action is not taken on the appeal within five days after the appeal was submitted, and if the Marine so requests, any unexecuted punishment involving restraint or extra duty shall be stayed until action on the appeal is taken (see paragraph 7 of Part V, MCM). An entry reflecting the stay of punishment will be made. Example: 7 Dec 12: Appeal submitted. Punishment of (insert punishment) stayed.

5. When an executed or unexecuted punishment is set aside, the "set aside" entry will be placed on the old UPB and the new UPB. If the old UPB is not held at the command, then enter on the new UPB only. Example: 7 Dec 12: Red to Cpl, E-4, is set aside. All rights, privileges and property affected will be restored.

6. In addition to the aforementioned required entries, this item may be used to record other appropriate remarks or information.

Q. Item 17. Upon completion of the required administrative action, to include verifying the copy of the UPB form with all signatures is on file in the Marine's OMPF, the officer responsible for the action will initial this item. This item must be initialed by the commanding officer, officer-in-charge, or by an officer designated to sign "By direction" of the commander. A copy of the initialed form will be sent to the originating unit so the unit diary number and date can be recorded on the unit's copy of the UPB. Ensure completion of all unit diary entries in accordance

with Marine Corps Total Force System Personnel Reporting Instructions User's Manual (MCTFSPRIUM).

R. Items 18-21. Items 18 through 21 are self-explanatory.

011106. The officer imposing NJP will prepare, or cause to be prepared, a summary transcript of the proceedings. This may be accomplished by using the form prescribed in reference (r), Appendix A-1-f or a locally prepared form. If local forms are used, sufficient information will be recorded to provide a clear and accurate picture of what transpired at the proceedings. This summary will be appended to the UPB form.

011107. When an appeal from NJP is forwarded to higher authority for decision, compliance with reference (r), sections 0116 and 0117 is required. Furthermore, applicable Page 11 entries, the Marine's Record of Service (corporals and below), the original UPB form, the summarization of proceedings, and all allied papers shall be forwarded to the higher authority. The appeal authority is required to sign block 14 of the UPB and the correspondence responding directly to the Marine regarding the appeal authority's final decision on the appeal. After action on the appeal, the original NJP appeal paperwork and all allied papers will be returned to the officer originating the UPB. Allied papers may include, but are not limited to statements, investigative reports, documents, records, or photographs. A copy of the appeal, will be provided to the Marine concerned. Item 15 will be completed by the individual providing notice to the accused of the decision on the appeal and the original appeal with all enclosures and endorsements will be attached to the UPB form. Any allied papers will be filed in the command's correspondence files in accordance with current directives. Factual disputes should be addressed by endorsers and resolved by the Appeal Authority.

011108. NJP proceedings are considered complete and final when the appeal period has expired, or when the Marine is notified of the decision on an appeal. Once final, an appeal which has been granted may not be reconsidered and denied.

011109. The commanding officer will forward a copy of the UPB to the IPAC/Administrative section for the unit diary reporting and scanning in to the Marine's OMPF and ESR. The CO will deliver a copy to the Marine once proceedings are complete and final.

011110. The UPB will be maintained in either a binder or an electronic file for each organization where the commanding officer or officer-in-charge imposes NJP under Article 15, UCMJ. Those organizations using consolidated administration (e.g., a battalion) may maintain a single unit punishment book binder or digital file. Each Article 15, UCMJ, jurisdiction should be maintained separately by means or divider or individual electronic file (e.g., battalion, Co A, Co B).

A. The UPB file will consist of the original UPB forms including attached pages, appeals and summary transcripts of the impartial hearings, filed alphabetically in a loose-leaf binder or digital file in accordance with the command's file plan.

B. A new UPB binder or digital file shall be opened at the beginning of each calendar year. UPB binders or digital files shall be managed according to National Archives and Records Administration (NARA)-approved dispositions per SECNAV M-5210.1 CH-1 to ensure

proper maintenance, use, accessibility and preservation, regardless of format or medium. Records disposition schedules are located on the Department of Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at: <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>

C. When no punishment is imposed, or all offenses are referred to trial by court-martial or resolved by administrative corrective action other than NJP, no NJP has occurred and the UPB form will not be maintained in the UPB binder.

D. When all imposed punishment is suspended and ultimately remitted, NJP is still deemed to have occurred and the UPB form will remain in the UPB binder. When a commanding officer sets aside an NJP pursuant to Part V, MCM, paragraph 6d, the UPB form will be removed from the UPB binder. If the commanding officer sets aside an NJP after the UPB has been forwarded to a higher level in the chain of command, a copy of the set-aside letter shall be forwarded to MMRP via encrypted email to smb.manpower.mmrp-20@usmc.mil. The set-aside letter must contain the Marine's full name, date of NJP, the reason/rationale for the cancellation, and actions by the Commander, e.g. all rights, privileges, and property affected by the punishment are restored.

E. Copies of UPB forms with signatures will be prepared and maintained in accordance with paragraph 0111 above. However, copies forwarded to a higher level in the chain of command for disposition will not be maintained in the UPB binder.

0112. VACATION OF SUSPENSION

011201. A suspended NJP may be vacated by any commander authorized to impose upon the accused punishment of the kind and amount to be vacated. Vacation of suspension may only be based on an offense under the UCMJ committed during the period of suspension. Before a suspension may be vacated, the accused ordinarily shall be notified and given an opportunity to respond using Figure 14-1. To avoid administrative error in such cases, before imposing a subsequent NJP, the commander should vacate the previously suspended sentence and the unit administrators should forward a copy of the vacation letter and updated UPB to the IPAC/Administration Section for unit diary reporting. Although a hearing is not required to vacate a suspension, if the punishment suspended is of the kind set forth in Article 15(e) (1)-(6), UCMJ, the accused should, unless impracticable, be given an opportunity to appear before the commander contemplating the vacation to present any matters in defense, extenuation, or mitigation of the offense on which the vacation action is based. Vacation of suspended punishment is not itself NJP, and subsequent action to impose NJP for the offense(s) upon which the vacation action is based is authorized. If only suspended punishment is vacated, an accused has no right of appeal. If additional punishment is imposed, the right to appeal applies. Commanders will prepare, or cause to be prepared, a summary transcript of vacation proceedings involving punishment of the kind set forth above and provide a copy to the IPAC/Administrative section for any required reporting per the MCTFSPRIUM. The summary transcript will include the following information:

A. A statement that the accused was informed of the vacation hearing and (was/was not) permitted to appear before the commander.

B. A description of the suspected offense(s) warranting the vacation of suspended punishment.

C. A statement that punishment for the additional offense (is/is not) contemplated.

011202. The unit commander will generate the vacation letter, Figure 14-1, which notifies the Marine of the commander's decision to vacate the punishment in whole or in part. The unit administrators will update block 16 on the original UPB with the vacated punishment information from the commander's letter and forward a copy of the vacation letter and a copy of the updated UPB to the IPAC/Administration Section for unit diary reporting. Upon completion of the unit diary reporting, the unit administrators will provide a copy of the completed UPB with the Unit Diary number and date of the action taken to the unit. The IPAC/Administration Section will scan the corrected UPB to the ESR/OMPF in accordance with established procedures. The unit must validate that the copy in the ESR/OMPF matches the original UPB on file in the UPB binder.

0113. NONJUDICIAL PUNISHMENT APPEALS

011301. Legal review of an NJP appeal is a function of the SJA of the command to which the Marine who received NJP belongs.

011302. Upon a request from the cognizant SJA within the LSSA to the LSSS OIC, the LSSS OIC will designate a judge advocate to conduct a legal review of an NJP appeal.

011303. Upon request by the cognizant SJA, the Regional Review Office (RRO) will coordinate all requested legal reviews of NJP appeals.

011304. Upon completion of the requested legal review, the RRO will return the NJP paperwork and review with recommendations to the requesting SJA.

0114. JUDGE ADVOCATE REVIEW

011401. Before acting on an NJP appeal that includes any of the NJP punishments contained in subparagraph 011402 below, the NJP Appeal Authority must refer the case to their assigned judge advocate for consideration and advice. This referral shall involve a full documentary review by the judge advocate.

011402. NJP cases that are being appealed and include any of the following NJP punishments, require judge advocate review prior to an NJP Appeal Authority's action on the NJP Appeal:

A. Arrest in quarters for more than seven days.

B. Correctional custody for more than seven days.

C. Forfeiture of more than seven days' pay.

- D. Reduction of one or more pay grades from the fourth or a higher pay grade.
- E. Extra duties for more than 14 days.
- F. Restriction for more than 14 days.
- G. Detention of more than 14 days' pay.

Figure 14-1

Notice of Intent to Vacate Suspended Punishment

CUI

5800
S1
(Date)

From: Commanding Officer, _____

To: _____
(Rank First Last EDIPI/MOS USMC)

Subj: INTENT TO VACATE PREVIOUSLY SUSPENDED PUNISHMENT

Ref: (a) MCO 5800.16

1. On [Date] you received non-judicial punishment (NJP) and a portion/all of the punishment was suspended for ____ months. During the period of the suspension, you committed another offense under the Uniform Code of Military Justice, to wit _____. The suspension of the following punishment will be vacated:

(Provide details of the suspended punishment to be vacated)

2. It is my intent to vacate your previously suspended punishment in: FULL/PART

3. The point of contact at this command concerning this matter is _____ at comm:
Phone Number or government email.

I.M. COMMANDER

Copy to:
Files
IPAC

CUI