

to speedy trial. When it is known at the time of transfer or subsequently becomes apparent that extraordinary circumstances will prohibit bringing an accused person transferred in accordance with this article to trial in less than 60 days, the command having assignment authority over the accused will designate the accused member's duty status as temporary duty (TEM DU) for disciplinary action. Similarly, should it be known at the time such transfer is ordered that the person awaiting trial is unlikely to be returned to the parent command after trial, transfer will be ordered as TEM DU for disciplinary action. Competent authority to order TAD or TEM DU transfers of persons awaiting trial is the command normally having transfer authority over that person. Competent authority is Commander (CGPC-epm). For officer personnel, competent authority is Commander (CGPC-opm). When apprehended or surrendering deserters are returned to Coast Guard custody, Commander (CGPC-epm) will designate the individual's command assignment and duty status in accordance with the provisions of Article 8.C.3. When the apprehended or surrendering deserter is an officer, Commander (CGPC-opm) will so designate. The authority under which persons may be ordered into TAD or TEM DU status and/or transferred while awaiting trial pursuant to this article terminates effective with completion of a court-martial or resolution of the charges by other means. Persons found guilty and sentenced to confinement and/or punitive discharge shall be administered as provided for in Article 8.F.4.i. All others will be ordered to a permanent unit to resume regular duties.

8.F.4.i. Military Duty Status of Persons Sentenced to Confinement by Court-Martial

1. Persons sentenced to confinement of less than 90 days shall normally be placed in a TAD status for the duration of confinement unless:
 - a. The member was also sentenced to a punitive discharge, or
 - b. The assignment authority otherwise considers it unlikely that the offender will be ordered to return to his or her parent command after release from confinement.
2. Coast Guard members with sentences to confinement of 90 days or more, or with an unsuspended punitive discharge approved by the convening authority shall be assigned to:

Unit	OPFAC	Servicing PERSRU
Commanding Officer Human Resources Service & Information Center Federal Building 444 S.E. Quincy Street Topeka, KS 66683-3591	53-47400	53-47400-02

3. Assignment to HRSIC(SES) does not alter, expand, or reduce the convening authority's responsibilities under the UCMJ with respect to the member, see R.C.M 1107(a), MCM (series).
4. The procedures for required appellate leave are found in Article 12.D.2.

8.F.4.j. Changes in Status

Whenever the reason for placing a person in TAD or TEMDU status changes, the command having assignment authority over the person will, upon notification by the individual's command, reevaluate the situation and order a change in status and/or assignment if appropriate. For example, should an accused person who had been transferred on TAD to another unit pending trial subsequently be convicted by court-martial and sentenced to three months confinement, the status would be changed to TEMDU, and transfer to a different unit for post-trial administrative processing may be ordered if warranted. The commanding officer holding a member's Personnel Data Record will be his or her commanding officer for all administrative functions and purposes.

8.F.4.k. Action Required Prior to Delivery of Prisoners

Delivery of prisoners to Naval brig should be planned to provide for the prisoner's arrival at the brig during working hours. Should exceptional circumstances preclude this, appropriate prior liaison with the commanding officer of the designated brig will be initiated by the controlling Coast Guard command. Upon designation of place of confinement, a designation message confirming all details shall be transmitted to the appropriate brig, listing as information addressees: Commandant (G-WPM) and Commander (CGPC-opm) or (CGPC-epm) as appropriate; the Coast Guard and Naval districts involved; the parent command of the designated brig; and all Coast Guard commands having administrative responsibility for the member (including the member's servicing PERSRU and ACO). An estimated time of arrival (ETA) for the prisoner should be included and updated by message or telephone as necessary. The message should also specifically detail the prisoner's pay status, (e.g., whether or not an adjudged automatic forfeiture of pay and allowances is in effect), and shall identify the servicing PERSRU who maintains the member's pay and personnel records. If a non-duty-hour ETA has been agreed to by the brig, details should be confirmed in the designation message.

8.F.4.l. Movement and Escort of Prisoners and Offenders

The movement and escort of persons undergoing disciplinary action, or of newly apprehended offenders, shall be accomplished in strict compliance with the provisions of [CFR](#) Articles 8.G.4 and 8.G.5.

8.F.4.m. Pre-Confinement Physical Examination

Prior to accepting members for confinement, Navy policy requires certification that the member is physically fit for confinement. Specifically, the signature of a medical officer attesting to a prospective prisoner's fitness for confinement is required at the bottom of the Confinement Order, NAVPERS 1640/4. ([CFR](#) Article 8.F.5.a.) Normally, the certification may be rendered by the medical facility tasked to provide routine medical support to the command. When this is not possible, the nearest available military medical officer or contract physician should certify fitness for confinement. When emergency circumstances preclude conduct of a pre-confinement physical examination, details should be discussed with the commanding officer of the brig during the predesignation telephone liaison required by [CFR](#) Article 8.F.4.b. This liaison should be used to clarify details of the certification of fitness for confinement in every case.

8.F.5. Confinement Orders and the Process of Confinement

8.F.5.a. Confinement Order

1. The brig's listed on the current Confinement Designation Chart (CG Exhibit 8.F.1.) will receive Coast Guard prisoners provided space is available. Commanding officers of brig's are authorized to establish a maximum prisoner population that shall not be exceeded. Coast Guard units using the brig are obliged to comply with the brig's local administrative and operational instructions. The officer ordering confinement must in every case provide a written order of confinement, with offenses indicated and properly signed. Form NAVPERS 1640/4 will be used for this purpose. The signed order should specify the nature of the offense(s) charged against the prisoner and the UCMJ article under which each offense is charged for confinement.
2. A Confinement Order may be prepared by or signed by the member's commanding officer or other officer designated for that purpose by the commanding officer. The "Remarks" section of the Confinement Order should note specifically any physical or behavioral abnormalities of which the brig should be aware. Examples would be: Diagnosed or suspected suicidal tendencies or any limitations to normal activity. The "Remarks" section should also identify by name and phone number, the commanding officer of the prisoner's reporting unit. Care should be taken in completing the offense portion of the order since the details thereof will assist the brig in proper evaluation of the prisoner and may influence the custody classification assigned. The term safekeeping is not a reason for confinement and shall not be used as a substitute for an offense. When the reason for confinement changes; e.g., when a prisoner who has been confined pending trial for an alleged violation of the UCMJ (pretrial) subsequently is convicted by court-martial and sentenced to confinement, a new confinement order shall be prepared reflecting the change of status. This confinement order shall be delivered to the brig at the time the prisoner is reconfined. When a place of confinement is redesignated or a transfer is authorized as provided in CG Article 8.F.4.e., a new confinement order may be required as determined by the circumstances and the desires of the commanding officer of the brig.
3. If confined by sentence of court-martial, the order shall show the date confinement begins (if other than date adjudged) and by what authority imposed.

8.F.5.b. Notification of Confinement Status

Following trial, the convening authority shall notify the commanding officer operating the brig, in writing, of the charges and specifications of which the accused has been convicted, and the sentence. Likewise, the convening and supervisory authorities shall promptly inform the commanding officer of the brig by certified true copies of their action in the case. Complete and current official information concerning a prisoner's legal status is essential to the brig's planning for adequate security measures and program participation. When an action is promulgated by a court-martial order or supplementary order, a certified true copy thereof will serve as the written notice required above.

8.F.5.c. DNA Collection and Analysis Requirements

1. **Authority.** Section 1565 of Title 10 U.S.C. requires the Military Departments and the Department of Transportation to collect DNA sample from each member of the armed forces under their jurisdiction who has been convicted of a “qualifying military offense” (QMO) listed in Exhibit 8.F.3. This requirement does not include any member in the custody of the Federal Bureau of Prisons or under the supervision of a Federal probation office. The U.S. Army Criminal Investigation Laboratory (USACIL) will analyze the sample and send the results to the Federal Bureau of Investigation for inclusion in its Combined DNA Index System (CODIS).
2. **Definition.** A QMO conviction is defined as the findings of guilty by a general or special court-martial that include a QMO after the court-martial convening authority has taken action under Article 60, UCMJ. The requirement to collect DNA samples does not apply to the findings of a summary court-martial or a proceeding under Article 15, UCMJ.
3. **Staff Judge Advocate Responsibilities.** Staff Judge Advocates (SJA) shall determine if a member has been convicted of a QMO. A list of UCMJ offenses determined to be “qualifying military offenses” (QMO) is contained in Exhibit 3. Every convening authority action containing QMO’s must have “DNA processing required IAW 10 U.S.C. 1565” annotated in bold on the top of the first page of the initial promulgating order. SJAs shall ensure that a copy of each annotated promulgated order is provided to the USACIL and, as applicable, the correctional facility and/or unit to which the convicted member is assigned.

Send promulgating orders to:

<p>U.S. Army Criminal Investigation Laboratory ATTN: CODIS Lab 4553 N. 2nd Street Forrest Park, GA 30297-5122</p>

4. **Collecting DNA Samples from members already in confinement.** Members in confinement at the time the convening authority’s promulgating order is signed will have their blood extracted either at the correctional facility or be taken to a local dispensary. Each DoD correctional facility will identify and collect DNA samples from all of its prisoners who have a QMO conviction regardless of Service affiliation. The correctional facility will ensure that the member’s confinement file reflects that a DNA sample has been collected.
5. **Collecting DNA Samples from members on appellate leave.** For members who have been released from confinement and remain on active duty, the cognizant Staff Judge Advocate will coordinate with the nearest correctional facility and service member’s parent command to ensure they are sent to have their DNA sample extracted.

6. **Collecting DNA Samples from members not in confinement.** The statute requires DNA extraction from all members convicted of a QMO who remain subject to military jurisdiction as established by Article 2, UCMJ. For those members still on active duty, and not in confinement, the member's command must identify whether they have been convicted of a QMO, then coordinate with the nearest correctional facility or dispensary to secure a DNA sample.
7. **Correctional representatives or command representatives will ensure that all DNA samples are collected by qualified medical personnel using the kits provided by USACIL and in accordance with the accompanying instructions. The sample must be sent to USACIL to be analyzed and the results will be sent to the Federal Bureau of Investigation for inclusion in its Combined DNA Index System (CODIS). The sender will notify the USACIL by letter that the sample has been mailed. The notification shall include only the name of the individual from whom the sample was taken, the kit number, and the location from which the sample is being mailed. The USACIL will confirm receipt of the sample and notify the sender if problems are encountered that require the DNA sample to be redrawn. The USACIL can be contacted at (404) 469-7023. The correctional facility or command representative responsible for ensuring that a DNA sample is collected from a member with a QMO conviction will ensure that the member is given a card informing him or her that if the conviction for each QMO is reversed during appellate review, the member may request, via chain of command, that the USACIL expunge the DNA analysis from CODIS. The USACIL will provide preprinted cards as part of the collection kit.**
8. **Processing of expungement request.** Upon receipt of expungement request, the USACIL will, for each QMO conviction, request the member's command or representative to provide a certified copy of a final order establishing that the conviction was overturned. Additionally, the USACIL will determine whether the requester has a conviction for qualifying Federal offense (section 14135a of Title 42, U.S.C.), or qualifying District of Columbia offense (section 14135b of Title 42, U.S.C) before taking action to expunge the record based on a QMO. Only in those cases where the USACIL has verified that the requester has no other qualifying military, Federal, or District of Columbia conviction will it expunge the DNA analysis from CODIS. When a DNA analysis is expunged, the DNA sample maintained at the USACIL will be destroyed.
9. **Any question concerning the above policy shall be directed to Commandant (G-WPM-1).**

8.F.5.d. Records

A prisoner shall be transferred with his or her health record, prescribed court records, including the report of trial, and copies of any Personnel Data Record (PDR) pages which may be requested by the commanding officer of the brig at the time of the predesignation liaison. In all court-martial cases certified true copies of his or her court-martial order will be forwarded to the designated place of confinement as required by the

☞ Military Justice Manual, COMDTINST M5810.1 (series). The report of trial shall include a statement of the number of days of pretrial confinement, any judicially ordered credit for unlawful pretrial confinement, and the provisions of any pretrial agreement binding upon the convening authority. Whenever a convening authority or Officer Exercising General Court-Martial Jurisdiction deems that PDR information which has been requested by the brig is essential to the Coast Guard's review of the case, machine copies of the appropriate pages will be retained for the review, vice the PDR itself. Prior to transfer, the transferring command will ensure that an up-to-date form CG-3312D is included in the prisoner's record.

8.F.5.e. Uniforms

Prisoners shall be delivered in the appropriate Service Dress uniform. During the predesignation telephone liaison, the officer ordering (or arranging for) confinement should determine the requirements of the commanding officer of the brig concerning the items and amount of clothing to accompany the prisoner on delivery. As a guide, however, the regular prison uniform at Navy and Marine Corps brigs is the properly marked working uniform of the prisoner's own Service, including protective footwear. The Navy considers bath towels and handkerchiefs as part of the prisoner's seabag. Accordingly, an adequate supply of each should accompany the prisoner upon delivery. It should be noted that brigs are unable to provide spare items for the Coast Guard uniform. Accordingly, it is important that the prisoner be delivered with a sufficiently full seabag to sustain his/her needs during the anticipated period of confinement. A prisoner delivered without the proper uniforms will be required to purchase whatever Navy or Marine Corps uniform items may happen to be available, provided the prisoner is in a pay status. The prisoner will have the option of paying cash or having the purchase charged against his or her pay account, whether or not the charge will result in overpayment. Prisoners in non-pay status who are delivered to the brig without the necessary prisoner uniforms will be loaned whatever Navy or Marine Corps items of clothing can be provided.

8.F.5.f. Health and Comfort

While Naval brigs will provide enlisted prisoners in a non-pay status with health and comfort issues at Government expense; e.g., toilet articles, laundry items, grooming items, tobacco, postage, writing materials, and other necessities to maintain personal comfort, hygiene, and military appearance, all other prisoners will be required to purchase these items. A prisoner is considered to be in a non-pay status if:

1. All pay has been stopped either as the result of an adjudged sentence or by operation of the automatic forfeiture provisions of Article 58B, UCMJ.
2. Confined awaiting trial by a foreign court under the conditions set forth in the ☞ **U.S. Coast Guard Pay Manual**, COMDTINST M7220.29 (series).
3. The member is serving post-trial confinement and his or her enlistment has expired. (☞ **U.S. Coast Guard Pay Manual**, COMDTINST M7220.29 (series)).
4. Awaiting determination separation because of fraudulent enlistment. Commanding officers and convening authorities should identify the health and comfort items that

should accompany a prisoner upon delivery at the time of the predesignation liaison. If the prisoner has these items, or is confined during working hours and can obtain them, the items should accompany the prisoner upon delivery to confinement. It is the responsibility of the prisoner's commanding officer to ensure that prisoners have an adequate supply of health and comfort items upon commitment. When exigent circumstances require that a prisoner be confined without the necessary health and comfort items, the brig will issue essential items during processing for commitment. Thereafter, the brig will provide each prisoner with a periodic resupply of consumable items. The initial supply should be adequate for one month's average use, but may be prorated if the regular replacement, or the prisoner's release, will be in less than a month. Any items on the following list will normally be approved in adequate quantities:

Laundry Bag	Comb	Soap, Bath
Blades, Razor	Deodorant, Stick Type	Soap or Powder, Laundry
Box, Soap	*Handkerchiefs	Toothpaste or Powder
Brush, Shaving	Razor, Safety or Electric	*Towels, Bath
Brush, Tooth	Sandals, Bath	Writing Materials and
Clipper, Nail	Shoe shining Gear	Postage
Cloths, Face	Smoking Material and Matches	

*Handkerchiefs and bath towels are available in Navy retail clothing stores and are considered as items of clothing for Navy prisoners, rather than as health and comfort items.

8.F.5.g. Military Pay and Allowances

While in military confinement, the prisoner's pay and personnel records shall be maintained by the appropriate servicing PERSRU. The designation message required by [Article 8.F.4.k.](#) shall indicate the prisoner's pay status and identify the PERSRU who handles the prisoner's pay and personnel records. The commanding officer of the brig must be advised of changes in a prisoner's pay status, such as automatic forfeiture or execution of an adjudged sentence to forfeiture. The member's PERSRU must be kept apprised of the member's confinement status so that appropriate pay and confinement-related documents can be prepared.

8.F.5.h. Delivery of Prisoners

Delivery of prisoners to brig should be planned to provide for the prisoner's arrival at the brig during working hours. Should exceptional circumstances preclude this, appropriate prior liaison will be initiated by the controlling Coast Guard commanding officer with the commanding officer of the brig.

8.F.5.i. Prisoner Escorts and Transportation of Prisoners

Members designated to serve as prisoner escort should be mature, responsible officers, chief warrant officers, or petty officers, who are well qualified by training and/or experience for the assignment, as required by [Chapter 8.G.](#) The appointment and

conduct of escorts and the movement of prisoners shall be in strict compliance with the policy contained in ~~CFR~~ Chapter 8.G.

8.F.6. The Corrections Phase

8.F.6.a. Policy

Upon arrival of a sentenced prisoner at a brig, the military corrections process discussed in ~~CFR~~ Article 8.F.1 comes fully into play. Congress has tasked the military corrections system to strive toward both punitive and rehabilitative goals. For rehabilitative purposes, the Armed Force operating the correctional center or Naval brig is responsible for conducting an adequately supported corrections program designed to enhance the offender's ability to reorient his or her own behavior, at least to the extent of preparation for successful and productive integration back into either military or civilian society. Inasmuch as the Coast Guard does not operate its own brig, this article deals primarily with command responsibilities relating to Coast Guard prisoners confined in Naval brig and with the avenues to statutory and administrative relief which are open to the offender.

8.F.6.b. Command Responsibilities during Confinement: Command Visits

Naval brig are authorized and funded primarily to rehabilitate offenders for resumption of productive service in the case of restorees, or for productive integration back into society at large in the case of dischargees. Accordingly, contemporary military corrections programs place a heavy emphasis on rehabilitation through provisions of specialized, incentive weighted counseling and training conducted in an environment oriented toward rehabilitation. **As part of the rehabilitative process the Navy makes involvement and support of the parent organization mandatory. Regular Service visitation and/or contact is required** by all commands, including Coast Guard and Marine Corps commands, utilizing Naval brig for either pretrial or sentence confinement. Command visitation is encouraged where Army or Air Force facilities may be utilized as well. Specifically:

1. Pre-trial Confinement and Confinement less than 90 days.
 - a. Commanding officers will establish a visitation program to provide for visiting offenders in confinement at least weekly **pre-trial and monthly post-trial. The commanding officer may designate a commissioned officer or senior petty officer to act in his or her behalf.** When the parent command is a Coast Guard operational command which is deployed, the district commander or shoreside operational commander, as appropriate, should arrange for the visits to be conducted by a commissioned or senior petty officer from his or her staff. If the commanding officer deems appropriate, he or she may augment the command visitation program by calling on the capabilities of special program personnel such as a chaplain, the senior enlisted advisor, or civil rights counselor. The requirement for command visitation applies to all Coast Guard commands ordering prisoners into confinement, whether the confinee is attached only for TEMDU or is a member of the permanent party.

- b. The prisoner visitation requirement potentially imposes an unreasonable travel burden on some Coast Guard commands. As a general guide, commanding officers are authorized to waive physical visitation when the one-way travel time between the unit and the brig normally exceeds 2 hours, or when genuine operational or administrative priorities preclude visitation. **The command, however, must ensure that the prisoner is visited at least monthly by a Coast Guard representative and that the brig has the name of a reliable, single point of contact both for the prisoner or for the needs of the brig. In between visits, the command should maintain a liaison with the prisoner and the commanding officer of the brig by mail, telephone, or both.**
2. **Confinement greater than 90 days and prisoners with unsuspended punitive discharges.** It is a very rare circumstance that a member awarded long-term confinement returns to his or her unit. While the prisoner is entitled to certain administrative support from the parent Service, the rehabilitation process does not require the same level of face-to-face contact with the prisoner.
 - a. **Upon entry into confinement, the prisoner is transferred PCS to HRSIC. Prior to releasing the prisoner to HRSIC, the member's parent command or the convening authority shall ensure that the following data is available:**
 - (1) **The prisoner's expected release date (assuming good behavior).**
 - (2) **A determination of the prisoner's post-release transportation entitlement (e.g., to the last point of active service, home of record, place of enlistment, or home of selection).**
 - (3) **Other entitlements authorized to the prisoner (i.e., movement of household goods, dependent travel).**
 - (4) **An accounting line for travel and transportation for the prisoner, any dependents and any personal effects authorized for relocation. Where the prisoner's sentence is likely to span multiple fiscal years, the convening authority shall provide a point of contact for obtaining a current accounting line to be used at the time of release.**
 - b. **The primary source of on-site rehabilitative assistance for long-term prisoners will be the commanding officer of the confinement facility to which the prisoner is assigned. Commanding Officer, HRSIC shall make a representative of his or her command available on-site within 24 hours of receiving a request from the commanding officer of the confinement facility. Commanding Officer, HRSIC shall respond to any need for administrative support immediately upon receiving such a request from the commanding officer of the confinement facility.**
 - c. **Commanding Officer, HRSIC will function as the long-term prisoner's commanding officer for the purpose of the Article 138 UCMJ complaint process and will so inform the prisoner in writing during the prisoner's first week assigned to confinement. The prisoner shall be informed of the procedure for contacting HRSIC to address personal or logistical concerns (pay, obtaining health and well-being items, uniform availability, movement of personal effects and dependent support). Commanding Officer, HRSIC, or his or her representative shall maintain contact with the prisoner by mail or telephone weekly during the first month of**

confinement and at least monthly thereafter for the duration of the confinement. Commanding Officer HRSIC shall seek targets of opportunity (e.g., extending the TDY of any HRSIC military member who is on temporary duty in close proximity to a brig housing a long-term Coast Guard prisoner) to achieve a target of visiting each of HRSIC's prisoners at least quarterly.

3. **Appellate Process.** Commanding Officer, HRSIC's designation as Commanding Officer for prisoners in long-term confinement remains primarily administrative for the purposes of providing logistics support. This designation does not alter the responsibility of the convening authority or the Chief Counsel to perform such duties as are necessary to bring the case to an orderly conclusion under the UCMJ and the Federal appellate process.
4. Command visitation of all prisoners or offenders will be made at least weekly in all cases where confinement in a civilian facility has been authorized.

8.F.6.c. Reduction in Confinement by Reason of Good Conduct

1. **Good Conduct Time.** Coast Guard prisoners serving confinement sentences in Naval brigs automatically have the opportunity to earn reduction-in-sentence (to confinement) as a reward for satisfactory conduct during confinement. To secure uniformity in computing this reduction for all prisoners in the Navy Correctional Program, the policy of the Department of the Navy shall be followed and Coast Guard prisoners accorded the same opportunity to earn good conduct time as those from the Navy Department. Good conduct time shall be computed beginning on the day the sentence commences to run, to be credited as earned and computed monthly as follows:
 - a. Five days for each month of the sentence if the sentence is less than one year.
 - b. Six days for each month of the sentence, if the sentence is at least one year but less than three years.
 - c. Seven days for each month of the sentence, if the sentence is at least three years but less than five years.
 - d. Eight days for each month of the sentence, if the sentence is at least five years but less than ten years.
 - e. Ten days for each month if the sentence is ten years or more.
2. **Crediting Good Conduct Time.** The law provides that each sentenced prisoner may earn a specified number of days per month according to the total length of the sentence.
3. **Forfeiture and Restoration of Good Conduct Time.** The commanding officer of the brig may direct forfeiture of any or all of the good conduct time previously credited pursuant to a prisoner's misconduct in confinement. Similarly, the commanding officer of a brig may restore all or any part, except time forfeited because of parole or probation violation, of the good conduct time previously ordered forfeited either by him or herself or by a previous commanding officer.

4. Extra Good Conduct Time. The commanding officer of the Naval brig may reduce the term of a prisoner's sentence for good conduct based on faithful observance of all the rules and regulations of the brig.
5. Credit for Pretrial Confinement. The correctional facility will reduce the sentence to confinement by applying the appropriate credit required both by administrative regulation and judicial order for pretrial confinement in accordance with its regulations.

8.F.6.d. Suspension or Remission of Unexecuted Portion of Sentence

Provisions relating to the powers of court-martial convening authorities and of supervisory authorities to remit or to suspend unexecuted portions of sentences are set forth in Rule 1108, MCM (series).

1. Clemency. Clemency is an action taken by duly constituted authority to reduce the amount or severity of a court-martial sentence. It is the Commandant's policy to extend to persons convicted by courts-martial whatever clemency may represent the best interests of the Coast Guard and the individual. Clemency may consist of mitigation, remission, or suspension of a sentence in whole or in part. Mitigation usually is a reduction in the amount of the sentence. It may also take the form of a change in the kind of punishment from that adjudged to another authorized punishment which is another authorized punishment which is less severe (confinement to restriction, forfeiture of pay to detention of pay, dishonorable discharge to bad conduct discharge). An adjudged punishment can never be increased in severity. Remission of punishment amounts to a reduction or cancellation of unexecuted portions of a sentence, but not to a change in the nature thereof. Suspensions are stays of execution of unexecuted portions of a sentence with provisions for automatic remission at the successful completion of a specified term of probation. It should be noted that clemency in no way affects an approved conviction. Rather, a grant of clemency merely represents an administrative relaxation of the terms of an adjudged sentence. The following commanding officers are authorized to remit, mitigate, or suspend any part or amount of the unexecuted part of any sentence (grant clemency) under the authority of Article 74(a) of the Code:
 - a. The Commandant, except while a case is being reviewed by the Coast Guard Court of Criminal Appeals or the U.S. Court of Appeals for the Armed Forces.
 - b. The officer exercising general court-martial jurisdiction over the accused, but only to those parts of a sentence which do not include a punitive discharge, except while a case is being reviewed by a supervisory authority other than him or herself, the Coast Guard Court of Criminal Appeals, or the U.S. Court of Appeals for the Armed Forces.
 - c. In addition to his or her authority contained in the Manual for Courts-Martial the immediate commanding officer of the accused, in cases where a punitive discharge has previously been approved, but only as to those parts of the sentence which do not include the punitive discharge, except while a case is being reviewed by the supervisory authority, the Coast Guard Court of Criminal Appeals, or the U.S. Court of Appeals for the Armed Forces.

2. Clemency Action by the Convening Authority. When acting on the findings and sentence of a court-martial, the Convening Authority is authorized by Article 60 of the UCMJ, the Manual for Courts-Martial, and the  Military Justice Manual, COMDTINST M5810.1 (series), in his or her sole discretion, to set aside findings of guilty, change findings to guilty of a lesser included offense, and to approve, disapprove, commute, or suspend any part of the sentence.
3. Clemency Action by the Commanding Officer or Officer Exercising General Courts-Martial Jurisdiction over the Member. Except while the member's case is being reviewed by the Coast Guard Court of Criminal Appeals or the Court of Appeals of the Armed Forces, any Officer Exercising General Court-Martial Jurisdiction over a member is authorized to remit or suspend any unexecuted part of that member's sentence, other than a punitive discharge or a sentence approved by the President. If a punitive discharge has been previously approved, the immediate commanding officer of the member may also exercise the authority described above, subject to the same limitations.  See Military Justice Manual, COMDTINST M5810.1 (series), Enclosure (9).
4. Clemency Power of the Coast Guard Commandant. The Secretary of Transportation has delegated to the Commandant of the Coast Guard the authority contained in Article 74(a), UCMJ, to grant residual clemency, as provided in Enclosure (9) of the  Military Justice Manual, COMDTINST M5810.1 (series). The Secretary reserves this authority in cases in which appellate review is not complete. Pursuant to authority in 10 USC 953, a Coast Guard Clemency Board automatically reviews courts-martial cases that include an unsuspended punitive discharge to determine whether they merit remission or suspension of any unexecuted portions of a court-martial sentence. When an enlisted member sentenced to a punitive discharge waives appellate review of his or her court-martial conviction in accordance with RCM 1110, Manual for Courts-Martial (series), the punitive discharge may be executed by the Officer Exercising General Court-Martial Jurisdiction (OEGCMJ) if the record is forwarded to the OEGCMJ in accordance with RCMs 1112(e) and 1113 and the execution of the sentence is approved. In all other cases no court-martial sentence to a punitive discharge may be executed before the Coast Guard Clemency Board, Commandant, or Secretary as appropriate has reviewed it. Reviewing authorities recommend or determine clemency on the basis of equity and good conscience. Factors affecting clemency include: the nature and circumstances of the offense(s); the defendant's military and civilian history; potential value to the Service or society at large; conduct in confinement; contrition; sincerity in motivation for rehabilitation; social factors including hardship, psychological or personality factors; sentence disparity; and pure mercy.
 - a. Residual Clemency Review. In keeping with the delegation of clemency authority under Article 74(a), UCMJ, when appellate review is complete, the Clemency Board will review every court-martial record whose sentence includes an unsuspended punitive discharge to determine whether that sentence should be executed (no clemency) or to recommend remitting, mitigating, or suspending the punitive discharge sentence (granting residual clemency). The Clemency Board's review also automatically embraces consideration for clemency of any other remaining unexecuted portions of the sentence, such as the remainder of a term of confinement, as well as

any petition for clemency provided to it for consideration. Residual clemency review normally will immediately follow completion of the legal review process.

- b. Petitions for Clemency are not required, and exhaustion of the appellate process and other remedies under the UCMJ must occur before the Clemency Board will consider such a petition. Nevertheless, persons convicted by courts-martial may petition for clemency of the unexecuted portions of their sentences, even if their approved sentences do not extend to punitive discharge. Any petition will generally be considered simultaneously with the automatic clemency review, if applicable. Although no specific form for such petitions is required, petitions need not be considered, and may be returned to the member without action, if they do not meet the following minimum requirements:
 - (1) Petitions must be forwarded to Commandant (G-WPM) and must arrive within 60 days after the sentence and conviction are final under Rule for Court-Martial 1209, Manual for Courts-Martial (series).
 - (2) Petitions must state the specific relief requested, and the specific reasons why the member believes such relief to be appropriate.
 - (3) Where the case has been previously reviewed by the Clemency Board, the petition must identify new facts or circumstances justifying a second review or reconsideration.
 - (4) Petitions must include sufficient evidence to support the request. Such evidence must be in writing and may include documents and citations to specific sections of the record of trial.
- c. Commandant (G-WPM):
 - (1) Will review all petitions for clemency to insure compliance with section 4.b. above.
 - (2) Will establish a Clemency Board in accordance with  Article 8.F.2.h. consisting of a panel of at least three senior officers.
 - (3) Will forward all petitions that are in compliance with this article, and all records of trial received that include an unsuspended punitive discharge, to the Clemency Board or to other appropriate officials.
 - (4) May return petitions that are not in compliance with this article to the member.
 - (5) May forward other matters, as appropriate, to the Clemency Board.
 - (6) Will, in any case in which the review required by this section has been completed and clemency action has not been ordered, issue a statement to that effect, and forward the record of trial to Commandant (G-LMJ) for further processing.
 - (7) Will, in any case in which clemency action has been ordered, take action as necessary to implement that order.

(8) Will ensure compliance with crime victims' rights to information about convicting, sentencing, incarcerating, and releasing offenders, as mandated by law, throughout the clemency process. See the  Coast Guard Military Justice Manual, COMDTINST M5810.1 (series), Article 2-R.

d. The Coast Guard Clemency Board:

(1) Will review all court-martial cases or petition submitted to it for a recommendation by proper authority.

(2) Will forward its recommendation to Commandant (G-WP) via Commandant (G-WPM).

e. Commandant (G-WP) may take final action to approve a recommendation to deny residual clemency and will then return the record to Commandant (G-LMJ). If Commandant (G-WP) does not concur with a Clemency Board recommendation to grant clemency Commandant (G-WP) will provide an endorsement and forward the matter to Commandant for final action.

f. Commandant (G-WP) will also forward a case or petition to the Commandant or to the Secretary, with an appropriate endorsement, if:

(1) The Secretary or Commandant has indicated a desire to make the clemency decision personally.

(2) Law or regulation reserves authority to act in the case to higher officials. These include cases that are still pending completion of appellate review or cases where the sentence extends to death or the dismissal of an officer or Academy cadet.

(3) The case involves violations of national security.

(4) The Clemency Board or Commandant (G-WP) recommends clemency action or personal consideration by the Secretary or Commandant.

5. Clemency Consideration for Persons in Confinement. The Coast Guard retains clemency authority over all Coast Guard offenders, including Coast Guard prisoners confined in military correctional centers or facilities, including Naval brigs, of the Department of Defense. Nevertheless, the prisoner's conduct in confinement, attitude, and rehabilitation progress represent valuable information to a Coast Guard convening or reviewing authority considering clemency. Accordingly, Navy or Marine Corps commanding officers of Naval brigs are prepared to act on requests of any Coast Guard convening or reviewing authority or of the prisoner personally to provide a Prisoner Evaluation Report, NAVPERS 1640/13, concerning the accused in question. In the event the brig considers clemency warranted with respect to any unexecuted portion of the sentence including an unsuspended sentence to punitive discharge, the brig's non-binding report will recommend accordingly. Prisoner Evaluation Reports are ordinarily prepared annually for all prisoners in long-term confinement (exceeding six months), but can be provided at any time upon request.

8.F.6.e. Parole

Parole as defined in  Article 8.F.2.x. may be granted to carefully selected individuals. 10 USC 952 authorizes the Secretaries of the respective Armed Forces to establish a system of parole for prisoners in military confinement facilities. Parole as a modification of the conditions under which a sentence to confinement may be administered constitutes an element of military corrections process. The Coast Guard has not established a military corrections (confinement) system of its own but relies rather on support from the U.S. Navy for long-term confinement. It is nevertheless desirable that the parole opportunities for Coast Guard prisoners confined in Naval brigs be equal to and consistent with those accorded the Navy and Marine Corps prisoners with whom they share the confinement experience. Accordingly, the Secretary of Transportation has delegated the authority to the Secretary of the Navy to adjudicate parole requests and to administer parole for Coast Guard prisoners confined in Naval brigs in precisely the same manner as for prisoners from the Navy Department. It is stressed in this regard, that parolees remain in the legal custody and under the control of the commanding officer of the Naval brig until the expiration of the full-term or aggregate terms of the sentence to confinement, without credit for good time allowance. Within the Navy Department, the Secretary of the Navy has tasked the Naval Clemency and Parole Board with responsibility for determination of parole requests. Petitioners for parole have appeal rights to the Director, Navy Council of Review Boards. Note that these provisions permit Navy determination of Coast Guard prisoners' parole requests only. Clemency powers on the contrary remain resident in appropriate Coast Guard authorities as provided for in  Article 8.F.6.d.

1. Eligibility. A military prisoner with an unsuspended sentence to punitive discharge or dismissal shall be eligible for parole consideration by the Naval Clemency and Parole Board as follows:
 - a. Sentence or aggregate sentence of:
 - (1) More than one year and not more than three years, who has served one-third of the term of confinement, but in no case less than six months; or
 - (2) More than three years who has served not less than one year. If not considered earlier, the prisoner will become eligible for consideration after serving one-third of the approved or affirmed sentence or aggregate sentence, or not more than ten years when the sentence is life or in excess of 30 years.
 - b. Good time allowance will be excluded in computing eligibility for parole consideration.
 - c. With respect to parole consideration of a prisoner whose sentence provides for contingent additional confinement in the event an approved sentence to fine is not paid, eligibility for parole shall be based on the basic term of confinement plus any additional contingent confinement incurred through failure to pay the fine. If the approved sentence provides for confinement only if a fine is not paid, a prisoner confined in lieu of payment will become eligible for parole consideration after having served 6 months of the sentence to confinement in lieu of payment of the fine, and annually thereafter.

- d. Prisoners reconfined after revocation of parole may not ordinarily be considered again for parole until completing one year in reconfined status unless the brig commanding officer recommends earlier consideration.
2. Preliminary Parole Consideration Procedures. Prior to becoming eligible for parole consideration, each prisoner is accorded the opportunity to request parole consideration by the parole officer within 90 days of the date of eligibility. The parole officer will provide the prisoner with the necessary assistance to develop a satisfactory tentative parole plan. Prisoners who do not desire parole when eligible, or prisoners whose previous requests for parole were disapproved, may request consideration prior to their next annual eligibility date with the approval of the commanding officer of the brig.
 3. Clemency and Parole Board Action.
 - a. Requests for parole will be considered by a local clemency and parole board which is established within the brig. Following the local board's consideration and notwithstanding their recommendation, requests are forwarded to the Naval Clemency and Parole Board to arrive not less than 30 days prior to the prisoner's parole eligibility date. Requests may be considered as much as 120 days in advance of the eligibility date when that action will permit concurrent consideration of parole with annual Prisoner Evaluation Reports for clemency prepared in accordance with the provisions of 10 USC Article 8.F.6 d.(5). In all cases the local board will forward the request along with a Court-Martial Progress Report. The recommendation of the local clemency and parole board will be endorsed by the commanding officer of the brig with such recommendation for approval or disapproval as he or she deems appropriate.
 - b. Authority to approve or disapprove parole rests with the Naval Clemency and Parole Board.
 - c. All parole determinations (favorable and unfavorable) will be published by the Naval Clemency and Parole Board.
 - d. Approval of parole is conditioned upon completion of a parole plan considered to be satisfactory by the commanding officer of the brig and acceptable to the probation officer.
 - e. The Naval Clemency and Parole Board will provide prisoners denied parole with written notification of the reasons for denial.
 - f. The prisoner may file a written appeal of the Naval Clemency and Parole Board's decision to the Director, Navy Council of Review Boards.
 4. Completion of Parole Plan. Prior to release of a prisoner on parole, the commanding officer of the brig will:
 - a. Request the probation officer to establish the validity of the residence arrangement, employment, and other elements of the tentative parole plan.

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- b. Send a letter to the prospective employer requesting the execution of a Tender of Employment, and upon receipt thereof, provide a copy to the probation officer.
5. Employment Requirements. Unless a waiver is granted for justifiable reasons, no prisoner will be released on parole until satisfactory evidence has been furnished that he or she will be engaged in a reputable business or occupation. If every effort to obtain employment has been made without success, a waiver of employment may be granted for good and sufficient reasons.

**CONFINEMENT DESIGNATION CHART
U.S. NAVAL BRIGS**

Sentence Category Disposition of Prisoner: Brig:	Length of Sentence:			
	90-180 Days		181 Days - One Year	
	Duty	Discharge	Duty	Discharge
Charleston	X	X	/3	/3
Corpus Christi	X	X	/6	/6
Great Lakes	X	X	X	X
Guam *	/2, 5	/2, 5	/5	/5
Guantanamo Bay *	/1, 3	/1, 3	/1, 3	/1, 3
Jacksonville	X	X	/3	/3
New London	/7	/7	/3	/3
Newport	X	X	/3	/3
Norfolk **	X	X	X	X
Pearl Harbor *	X	X	/5	/5
Pensacola	X	X	/6	/6
Rota	/3	/3	/3	/3
San Diego	X	X	X	X
Seattle	X	X	/5	/5
Yokosuka	X	/2, 5	/5	/5
Camp Lejune	(Transfer personnel in accordance with joint-Service Agreement)			
Camp Pendleton				
Quantico				

Legend:

1. All Brig's may accept prisoners for sentences for less than 90 days.
2. * Indicates facilities for females; normally only pretrial at Guam and Guantanamo.
3. ** Indicates long term facility for all sentences over one year.
4. X Indicates prisoners are accepted in the sentence category.
5. Numbers Indicate brig's to which prisoners originating in that geographic area are to be transferred.

/1 - Norfolk

/2 - Pearl Harbor

/3 - Philadelphia

/4 - San Diego

/5 - Treasure Island

/6 - Great Lakes

/7 - Newport

Qualifying Military Offenses under 10 U.S.C. § 1565

Court Martial Conviction. The findings of a general court-martial (10 U.S.C. § 818) or special court-martial (10 U.S.C. § 819) at the time of action of the court-martial convening authority pursuant to 10 U.S.C. § 860.

Offenses:	UCMJ Article	Title 10 Section
Murder	118	918
Voluntary Manslaughter	119	919
Rape	120	920
Carnal Knowledge	120	920
Forcible Sodomy	125	925
Sodomy With a Child	125	925
Aggravated Assault (with a dangerous weapon or other means or force likely to produce death or grievous bodily harm)	128	928
Aggravated Assault (in which grievous bodily harm was intentionally inflicted)	128	928
Indecent Assault	134	934
Indecent Acts With Another	134	934
Indecent Acts With a Child	134	934
Indecent Language to a Child	134	934
Pandering (By compelling or by arranging or by receiving consideration for arranging)	134	934
Prostitution Involving a Minor	134	934
Kidnapping	134	934
Robbery	122	922
Burglary	129	929
Housebreaking	130	930
Maiming	124	924
Arson	126	926
Assault With Intent to Commit Murder	134	934
Assault With Intent to Commit Rape	134	934
Assault With Intent to Commit Voluntary Manslaughter	134	934
Assault With Intent to Commit Robbery	134	934
Assault With Intent to Commit Sodomy	134	934
Assault With Intent to Commit Arson	134	934
Assault With Intent to Commit Burglary	134	934
Assault With Intent to Commit Housebreaking	134	934
Solicitation of Another To Commit a Qualifying Offense	134	934