

INFORMATION PAPER

ATZT-JA

10 March 2008

SUBJECT: Pretrial Punishment

1. PURPOSE: To provide information on conduct that violates the prohibition on pretrial punishment.

2. DISCUSSION:

a. Article 13, Uniform Code of Military Justice, prohibits all pretrial punishment. All Soldiers suspected of having committed a crime are presumed innocent until proven guilty. Punishment occurs only after a lawful adjudication of guilt and is limited to the legitimate punishment announced at the proceedings. By definition, all pretrial punishment is illegal.

b. The following is pretrial punishment:

(1) An officer-in-charge orders Soldiers to not talk to or associate during after duty hours with other Soldiers who are facing courts-martial.

(2) A Drill Sergeant calls a Soldier, who is pending trial, a "jail-bird."

(3) A commander calls out a Soldier in front of formation for having committed a crime when that Soldier has yet to be found guilty at trial or in an Article 15.

(4) A commander makes a Soldier sleep on a cot in the day room for a week in front of other Soldiers without benefit of a magistrate's hearing.

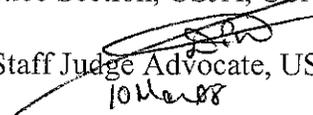
(5) A Drill Sergeant rips the rank off a Soldier before trial.

c. Soldiers, who receive pre-trial punishment, will get credit at trial, usually in the form of time off any sentence to confinement. This is time off the Soldier would not otherwise be entitled to.

d. Pretrial punishment is not the same as lawful pre-trial restraint under the Rules for Court-Martial. Commanders may legitimately order conditions on liberty, restriction, arrest, or pre-trial confinement to prevent a Soldier from fleeing before trial or committing future serious criminal offenses. Corrective training as allowed by AR 600-200 is also not pre-trial punishment because it is directly related to the deficiency and designed to improve performance in the problem area.

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