

VOLUME 7A, CHAPTER 48: “COURT-MARTIAL SENTENCES”**SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue, and underlined font***](#).

The previous version dated [October 2019](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	The chapter is certified as current.	Current

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CHAPTER 48

COURT-MARTIAL SENTENCES

1.0 GENERAL

1.1 Purpose

The purpose of this chapter is to establish policy regarding the impact of court-martial sentences on military pay. This chapter provides policy applicable to cases in which charges are referred to trial by court-martial on or after January 1, 2019. See the previous version of this chapter, dated February 2014, for policy applicable to cases in which the charges were referred to trial by court-martial prior to January 1, 2019.

1.2 Authoritative Guidance

The pay policies and requirements established by Department of Defense in this chapter are derived primarily from, and prepared in accordance with the United States Code (U.S.C.), including Titles 10, 24, and 37. Due to the subject matter in this chapter, the list of authoritative sources is extensive. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

2.0 EFFECT OF SENTENCES ON PAY AND ALLOWANCES

2.1 Forfeitures

2.1.1. A sentence to partial forfeiture of pay deprives a member of the amount of pay stated in the sentence. The sentence applies for the number of months or days expressly stated.

2.1.2. Forfeitures apply to pay (and allowances if total forfeitures of pay and allowances are adjudged or imposed by law) becoming due on and after the date forfeitures are effective (see paragraph 6.1), unless the convening authority defers, suspends or remits the forfeitures.

2.2 Fines

A fine is in the nature of a judgment. Fines are effective upon entry of judgment in general and special courts-martial and upon convening authority approval in summary courts-martial. A fine makes a member liable to the United States for the amounts specified in the sentence.

2.3 Forfeiture of Allowances

A general court-martial sentence that includes forfeiture of pay does not include allowances unless it states that it is a forfeiture of all pay and allowances.

3.0 REDUCTIONS IN GRADE

3.1 Automatic Reduction in Grade

A court-martial sentence, as set forth in the judgment of the court-martial entered into the record, that includes a dishonorable or bad conduct discharge, confinement, or hard labor without confinement, by operation of law, reduces an enlisted member to pay grade E-1 effective the date the judgment is entered into the record. If the sentence of a member who is thus reduced in pay grade is set aside or disapproved, or, as finally affirmed, does not include any of the above punishments, all rights and privileges denied the member because of the reduction are restored. The member is entitled to the pay and allowances to which the member would have been entitled, for the period the reduction was in effect, had the grade reduction not been applied.

3.2 Reduction in Grade Adjudged in Court-Martial Sentence

A reduction in grade that is adjudged in a court-martial sentence takes effect 14 days after the sentence is announced, except in a summary court-martial. In a summary court-martial, an adjudged reduction in grade is effective the date the sentence is approved by the convening authority, or on the 14th day after the sentence is announced, whichever is earlier.

4.0 FORFEITURES

4.1 Pay Subject to Forfeiture

Forfeitures, other than total forfeitures apply to:

4.1.1. Basic pay, based on the member's years of service; and

4.1.2. Career sea pay or hardship duty pay, provided such pay continues to accrue after the effective date of the sentence.

NOTE: Pay allotted voluntarily is subject to forfeiture.

4.2 Pay Not Subject to Forfeiture

Forfeitures, other than total forfeitures of pay and allowances, do not apply to special (other than sea or hardship duty pay) or incentive pay.

4.3 Taxes

A forfeiture is a loss of entitlement to the pay involved. Consequently, forfeitures are not taxed. Compute the amount of pay to be forfeited before withholding for federal and state income and Federal Insurance Contribution Act (FICA) taxes. Compute taxes from the remaining pay not forfeited. See subparagraph 4.7.3.1 for taxation of forfeitures waived for the benefit of dependents.

4.4 Reduction in Grade

If a member's sentence includes or requires a reduction in grade, apply forfeitures to the pay of the grade to which reduced.

4.5 Concurrent Forfeitures

Forfeitures resulting from multiple court-martial sentences can run concurrently. However, the forfeitures, when combined, cannot exceed the applicable jurisdictional limit. For example, if two or more forfeitures result from courts-martial under which the maximum forfeiture which could be imposed is two-thirds of the pay subject to forfeiture, then collect no more than two-thirds of the pay subject to forfeiture for the concurrent period. Following the concurrent period, pay is forfeited under the remaining sentence at the rate specified in the sentence for the time remaining in that sentence.

4.6 Non-Collection of Ordered Forfeitures

If any amount ordered forfeited is not actually withheld or collected during the period specified by the approved sentence, such amount may be collected involuntarily as an erroneous payment as provided in Volume 16.

4.7 Automatic Forfeiture During Certain Court-Martial Confinements and Periods of Parole

4.7.1. General Court-Martial. A member automatically forfeits all pay and allowances while in confinement or in a parole status when the member's sentence includes:

4.7.1.1. Death;

4.7.1.2. Confinement for more than six months; or

4.7.1.3. Confinement of any length and either a dishonorable discharge, a bad conduct discharge, or a dismissal.

4.7.2. Special Court-Martial. The forfeiture provisions in subparagraph 4.7.1 also apply for sentences adjudged by special court-martial. However, automatic forfeitures are limited to two-thirds of all pay. Allowances are not subject to automatic forfeiture in special courts-martial.

4.7.3. Waiver of Forfeitures in Favor of Dependents. The convening authority or a person acting under [10 U.S.C. § 860a](#) or [10 U.S.C. § 860b](#) may waive any or all of the forfeitures of pay and allowances that were imposed by operation of law ("automatically") for a period not to exceed six months. The portion waived is payable to the accused member's dependent(s) as directed by the convening authority or person taking action.

4.7.3.1. Intent of Waiver and Taxability of Waived Forfeiture Amount. Direct payments to dependents, of the waived portion of a forfeiture are intended to provide transitional compensation and direct financial assistance. Because the waived portion of the forfeiture remains

wages generated by the member's military status, it is taxable income to the accused member, even though paid to the member's dependents. Therefore, after appropriate federal, state, and FICA taxes are withheld from the taxable portion of the waived forfeiture amount, the remaining (net) waived amount is paid to the member's dependent(s), as directed. See Chapter 44, Table 44-1.

4.7.3.2. Other Deductions and Collections. The Uniformed Code of Military Justice (UCMJ) contains no provisions for the deduction of any of the items appearing in Chapter 52, Table 52-1 from the waived forfeiture of pay and allowances. Therefore, only applicable taxes listed in subparagraph 4.7.3.1, may be deducted from the waived portion of pay and allowances that would otherwise be forfeited, with the remaining amount paid to the member's dependent(s), as directed by the convening authority. See Chapter 44, Table 44-1 and Chapter 45, Table 45-1.

4.7.4. Effect of Disapproval, Set Aside, or Reduction of Punishment. If the sentence of a member who forfeits pay and allowances under paragraph 4.7 is set aside, disapproved or, as finally approved, does not provide for a punishment listed in subparagraph 4.7.1, then pay the member the pay and allowances the member would have been paid, except for the automatic forfeiture, for the period during which the automatic forfeiture was in effect. The payment to the member should be reduced by the amount of any payments made to the member's dependents under subparagraph 4.7.3.

NOTE: Amounts paid to a member under subparagraph 4.7.4, when a punishment has been disapproved, set aside, or reduced, are taxable income in the year they are paid to the member and are subject to appropriate withholding of federal and state taxes.

4.8 No Collection of Forfeitures of Pay During Appellate Leave

A member who has accrued leave before entering an appellate leave status will use his/her accrued leave for the period of appellate leave, unless the member elects to be paid for such accrued leave in a lump sum. Forfeitures will not be deducted from these leave payments in either situation.

5.0 EFFECTIVE DATES OF FINES AND FORFEITURES

5.1 Fines

A fine that is adjudged in a general or special court-martial takes effect when the judgment is entered into the record. A fine adjudged in a summary court-martial takes effect when the convening authority acts on the sentence.

5.2 Forfeitures

5.2.1. Forfeitures of pay or pay and allowances begin 14 days after the sentence is announced, except in the case of a summary court-martial. Forfeitures imposed by a summary court-martial begin on the date the convening authority approves the part of the sentence establishing the forfeiture.

5.2.2. Upon application by the accused, the convening authority may defer the start of the forfeiture any time after the adjournment of the court-martial and before the entry of the judgment. Deferment of a sentence to forfeiture ends when the judge enters the judgment into the record, except in a summary court-martial. In a summary court-martial, the deferment ends when the convening authority acts on the sentence. The convening authority may rescind a deferment at any time.

6.0 COLLECTION

6.1 Forfeitures

Since court-martial forfeitures constitute a loss of entitlement to the pay or pay and allowances concerned, they constitute a reduction of pay that takes precedence over all debts. (See Chapter 52, Table 52-1, rule 1).

6.2 Fines

Fines constitute indebtedness to the United States. Collect fines as follows:

6.2.1. Current Pay. Fines may be collected involuntarily from the current pay of all members. They are collected after all other prior indebtedness for the period involved has been collected. If prior deductions reduce the member's pay by two-thirds of gross pay for any month, no pay accrues against which fines may be applied. In such case, defer collection of fines until pay accrues against which they may be applied.

6.2.2. Final Pay. Fines may be collected involuntarily from a member's final pay after all other indebtedness is collected. Collections will not reduce pay received by enlisted members of the Army or Air Force to less than one-third of gross pay. Separation travel allowances and donations on discharge will not be used to liquidate an indebtedness for enlisted members. Otherwise, all final pay and amounts due the member at separation may be collected involuntarily. See Volume 16.

6.2.3. Appellate Leave. Members on appellate leave are subject to the collection of fines from any lump sum payment of accrued leave paid at the commencement of appellate leave.

6.3 Rate of Collection

Charge forfeitures of pay against a member's pay at the rate required by the sentence until the sentence is fully satisfied. Prorate the monthly rate of forfeiture on a daily basis for a portion of a month. The language of a sentence determines the amount of the fine or forfeiture. Pay cannot be forfeited by implication. For example, a sentence stating, "forfeiture of \$20 per month for 6 months" means a forfeiture of \$120 to be collected at \$20 per month. Conversely, a sentence stating, "forfeiture of \$20 for 6 months" means a total forfeiture of \$20 is to be collected.

6.4 Non-Pay Status

During periods when a member is in a non-pay status, pay does not accrue against which forfeitures can apply. Do not count such periods in computing the time during which pay is forfeited for a specific period.

6.5 Restoration to Duty

A member restored to duty following a non-pay status is again entitled to pay against which forfeitures may apply.

6.6 Service Beyond Estimated Term of Service (ETS) for Medical Care

The pay and allowances of an enlisted member retained beyond ETS for medical care or hospitalization are subject to forfeitures and fines.

6.7 Non-Collection Due to Administrative Error

Collect court-martial forfeitures not collected due to administrative error when the error is discovered. Collection may be made for the court-martial forfeiture or for erroneous payments made during the period covered by the sentence. Indebtedness of this type cannot be remitted under statutes authorizing remission of indebtedness.

6.8 Pay Due or Accrued

Forfeitures apply to pay earned on and after the effective date of the forfeiture.

6.9 Collection From Members in a Reserve Status

All punishments remaining unserved at the time a member of a Reserve Component is released from active duty or a normal period of inactive duty training may be carried over to subsequent periods of inactive-duty training or active duty.

7.0 REMISSION, SUSPENSION, AND CANCELLATION OF FORFEITURES

7.1 Death or Separation

7.1.1. The death or discharge of a member under a suspended sentence operates as a complete remission of any unexecuted or unremitted part of a sentence.

7.1.2. Discharge, release from active duty (except under paragraph 6.9), or death of a member under an unsuspended sentence to forfeiture cancels any uncollected portion of the forfeiture which would extend beyond the date of discharge, release, or death.

7.2 End of Term of Service, Unauthorized Absence, or Desertion

The end of term of service of a member in military confinement, unauthorized absence or desertion of a member, stops collections of uncollected forfeitures since no pay accrues against which forfeitures can operate. If an unauthorized absentee or deserter is restored to pay status, then resume otherwise proper collections.

7.3 Restoration to Duty

If a member who was sentenced to total forfeitures and confinement is released from confinement after serving the sentence and is restored to duty, the member is entitled to pay and allowances from the date restored to duty, and the forfeiture becomes inoperative thereafter unless the sentence expressly includes partial post-confinement forfeitures. This applies even though no other action may have been taken to suspend, remit, or mitigate the sentence to total forfeiture.

7.4 Effective Date

An order remitting, mitigating, or suspending the unexecuted portion of a sentence is effective from the date of the order, except when a later date is specified. An order remitting a sentence to fine or forfeiture relieves the member of the unexecuted portion of the forfeiture or fine on and after the effective date.

7.5 Suspension of a Sentence

Suspension of a sentence grants the accused a probationary period during which the suspended part of the sentence is not executed.

7.5.1. Remission

Upon successful completion of the probationary period, the suspended part of the sentence is remitted. Remission cancels the unexecuted part of the sentence to which it applies. When an unexecuted portion of a sentence to forfeiture or fine is remitted, the member is no longer subject to the unexecuted forfeiture or fine.

7.5.2. Vacation of Suspension

Suspensions can be vacated if the accused does not successfully complete the probationary period. When a suspension of a forfeiture or fine is vacated, the uncollected forfeiture or fine is revived and proper for collection.

8.0 SENTENCES DISAPPROVED OR SET ASIDE

8.1 When New Trial or Rehearing Is Not Ordered

When a court-martial sentence is set aside or disapproved and a new trial or rehearing is not ordered, all rights, privileges, and property affected by the executed part of the sentence are restored to the member. Such restoration includes any pay and allowances lost as a result of an adjudged or automatic forfeiture and an adjudged or automatic reduction in grade.

8.2 New Trial or Rehearing Ordered

8.2.1. Pay Entitlements While Awaiting New Trial or Rehearing

In accordance with regulations established by the Secretary concerned, for the period after the date on which an executed part of a court-martial sentence is set aside, an accused who is pending a rehearing, new trial, or other trial shall receive the pay and allowances due at the restored grade.

8.2.2. Pay Entitlements After Rehearing or New Trial is Completed

8.2.2.1. An accused member is entitled to restoration of all rights, privileges, and property affected by an executed portion of a court-martial sentence that has been set aside or disapproved by proper authority, unless a new trial, other trial, or rehearing is ordered and such executed part is included in the sentence imposed at the new trial, other trial, or rehearing.

8.2.2.2. When a previously executed dishonorable or bad conduct discharge is not imposed by a new trial, the member is entitled to the pay and allowances which the member would have received had the dishonorable or bad conduct discharge not been executed. When a previously executed dismissal of an officer is not imposed by a new trial, an administrative discharge is substituted. The President may reappoint the officer to the grade and rank the officer would have attained if the officer had not been dismissed. The total time between the dismissal and reappointment is considered as actual service for all purposes, including pay and allowances.

8.3 Limits on New Trial or Rehearing Sentences

Generally, a member may not receive a sentence in a new trial or rehearing in excess of or more severe than the approved sentence that was subsequently set aside.

9.0 PAY AND ALLOWANCES WHILE ON PAROLE

A member released on parole from a disciplinary barracks is considered to be in an authorized leave status and is entitled to pay and allowances to the extent the member has unused accrued leave to the member's credit, less any fines and forfeitures still remaining in effect. Once the member's accrued leave has been used, the member is considered to be in an excess leave or leave without pay status and is not entitled to pay and allowances during this period unless, upon appellate review, the conviction is completely overturned or set aside. If the member is subject to a new trial or rehearing, however, apply the provisions of paragraph 8.2.

10.0 DISPOSITION OF COURT-MARTIAL FORFEITURES AND FINES

Armed Forces (regular and Reserve) court-martial forfeitures and fines of enlisted members, warrant officers, and limited duty officers in excess of government indebtedness and amounts owed any individuals will be transferred to the Armed Forces Retirement Home Trust Fund. For purposes of this section only, the term "government indebtedness" refers to an amount due from the member for reimbursement to the government. For example, the repayment of an advance of pay is a reimbursement but, an amount due to the Internal Revenue Service, while considered a debt to the government, is not a "reimbursement" or "government indebtedness," for purposes of this section. For the purposes of this section, the term "amounts owed any individuals" refers to amounts owed from a member's pay by direction of a commanding officer pursuant to [Article 139](#) of the UCMJ.

10.1 Separation From Service Not Involved

When enlisted members, warrant officers or limited duty officers have been sentenced by court-martial to forfeit all or part of their pay, no part of the forfeiture is creditable to the Armed Forces Retirement Home Trust Fund until amounts equal to all outstanding indebtedness to the government and amounts owed any individuals have been withheld. Transfer only those amounts forfeited that are in excess of any government indebtedness or amounts owed any individuals.

10.2 Members Who Are Being Separated From Service

A court-martial forfeiture of a limited duty officer, warrant officer, or enlisted member is not credited to the Armed Forces Retirement Home Trust Fund when the member has unsatisfied indebtedness at date of separation, except as shown in paragraph 10.3. Such forfeitures remain in the military personnel appropriation. If the unsatisfied debt at separation is less than the forfeiture, credit the difference between the aggregate unsatisfied debt and the forfeiture to the Armed Forces Retirement Home Trust Fund. (For example: If the uncollected indebtedness is \$500 and forfeiture is \$600, credit to the Armed Forces Retirement Home Trust Fund the difference of \$100 between the unsatisfied indebtedness and the forfeiture.) Transfer amounts collected afterward to counterbalance the indebtedness not to exceed the aggregate forfeiture, less amounts previously credited to the Armed Forces Retirement Home Trust Fund.

10.3 Indebtedness After Forfeiture Becomes Effective

If debts occur to enlisted members, warrant officers or limited duty officers after a court-martial has been executed and before credit of the forfeiture has been made to the Armed Forces Retirement Home Trust Fund, such debts will not affect the disposition of the forfeiture. Credit the forfeiture to the Armed Forces Retirement Home Trust Fund as if the indebtedness did not exist.

10.4 Remission of Indebtedness

If a court-martial forfeiture of an enlisted member, warrant officer or limited duty officer is not credited to the Armed Forces Retirement Home Trust Fund due to outstanding debts, and the unliquidated portion of the debts is thereafter remitted or cancelled, do not credit the forfeiture that equals the amount of indebtedness remitted or cancelled to the Armed Forces Retirement Home Trust Fund. That amount remains in the military personnel appropriation.

10.5 Commissioned Officers

Credit court-martial forfeitures and fines of commissioned officers (except limited duty officers and warrant officers) to the appropriation to which the member's pay is properly chargeable.

11.0 FORFEITURE SENTENCES CARRIED OVER TO SUBSEQUENT RESERVE COMPONENT DUTY

11.1 General

In the case of a forfeiture sentence carried forward according to paragraph 6.9, convert the stated amount of forfeiture to a percentage using the monthly rate of basic pay in Chapter 1, Tables 1-7 through 1-10 for the member's grade and length of service on the date the forfeiture sentence is entered into the record. Apply that percentage to the pay for every period of duty the member actually performs during the stated period of the forfeiture sentence.

11.2 Time Restriction

The forfeiture sentence is satisfied by collection from duty performed during the stated period of forfeiture only. If a member performs no duty during the stated period of the forfeiture sentence, no further collection action is necessary.

Example:

11.2.1. A member, E-4, receives a sentence which includes a forfeiture (either non-judicial punishment or court-martial sentence) of \$200 a month for 2 months (\$400).

11.2.2. The member's monthly rate of pay is \$912.60.

11.2.3. Convert the original forfeiture to a percentage, $(200/912.60) = 21.92\%$.

11.2.4. For each period of duty performed during the stated period of the sentence (2 months), collect 21.92% of the member's pay from active duty and inactive duty training pay.

REFERENCES

CHAPTER 48 – COURT-MARTIAL SENTENCES

2.0 – EFFECT OF SENTENCES ON PAY AND ALLOWANCES

Manual for Courts-Martial (MCM) 2019, Appendix 2,
Subchapter IX
1 Comptroller General (Comp Gen) 291 (1921)
41 Comp Gen 296 (1961)

3.0 – REDUCTIONS IN GRADE

- 3.1 10 U.S.C. § 858a
MCM 2019, Part II, Chapter XI, Rule 1102(b)(1)
3.2 MCM 2019, Part II, Chapter XI, Rule 1102(b)(1)

4.0 – FORFEITURES

- MCM 2019, Appendix 2, Subchapter IX
36 Comp Gen 79
36 Comp Gen 755
4.1.2. MCM 2019, Part II, Chapter X, Rule 1003(b)(2)
4.7.1. & 4.7.2. 10 U.S.C. § 858b
4.7.3. U.S. v. Gorski
4.8 63 Comp Gen 341, 344 (1984)
10 U.S.C. § 706(a)

5.0 – EFFECTIVE DATES OF FINES AND FORFEITURES

- 10 U.S.C. § 857
5.1 MCM 2019, Part II, Chapter XI, Rule 1102
5.2.2. MCM 2019, Part II, Chapter XI, Rule 1103
5.2.3. C 42 Comp Gen. 279

6.0 – COLLECTION

- 36 Comp Gen 79
38 Comp Gen 788
36 Comp Gen 755
41 Comp Gen 269
6.2.1. 37 U.S.C. § 1007(c)
6.2.2. 37 U.S.C. § 1007(d)
6.3 U.S. v. Johnson, 32 C.M.R. 127 (C.M.A. 1962)
6.9 MCM 2019, Part II, Rule 204

7.0 – REMISSION, SUSPENSION, AND CANCELLATION OF FORFEITURES

- 7.1 MCM 2019, Part II, Chapter XI, Rule 1107(e)
- 7.3 10 U.S.C. § 509
37 U.S.C. § 906
- 7.4 U.S. v. Stewart, 62 M.J. 291, (C.A.A.F. 2006)
- 7.7 10 U.S.C. § 872

8.0 – SENTENCES DISAPPROVED OR SET ASIDE

- 10 U.S.C. § 875
- 10 U.S.C. § 858b(c)
- 8.2 MCM 2019, Part II, Chapter XI, Rule 1208
- 8.3 10 U.S.C. § 863
MCM 2019, Part II, Chapter VIII, Rule 810(d)

9.0 – PAY AND ALLOWANCES WHILE ON PAROLE

59 Comp Gen 12

10.0 – DISPOSITION OF COURT-MARTIAL FORFEITURES AND FINES

24 U.S.C. 419 (a) (4)
10 U.S.C. 2772

11.0 – FORFEITURE SENTENCES CARRIED OVER TO SUBSEQUENT RESERVE COMPONENT DUTY

MCM 2019, Part II, Chapter II, Rule 204