

Army Regulation 27-10

Legal Services

Military Justice

**Headquarters
Department of the Army
Washington, DC
6 September 2002**

UNCLASSIFIED

Effective 14 October 2002

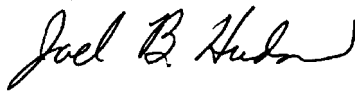
Legal Services

Military Justice

By Order of the Secretary of the Army:

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General, United States Army
Chief of Staff

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Administrative Assistant to the
Secretary of the Army

History. This printing publishes a revision of this regulation. Changes made to this publication since the last revision are not highlighted.

Summary. This regulation implements, in part, the Department of Defense Reorganization Act; changes to the Manual for Courts-Martial, 2000; Department of Defense Directive 5525.7 (delineating the areas of responsibility for investigating and prosecuting offenses over which the Departments of Defense and Justice have concurrent jurisdiction); Public Law 97-291 (Victim and Witness Protection Act of 1982); Public Law 98-473 (Victims of Crime Act of 1984); Public Law 101-647 (Victims' Rights and Restitution

Act of 1990); Public Law 102-484 (National Defense Authorization Act for Fiscal Year 1993); Public Law 103-160 (National Defense Authorization Act for Fiscal Year 1994); Department of Defense Instruction 1325.7 (notifying States regarding sexually violent offenses and offenses against minors); and Department of Defense Directive 1030.1 (victim and witness assistance) and includes changes on matters of policy and procedure pertaining to the administration of military justice within the Army.

Applicability. This regulation applies to the Active Army. This regulation applies to the Army National Guard of the United States and the U.S. Army Reserve when either is on active duty or inactive duty training and in a duty status under title 10, United States Code. This regulation is applicable during full mobilization.

Proponent and exception authority. The proponent of this regulation is The Judge Advocate General. The Judge Advocate General has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation. The Judge Advocate General may delegate this authority in writing to a division chief within the proponent agency in the grade of colonel or the civilian equivalent.

Army management control process. This regulation contains management control provisions but does not identify key

management controls that must be evaluated.

Supplementation. Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Criminal Law Division, The Judge Advocate General, 1777 North Kent Street, Rosslyn, VA 22209.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Criminal Law Division, The Judge Advocate General, 1777 North Kent Street, Rosslyn, VA 22209-2194.

Distribution. This publication is available in electronic media. Special distribution of this publication in paper was made in accordance with initial distribution number (IDN) 092038, intended for command levels C, D, and E for Active Army, Army National Guard of the United States, and U.S. Army Reserve.

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*This regulation supersedes Army Regulation 27-10, dated 24 June 1996, and the electronic media edition, dated 20 August 1999.

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Chapter 1

Introduction

1–1. Purpose

This regulation prescribes the policies and procedures pertaining to the administration of military justice and implements the Manual for Courts-Martial, United States, 2000, hereafter referred to as the MCM and the Rules for Courts-Martial (R.C.M.) contained in the MCM.

1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

1–3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary. See also R.C.M. 103 for definitions of terms used in the MCM.

1–4. Responsibilities

a. The Judge Advocate General (TJAG) is responsible for the overall supervision and administration of military justice within the Army.

b. The Chief Trial Judge, U.S. Army Judiciary, as designee of TJAG, is responsible for the supervision and administration of the U.S. Army Trial Judiciary and the Military Magistrate Program.

c. The Chief, U.S. Army Trial Defense Service (USATDS), as designee of TJAG, is responsible for the detail, supervision, and control of defense counsel services within the Army.

Chapter 2

Investigation and Prosecution of Crimes Over Which the Department of Justice and the Department of Defense Have Concurrent Jurisdiction

2–1. Implementing authority

This chapter implements a Memorandum of Understanding (MOU) (January 1985) between the Department of Defense (DOD) and the Department of Justice (DOJ) delineating the areas of responsibility for investigating and prosecuting offenses over which the two departments have concurrent jurisdiction. The MOU is available at appendix 3 of the MCM and is also known as DOD Directive 5525.7. DOD directives are available at <http://www.dtic.mil/whs/directives/>.

2–2. Local application

Decisions with respect to the provisions of the MOU will, whenever possible, be made at the local level between the responsible DOJ investigative agency and the local military commander (para D.1. of the MOU). If an agreement is not reached at the local level, the local commander will (if he or she does not exercise general court-martial (GCM) jurisdiction) promptly advise the commander exercising GCM jurisdiction over his or her command. If the commander exercising GCM jurisdiction (acting through his or her staff judge advocate (SJA)) is unable to effect an agreement, the matter will be reported to the Criminal Law Division (DAJA–CL), Headquarters, Department of the Army (HQDA), The Judge Advocate General, 1777 North Kent Street, Rosslyn, VA 22209–2194.

2–3. Action by convening authority

Before taking any action with a view toward court-martial, courts-martial convening authorities will ensure that Federal civilian authorities are consulted under the MOU in cases likely to be prosecuted in the U.S. district courts.

2–4. Grants of immunity

a. *General.* Grants of immunity may be made under the Uniform Code of Military Justice (UCMJ), R.C.M. 704, and directives issued by the Secretary of the Army (SA), subject to the guidance set forth in this paragraph.

b. *Persons subject to the UCMJ.* The authority of courts-martial convening authorities extends only to grants of immunity from action under the UCMJ. However, even if it is determined that a witness is subject to the UCMJ, the convening authority should not grant immunity before determining under the MOU that the DOJ has no interest in the case.

c. *Persons not subject to the UCMJ.* If a prospective witness is not subject to the UCMJ or if DOJ has an interest in the case, the grant of immunity must be issued under 18 USC 6001–6005. In those instances, the following procedures are applicable:

(1) Draft a proposed order to testify for the signature of the GCM convening authority (GCMCA). Include in the requisite findings that the witness is likely to refuse to testify on Fifth Amendment grounds and that the testimony of