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SEP 10 1991

EXECUTIVE ORDER
91-7

Ray D. Blunt
SECRETARY OF STATE

WHEREAS, Article IV, Section 6, Constitution of the State of Missouri, designates the Governor as the Commander-in-Chief of the military forces of the State; and

WHEREAS, Article III, Section 46, Constitution of the State of Missouri provides that the General Assembly shall provide for the organization, equipment, regulations and functions of an adequate militia, and shall conform the same as nearly as practicable to the regulations of the government of the Armed Forces of the United States; and

WHEREAS, Title 32 United States Code, Sections 326 through 333, provides for a system of military justice for the National Guard not in Federal service, and allows for courts-martial constituted like similar courts of the Army and Air Force; and

WHEREAS, Chapter 40, Revised Statutes of Missouri, authorizes the Governor to prescribe regulations for the implementation and effectuation of the State Military Code of Justice; and

WHEREAS, by Executive Order 86-19, dated August 22, 1986, prescribed a Manual for Courts-Martial to be designated as "Missouri Manual for Courts-Martial, 1986;" and

WHEREAS, Section 40.043, RSMo 1986, was amended effective June 12, 1991, by deleting subsection 8, concerning nonjudicial punishment; and

WHEREAS, other changes to the Manual have been recommended as part of the annual review;

NOW, THEREFORE, I, JOHN ASHCROFT, GOVERNOR OF THE STATE OF MISSOURI, under the authority vested in me, hereby make the following changes to the Manual, and designate it as the "Missouri Manual for Courts-Martial, 1991."

All references to "RSMo Supp. 1984" are corrected to read "RSMo 1986."

Part V, Nonjudicial Punishment Procedure, is changed as follows:

A typographical error at paragraph 1e, line 11, is corrected by changing "by" to "but."

Paragraph 2 is amended to read "The following persons may serve as a nonjudicial punishment authority for the purposes of administering nonjudicial punishment under this Part." following the introductory title.

Paragraph 3 is deleted in its entirety and "reserved."

References to the "commander" throughout paragraph 4, are changed to "nonjudicial punishment authority."

Paragraph 4a(5) is changed to delete all requirements, excepting the provision which reads "a statement of the maximum punishment which the commander may impose by nonjudicial punishment."

Paragraph 4b is deleted in its entirety and "reserved."

Paragraph 4c is changed by deleting "ACCEPTED" following "NONJUDICIAL PUNISHMENT" in the paragraph heading.

Paragraph 4d is amended by changing "COURT" to "BOARD" in the paragraph heading, and the third and fourth sentences are changed by deleting "and given the opportunity to refuse nonjudicial punishment. If the servicemember does not demand trial by court-martial," adding a period following "question," and capitalizing "The."

Paragraph 5c(5) is changed by adding "Forfeiture of pay may not extend to any pay accrued before the date of its imposition; it may be collected from inactive duty training, active duty for training, or State active duty pay during subsequent periods of duty."

A paragraph 5c(6) is added which reads "Fine. A sum of money paid by the servicemember to the State which is deposited into the general revenue fund. The amount of the fine imposed shall be expressed in whole dollar amounts."

A paragraph 5e is re-identified as "5f" and a new paragraph 5e is added which reads "Punishments imposed while on inactive duty training. For punishments amounting to a deprivation of liberty e.g., restriction, extra duties, the punishment may be serviced during one or all of the following: (1) Any period of inactive duty training; (2) A subsequent period of active duty for training; (3) A period of State active duty. Unserved punishments may be carried over to subsequent periods of inactive duty training or active duty for training."

Paragraph 6a is amended by adding two subparagraphs which read "(4) Unless otherwise stated, an action suspending a punishment includes a condition that the servicemember not violate any punitive article of the code. The nonjudicial punishment authority may specify in writing additional conditions of the suspension. (5) A suspension may be vacated by any nonjudicial punishment authority or commander competent to impose upon the servicemember concerned punishment of the kind and amount involved in the vacation of suspension. Vacation of suspension may be based only on a violation of the conditions of suspension which occurs within the period of suspension. Before a suspension may be vacated, the servicemember ordinarily shall be notified and given an opportunity to respond. Although a hearing is not required to vacate a suspension, the servicemember should, unless impracticable, be given the opportunity to appear before the officer authorized to vacate suspension of the punishment to present any matters in defense, extenuation, or mitigation of the violation on which the vacation action is based. Vacation of a suspended nonjudicial punishment is not itself nonjudicial punishment, and additional action to impose nonjudicial punishment for a violation of a punitive article of the code upon which the vacation action is based is not precluded thereby."

Paragraph 7b is changed by adding "; except with regard to matters concerning HQ, STARC, and HQ, MOANG." at the end.

Paragraph 7d is amended by changing "five" to "thirty" in the first sentence.

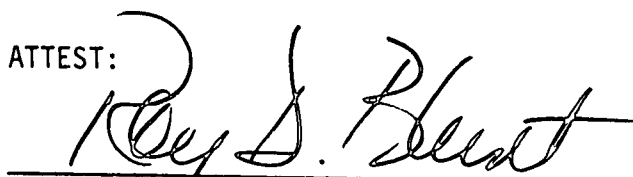
Paragraph 7f(5) is changed by adding "; except with regard to matters concerning HQ, STARC, and HQ, MOANG." at the end.

The Adjutant General shall cause this Manual to be reviewed annually and shall recommend to the Governor any appropriate amendments.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, this 10th day of September, 1991.


GOVERNOR

ATTEST:


SECRETARY OF STATE