

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

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FOIA EXEMPTED
2,3567 4x6
3

See Notes on Reverse Before Completing Form

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] bb-5

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: ^{1/} In that you, did, at or near [REDACTED] on or about 20 August 2003, commit an assault upon [REDACTED] by pointing at him with a dangerous weapon, to wit: a loaded firearm. This is a violation of Art. 128, UCMJ. ~ bb-4

SEE CONTINUATION SHEET

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand that I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (*matters of defense*) or why punishment should be very light (*matters of extenuation and mitigation*). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead. ^{2/} In deciding what you want to do you have the right to consult with legal counsel

located at USATDS, DSE, [REDACTED] bb-2

You now have 48 hours to decide what you want to do. ^{4/}

DATE 12 Dec 2003 TIME 1030 hrs	NAME, GRADE, AND ORGANIZATION OF COMMANDER
	[REDACTED] bb-2

3. Having been afforded the opportunity to consult with counsel, my decision are as follows: (*Initial appropriate blocks, date, and sign*)

a. ☐ I demand trial by court-martial.

b. ☐ I do not demand trial by court-martial and in the Article 15 proceedings:

(1) I request the hearing be ☐ Open ☒ Closed. (2) A person to speak in my behalf ☐ Is ☐ Is not requested.

(3) Matters in defense, mitigation, and/or extenuation: ☐ Are not presented ☐ Will be presented in person ☐ Are attached.

DATE 12 Dec 03	NAME AND GRADE OF SERVICE MEMBER
	[REDACTED]

4. In a(n) ☐ Open ☒ Closed hearing ^{5/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: ^{5/6/} To forfeit [REDACTED] per month for two months.

5. I direct the original DA Form 2627 be filed in the ☒ Performance fiche ☐ Restricted fiche of the OMPF. ^{7/} NA

6. You are advised of your right to appeal to the Cdr, CJTF-7 within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE 12 Dec 03	NAME, GRADE, AND ORGANIZATION OF COMMANDER
	[REDACTED] bb-2

7. (*Initial appropriate block, date, and sign*)

a. ☐ I do not appeal.

b. ☐ I appeal and do not submit additional matters ^{8/9/}

c. ☐ I appeal and submit additional matters ^{8/9/}

DATE 12 Dec 03	NAME AND GRADE OF SERVICE MEMBER
	[REDACTED] bb-5

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:

☐ Denied ☐ Granted as follows: ^{10/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11/12/13/}

1- Report of Investigation
1- ORB

Blk/M

DA FORM 2627, PERTAINING TO [REDACTED]

(E-6)
3
-7c

Item 1, Continued:

b6-5

b6-4

In that you, did, at or near [REDACTED] on or about 20 August 2003, unlawfully strike [REDACTED] numerous times on the body and the head with a closed fist. This is a violation of Art. 128, UCMJ.

In that you did, at or near [REDACTED] on or about 20 August 2003, commit an assault upon [REDACTED] by shooting near him with a dangerous weapon, to wit: a loaded firearm. This is a violation of Art. 128, UCMJ.

b6-4

In that you, did, at or near [REDACTED] on or about 20 August 2003, wrongfully communicate to [REDACTED] a threat that you would kill [REDACTED] if [REDACTED] did not talk. This is a violation of Art. 134, UCMJ.

b6-4

006947

CHARGE SHEET

Ex 6
3

1. NAME OF ACCUSED (Last, First, MI)			2. SSN		3. GRADE OR RANK	4. PAY GRADE
[REDACTED]			[REDACTED]		[REDACTED]	[REDACTED]
5. UNIT OR ORGANIZATION			6. CURRENT SERVICE			
[REDACTED]			[REDACTED]			
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED		9. DATE(S) IMPOSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	N/A			
[REDACTED]	[REDACTED]	[REDACTED]				

II. CHARGES AND SPECIFICATIONS

10. Charge I:

VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION 1: In that [REDACTED] US Army, did, at or near [REDACTED], on or about 20 August 2003, commit an assault upon [REDACTED] by pointing at him with a dangerous weapon, to wit: a loaded firearm.

SPECIFICATION 2: In that [REDACTED] US Army, did, at or near [REDACTED] on or about 20 August 2003, unlawfully strike [REDACTED] numerous times on the body and the head with a closed fist.

SPECIFICATION 3: In that [REDACTED] US Army, did, at or near [REDACTED] on or about 20 August 2003, commit an assault upon [REDACTED] by shooting near him with a dangerous weapon, to wit: a loaded firearm.

Charge II:

VIOLATION OF THE UCMJ, ARTICLE 134

SPECIFICATION: In that [REDACTED] US Army, did, at or near [REDACTED] on or about 20 August 2003, wrongfully communicate to [REDACTED] a threat that he would kill [REDACTED] if [REDACTED] did not talk.

11a. NAME OF ACCUSER (Last, First, MI)		11b. PREFERRED	
[REDACTED]		[REDACTED]	
11c. GRADE		11d. ORGANIZATION OF ACCUSER	
[REDACTED]		[REDACTED]	
11e. DATE		[REDACTED]	
[REDACTED]		[REDACTED]	

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 6th day of October, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

Trial Counsel

Official Capacity to Administer Oath
(See R.C.M. 307(d) - must be a commissioned officer)

C06948

Ex 6
3

7c

12. On 6 OCT 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 305 if notification cannot be made.)

Typed Name of Commander

Organization of Commander

Signature

bb-2 all

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____ 2003 at _____

Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 203)

FOR THE

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

Referred for trial to the _____ Court-martial convened by _____

20

subject to the following instructions:²

By _____

of _____

Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____ 20 _____, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

C06949

CHARGE SHEET

Ex 6
3

I. PERSONAL DATA

1. NAME OF ACCUSED (Last, First, MI)	2. SSN	3. GRADE OR RANK	4. PAY GRADE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5. UNIT OR ORGANIZATION		6. CURRENT SERVICE	
[REDACTED]		[REDACTED]	
7. PAY PER MONTH		8. NATURE OF RESTRAINT OF ACCUSED	
a. BASIC	b. SEA/FOREIGN DUTY	c. TOTAL	9. DATE(S) IMPOSED
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

II. CHARGES AND SPECIFICATIONS

10. CHARGE I:

VIOLATION OF THE UCMJ, ARTICLE 128

SPECIFICATION: In that [REDACTED] b6-5, U.S. Army, did, at [REDACTED], on or about 20 August 2003, commit an assault upon [REDACTED] by shooting near his head with a dangerous weapon likely to produce death or grievous bodily harm, to wit: a loaded firearm. b6-4 a force

CHARGE II:

VIOLATION OF THE UCMJ, ARTICLE 134 (THREAT, COMMUNICATING)

SPECIFICATION: In that [REDACTED] b6-5, U.S. Army, did, at [REDACTED], on or about 20 August 2003, wrongfully communicate to [REDACTED] a threat to kill him. b6-4

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, MI)	b. GRADE	c. ORGANIZATION OF ACCUSER
[REDACTED] b6-2	[REDACTED]	[REDACTED]
d. SIGNATURE OF ACCUSER		e. DATE
[REDACTED]		[REDACTED]

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this _____ day of _____, 2003, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Typed Name of Officer

Grade

Signature

Organization of Officer

Official Capacity to Administer Oath
(See R.C.M. 307(b) - must be a commissioned officer)

DD FORM 458, MAY 2000

PREVIOUS EDITION IS OBSOLETE.

006950

Ex 6
7c

12

On _____, 2003, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

Typed Name of Immediate Commander

Organization of Immediate Commander

Grade

b6-2
all

Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at _____ hours, _____, 2003 at _____

Designation of Command or

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE _____

Typed Name of Officer

Commanding
Official Capacity of Officer Signing

Grade

Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE

Referred for trial to the _____ court-martial convened by _____

_____, 20 03, subject to the following instructions:²

By _____ of _____
Command or Order

Typed Name of Officer

Official Capacity of Officer Signing

Grade

Signature

15.

On _____, 20 03, I (caused to be) served a copy hereof on (each of) the above named accused.

Typed Name of Trial Counsel

Grade or Rank of Trial Counsel

Signature

FOOTNOTES: 1 — When an appropriate commander signs personally, inapplicable words are stricken.
2 — See R.C.M. 601(e) concerning instructions. If none, so state.

Ex 6
3
7c

DEPARTMENT OF THE ARMY

[REDACTED]

[REDACTED]

b2-2

[REDACTED]

12 October 2003

MEMORANDUM FOR RECORD

Subject: Local Suspension of Security Clearance and Access

1. The access to TS/SCI for the following individual is locally suspended pending Court Martial:

[REDACTED]

b6-5

2. Due to mission requirements, the above individual will retain his SECRET/NOFORN access. The individual is deployed with Task Force Ironhorse and will require the clearance for Operation Iraqi Freedom.

3. Upon completion of the investigation and the outcome of the pending legal action, the suspension will either be lifted or formally forwarded to the Central Clearance Facility.

3. POC this memorandum is

[REDACTED]

[REDACTED]

b6-2

Chief of Staff

006952

TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)
For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

Ex 6
3
7c

SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) [REDACTED]	2. SSN [REDACTED]	3. RANK [REDACTED]
4. <input checked="" type="checkbox"/> On active duty <input type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT	5. ETS/ESA/MRD	
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND [REDACTED] bb-5	7. STATION (Geographical location) [REDACTED]	
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER [REDACTED]		
9. THIS ACTION IS TO: <input checked="" type="checkbox"/> Initiate a flag (Sections II and V only) <input type="checkbox"/> Transfer a flag (Sections III and V only) <input type="checkbox"/> Remove flag (Sections IV and V only)		

SECTION II - INITIATE A FLAG

10. ☐ A FLAG IS INITIATED, EFFECTIVE 20 September 2003 FOR THE FOLLOWING REASON:

<u>NON-TRANSFERABLE</u>	<u>TRANSFERABLE</u>
<input checked="" type="checkbox"/> Adverse action (A)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Elimination - field initiated (B)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Removal from selection list - field initiated (C)	
<input type="checkbox"/> Referred OER (D)	
<input type="checkbox"/> Security violation (E)	
<input type="checkbox"/> HQDA use only - elimination or removal from selection list (F)	

SECTION III - TRANSFER A FLAG

11. ☐ A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

<input type="checkbox"/> Adverse action - HQDA directed reassignment (G)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Adverse action - punishment phase (H)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Supporting documents attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

SECTION IV - REMOVE A FLAG

12. ☐ A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

<input type="checkbox"/> Case closed favorably (C)	<input type="checkbox"/> Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
<input type="checkbox"/> Disciplinary action taken (D)	<input type="checkbox"/> Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION
1 - Unit Commander 1 - F&AO
1 - PSC 1 - Commander, gaining unit (transfer flag only)

NAME, RANK, TITLE, AND ORGANIZATION [REDACTED] bb-2	SIGNATURE [REDACTED]	DATE [REDACTED]
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DA FORM 268, JUN 87

EDITION OF 1 JAN 80 IS OBSOLETE.

USAPPC V2.00

006953

DEPARTMENT OF THE ARMY
U.S. Army Trial Defense Service

Ex 6
3 7c

b2-2

AFZF-JA-TDS

24 October 2003

MEMORANDUM FOR

SUBJECT: Article 32(b) Investigation Delay Request -- [REDACTED]
[REDACTED]
[REDACTED]

b6-5

1. The defense requests a delay in the Article 32 investigation from 1 Nov 03 to 10 Nov 03.
2. The reason for the delay is to allow the recently retained civilian defense counsel adequate time to appear and prepare for the hearing. On or about 19 Oct 2003, [REDACTED] retained [REDACTED] b6-5
[REDACTED], as his lead counsel for his defense. [REDACTED] b6-2
[REDACTED] defense requires that [REDACTED] be present at the Article 32 hearing. I have spoken to [REDACTED] and he can be in our AO on or about 10 Nov 2003. I will send the Trial Counsel the necessary information to arrange travel.
3. The defense will be credited with the delay.
4. POC is the undersigned at [REDACTED] b6-2
5. I certify that a copy of this was served, via email, on the trial counsel and the Article 32 officer on 23 October 2003.

b6-2

[REDACTED]
[REDACTED]
Senior Defense Counsel

C06954



DEPARTMENT OF THE ARMY

Ex 6,3
7c

REPLY TO
ATTENTION OF

62-2

MEMORANDUM FOR

b6-2

SUBJECT: Delegation of Authority to Exercise Article 15, UCMJ, Powers

1. Pursuant to AR 27-10, paragraph 3-7 c., I hereby delegate to you the authority to exercise Article 15, UCMJ, powers to assist you in disposing of suspected offenses committed by the following soldiers:

a.

b.

c.

b6-5

2. You may exercise any power that I possess under Article 15, UCMJ, however, you are not required to take any specific action.

3. This delegation will remain effective until you take action, if any, but not later than 18 October 2003.

Commanding

b6-2

006955

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

See Notes on Reverse Before Completing Form

Ex 6,3
7c

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] 665

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct:^{1/}
In that you did, at or near [REDACTED] on or about 20 August 2003, unlawfully strike [REDACTED] on the body and head with a closed fist. This is in violation of Art. 128, UCMJ.

66-4

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (*matters of defense*) or why punishment should be very light (*matters of extenuation and mitigation*). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose.^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead.^{3/} In deciding what you want to do you have the right to consult with legal counsel located at [REDACTED]. You now have 48 hours to decide what you want to do.^{4/}

DATE 3 Oct 2003	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
TIME 1513	[REDACTED]	[REDACTED] 662

3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (*Initial appropriate blocks, date, and sign*)
a. [REDACTED] demand trial by court-martial.
b. [REDACTED] do not demand trial by court-martial and in the Article 15 proceedings:
(1) I request the hearing be [REDACTED] Open [REDACTED] Closed. (2) A person to speak in my behalf [REDACTED] Is [REDACTED] Is not requested.
(3) Matters in defense, mitigation, and/or extenuation: [REDACTED] Are not presented [REDACTED] Will be presented in person [REDACTED] Are attached.

DATE 10 Oct 03	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
	[REDACTED]	[REDACTED] 66-5

4. In a(n) [REDACTED] Open [REDACTED] Closed hearing^{5/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed:^{6/ 8/}

Reduction to E2, suspended to be automatically remitted if not vacated by 8 April 2004; Forfeiture of \$250.00 pay per month for two months.

5. I direct the original DA Form 2627 be filed in the [REDACTED] Performance fiche [REDACTED] Restricted fiche of the OMPF.^{7/}

6. You are advised of your right to appeal to the [REDACTED] within [REDACTED] calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

66-5

DATE 10 Oct 03	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
	[REDACTED]	[REDACTED] 66-2

7. (*Initial appropriate block, date, and sign*)
a. [REDACTED] I do not appeal b. [REDACTED] I appeal and do not submit additional matters^{9/ 9/} c. [REDACTED] I appeal and submit additional matters^{9/ 9/}

DATE 10 Oct 03	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
	[REDACTED]	[REDACTED] 66-5

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:
[REDACTED] Denied [REDACTED] Granted as follows:^{10/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS 11/ 12/ 13/7

DA FORM 2823

22567
EX 6, 3
7C

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

See Notes on Reverse Before Completing Form

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct:^{1/}
In that you did, at or near [REDACTED] on or about 20 August 2003, unlawfully strike [REDACTED] on the body and head with a closed fist. This is in violation of Art. 128, UCMJ.

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (*matters of defense*) or why punishment should be very light (*matters of extenuation and mitigation*). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose.^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead.^{3/} In deciding what you want to do you have the right to consult with legal counsel located at [REDACTED]. You now have 48 hours to decide what you want to do.^{4/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
15 Oct 03	[REDACTED]	[REDACTED]

3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (Initial appropriate blocks, date, and sign)

- a. ☐ demand trial by court-martial.
b. ☒ I do not demand trial by court-martial and in the Article 15 proceedings:
(1) I request the hearing be ☒ open ☐ Closed. (2) A person to speak in my behalf ☒ Is ☐ Is not requested.
(3) Matters in defense, mitigation, and/or extenuation: ☐ Are not presented ☐ Will be presented in person ☒ Are attached.

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
16 Oct 03	[REDACTED]	[REDACTED]

4. In a(n) ☒ open ☐ Closed hearing^{5/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed:^{5/ 6/}

Reduction to E3, suspended to be automatically remitted if not vacated by 8 April 2004; Forfeiture of \$250.00 pay per month for two months.

5. I direct the original DA Form 2627 be filed in the ☐ Performance fiche ☒ Restricted fiche of the OMPF.^{7/}

6. You are advised of your right to appeal to the [REDACTED] within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
18 Oct 03	[REDACTED]	[REDACTED]

7. (Initial appropriate block, date, and sign)

- a. ☒ I do not appeal b. ☐ I appeal and do not submit additional matters^{8/ 9/} c. ☐ I appeal and submit additional matters^{8/ 9/}

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
12 Oct 03	[REDACTED]	[REDACTED]

8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE

9. After consideration of all matters presented in appeal, the appeal is:
☐ Denied ☐ Granted as follows:^{10/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE

10. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER

11. ALLIED DOCUMENTS AND/OR COMMENTS 11/ 12/ 13/

DA FORM 2823

006957

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

Ex 6,3

SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI) [REDACTED]	2. SSN [REDACTED]	3. RANK [REDACTED] 7c 665
4. <input checked="" type="checkbox"/> On active duty <input type="checkbox"/> Not on active duty <input type="checkbox"/> On ADT		5. ETS/ESA/MRD
6. UNIT ASSIGNED AND ARMY MAJOR COMMAND [REDACTED]		7. STATION (Geographical location)
8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER		

9. THIS ACTION IS TO:

- ☒ Initiate a flag (Sections II and V only) ☐ Transfer a flag (Sections III and V only) ☐ Remove flag (Sections IV and V only)

SECTION II - INITIATE A FLAG

10. ☒ A FLAG IS INITIATED, EFFECTIVE 23 SEP 2003 FOR THE FOLLOWING REASON:

<u>NON-TRANSFERABLE</u>	<u>TRANSFERABLE</u>
<input checked="" type="checkbox"/> Adverse action (A)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Elimination - field initiated (B)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Removal from selection list - field initiated (C)	
<input type="checkbox"/> Referred OER (D)	
<input type="checkbox"/> Security violation (E)	
<input type="checkbox"/> HQDA use only - elimination or removal from selection list (F)	

SECTION III - TRANSFER A FLAG

11. ☐ A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

<input type="checkbox"/> Adverse action - HQDA directed reassignment (G)	<input type="checkbox"/> APFT failure (J)
<input type="checkbox"/> Adverse action - punishment phase (H)	<input type="checkbox"/> Weight control program (K)
<input type="checkbox"/> Supporting documents attached? <input type="checkbox"/> Yes <input type="checkbox"/> No	

SECTION IV - REMOVE A FLAG

12. ☐ A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

<input type="checkbox"/> Case closed favorably (C)	<input type="checkbox"/> Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)
<input type="checkbox"/> Disciplinary action taken (D)	<input type="checkbox"/> Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION

- 1 - Unit Commander 1 - F&AO
1 - PSC 1 - Commander, gaining unit (transfer flag only)

NAME, RANK, TITLE, AND ORGANIZATION [REDACTED]	SIGNATURE [REDACTED]	DATE 66-2 [REDACTED]
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DA FORM 268, JUN 87

EDITION OF 1 JAN 80 IS OBSOLETE.

USAPPO V2.00

006953

(Ex 6
7c)

ARTICLE 15 SCRIPT

Introduction

ADC(S): [REDACTED] b6-5, my purpose today is to determine whether you are guilty of the offense listed on your Article 15: assault of [REDACTED] on or about 20 August 2003. This violates Article 128 of the Uniform Code of Military Justice. b6-4

Maximum Punishment and Filing

ADC(S): If I find you guilty, then I will also decide upon an appropriate punishment. The maximum punishment that I can impose is:

1. Reduction to Private (E-1).
2. Forfeiture of 1/2 month's pay per month for two months.
3. Extra duty for 45 consecutive days.
4. Restriction for 60 days but if extra duty and restriction are combined restriction may not exceed 45 days.
5. A written or oral reprimand or admonition.

Right to Attorney

ADC(S): Have you consulted with a defense lawyer about your case?

Accused: [Response]

ADC(S): Did you complete this form as indicated?

Accused: [Response]

Right to Present Evidence

ADC(S): I have already reviewed the same evidence that you were provided. Do you have any additional evidence or anything you would like to say at this time?

Accused: [Response]

Findings and Punishment

[The standard of proof is the same at an article 15 as it is at a court-martial. If you are convinced *beyond a reasonable doubt* that the accused is guilty of the offenses make a finding of guilty. If you are not convinced beyond a reasonable doubt, you should make a finding of not guilty.]

If Finding of Not Guilty

ADC(S): I have considered all of the evidence presented. I am not convinced beyond a reasonable doubt that you are guilty of these offenses. Therefore, these proceedings are terminated and no punishment will be imposed. [Counsel the soldier as desired] You are dismissed.

If Finding of Guilty

ADC(S): I have considered all the evidence presented. I am convinced beyond a reasonable doubt that you are guilty of the offense of assault. I have considered all matters presented in defense, mitigation, and extenuation, and I impose the following punishment:

1. To be reduced to Private (E-3) (E-2) (E-1) *Suspended 180 days*
2. To forfeit \$ _____ pay per month for (one month) (two months).
[Maximum forfeiture is as follows:
E4: \$882.65 pay per month for two months.
E3: ~~\$814.40~~ *suggested* \$250 month *x2*
E2: \$695.00 pay per month for two months.*
E1: \$625.40 pay per month for two months.*
*Even if the soldier's reduction is suspended.]
3. To perform extra duty for _____ consecutive days. [Maximum length of extra duty is 45 days.]
4. To be restricted to the limits of company area, place of duty, place of worship, medical facility, dental facility, and dining facility, for _____ days.
[Maximum length of restriction is 60 days, but if extra duty and restriction are combined restriction may not exceed 45 days.]
5. (Give oral reprimand/admonition) or written reprimand/admonition.

NOTE: Suspension. You may suspend any punishment for a period not to exceed 180 days.
[e.g., If administered on 23 Jan, maximum end date would be 21 Jul 03] If you suspend any punishment, give an exact date for the suspension to terminate.

Format: (All) (The Following) punishment(s) _____

(is) (are) suspended until _____

Please do not write the punishment on the Article 15 form. The JA will type in the punishment as recorded on this worksheet.

Appeal Rights

ADC(S): You are advised of your right to appeal this Article 15 to the 4th Infantry Division (Mechanized) Commanding General within 5 calendar days.

Conclusion and Signature

ADC(S): Do you have anything you wish to add?

Accused: [Response]

ADC(S): You are dismissed to wait outside my office for further instructions.

[Date and sign in Block 6 of the DA Form 2627, check that blocks 4 and 5 have been completed.]

Ex 6
7c

b6-5

I [REDACTED] am writing a statement on the issues involving my case which I swear to be the truth and nothing but the truth. I feel there are mitigating circumstances that need to be heard by the reviewing official. Although I'm aware ~~of what~~ now that what we did was wrong at the time I had no idea it was unlawful. The reason I'm saying this is because there was an interrogator present who is trained in the art of interrogating and as the translator began striking the detainee and saw that the interrogator said nothing I thought that was normal ~~pro~~ procedure while interrogating an EPL, so we started striking the individual. The interrogator and translator told us when to strike the individual & I assumed that was the norm since we've never been present during an interrogation prior to this incident, and I'm not trained in that area. ~~Since~~ since they don't train us that in my area which is [REDACTED] the District [REDACTED] there are U.S. soldiers getting killed and it's everywhere in the ~~area~~ ~~area~~ and I thought what I was doing at the time could save ~~some~~ U.S. soldiers from getting injured or worse, killed ~~and~~ and at that time the soldiers who have been killed were my BN commander [REDACTED]

b6-4

b6-5

006962

his driver [redacted] myself and anyone else 66-5
who could have been traveling with us, and after
I found this out my emotions were so strong for
me to control seems that my life as well as those
of my fellow soldiers were being threatened.

* people who worked the Gunter Jail were 66-5
also present ([redacted]) & striking
the individual as well so I assumed this was
normal procedure at Gunter Jail.

006963

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

See Notes on Reverse Before Completing Form

Ex 6, 3
7c

NAME	GRADE	SSN	UNIT	PAY (Basic & Sea/Foreign)

1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: ^{1/}
In that you did, at or near [redacted] on or about 20 August 2003, unlawfully strike [redacted] on the body and the head with a closed fist. This is in violation of Article 128, UCMJ.

66-4

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (*matters of defense*) or why punishment should be very light (*matters of extenuation and mitigation*). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. ^{2/} If you do not want me to dispose of this report of misconduct under Article 15, you have the right to demand trial by court-martial instead. ^{3/} In deciding what you want to do you have the right to consult with legal counsel located at [redacted]. You now have 48 hours to decide what you want to do. ^{4/}

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
3 Oct 2003		
TIME		
1523		

66-2

3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (*Initial appropriate blocks, date, and sign*)
a. ☒ I demand trial by court-martial.
b. ☐ I do not demand trial by court-martial and in the Article 15 proceedings:
(1) I request the hearing be ☐ Open ☒ Closed. (2) A person to speak in my behalf ☒ Is ☐ Is not requested.
(3) Matters in defense, mitigation, and/or extenuation: ☐ Are not presented ☐ Will be presented in person ☐ Are attached.

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
10 Oct 03		

66-5

4. In a(n) ☐ Open ☒ Closed hearing ^{2/} all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: ^{3/ 4/}

Reduction to E5; Forfeiture of \$250.00 pay per month for two months; Forfeiture of \$918.00 pay per month for two months, suspended to be automatically remitted if not vacated by 8 April 2004.

5. I direct the original DA Form 2627 be filed in the ☐ Performance fiche ☒ Restricted fiche of the OMPF. ^{1/}

6. You are advised of your right to appeal to the [redacted] within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
10 Oct 03		

66-2

7. (*Initial appropriate block, date, and sign*)
a. ☐ I do not appeal b. ☐ I appeal and do not submit additional matters ^{1/ 2/} c. ☒ I appeal and submit additional matters ^{1/ 2/}

DATE	NAME AND GRADE OF SERVICE MEMBER	SIGNATURE
11 Oct 03		

66-5

8. I have considered the appeal and it is my opinion that: The proceedings were conducted in accordance with law and regulations and the punishment imposed were not unjust nor disproportionate to the offense committed.

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE
18 Oct 03		

66-2

9. After consideration of all matters presented in appeal, the appeal is:
☐ Denied ☒ Granted as follows: ^{10/}

Reduction to E5, suspended, to be automatically remitted if not vacated before 11 April 2004.

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
18 Oct 03		

66-2

10. I have seen the action taken on my appeal.

DATE	SIGNATURE
27 Oct 03	

11. ALLIED DOCUMENTS AND/OR COMMENTS ^{11/ 12/ 13/}
DA FORM 2823

Ex 6.3
7c

REPORT TO SUSPEND FAVORABLE PERSONNEL ACTIONS (FLAG)

For use of this form, see AR 600-8-2; the proponent agency is MILPERCEN.

SECTION I - ADMINISTRATIVE DATA

1. NAME (Last, First, MI)

2. SSN

3. RANK

4. ☒ On active duty ☐ Not on active duty ☐ On ADT

5. ETS/ESA/MRD

6. UNIT ASSIGNED AND ARMY MAJOR COMMAND

7. STATION (Geographical location)
Iraq

8. PSC CONTROLLING FLAGGING ACTION AND TELEPHONE NUMBER

9. THIS ACTION IS TO:

☒ Initiate a flag
(Sections II and V only)

☐ Transfer a flag
(Sections III and V only)

☐ Remove flag
(Sections IV and V only)

SECTION II - INITIATE A FLAG

10. ☒ A FLAG IS INITIATED, EFFECTIVE 02 Oct 03 FOR THE FOLLOWING REASON:

NON-TRANSFERABLE

☒ Adverse action (A)

☐ Elimination - field initiated (B)

☐ Removal from selection list - field initiated (C)

☐ Referred OER (D)

☐ Security violation (E)

☐ HQDA use only - elimination or removal from selection list (F)

TRANSFERABLE

☐ APFT failure (J)

☐ Weight control program (K)

SECTION III - TRANSFER A FLAG

11. ☐ A FLAG IS TRANSFERED FOR THE FOLLOWING REASON:

☐ Adverse action - HQDA directed reassignment (G)

☐ Adverse action - punishment phase (H)

☐ Supporting documents attached? ☐ Yes ☐ No

☐ APFT failure (J)

☐ Weight control program (K)

SECTION IV - REMOVE A FLAG

12. ☐ A FLAG IS REMOVED, EFFECTIVE _____ FOR THE FOLLOWING REASON:

☐ Case closed favorably (C)

☐ Disciplinary action taken (D)

☐ Soldier transferred to a different Army component or discharged while case in process (destroy case file) (E)

☐ Other final action (E)

SECTION V - AUTHENTICATION

DISTRIBUTION

1 - Unit Commander

1 - F&AO

1 - PSC

1 - Commander, gaining unit (transfer flag only)

NAME, RANK, TITLE, AND ORGANIZATION

SIGNATURE

DATE

RECORD OF PROCEEDINGS UNDER ARTICLE 15, UCMJ

For use of this form, see AR 27-10; the proponent agency is TJAG.

Ex 6, 3

See Notes on Reverse Before Completing Form

NAME [REDACTED]	GRADE [REDACTED]	SSN [REDACTED]	UNIT [REDACTED]	PAY (Basic & Sea/Foreign) 66-5
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1. I am considering whether you should be punished under Article 15, UCMJ, for the following misconduct: 1/
In that you, did, at or near [REDACTED] on or about 20 August 2003, unlawfully strike [REDACTED] on the body and head with a closed fist. This is in violation of Article 128, UCMJ.

2. You are not required to make any statements, but if you do, they may be used against you in this proceeding or at a trial by court-martial. You have several rights under this Article 15 proceeding. First I want you to understand I have not yet made a decision whether or not you will be punished. I will not impose any punishment unless I am convinced beyond a reasonable doubt that you committed the offense(s). You may ordinarily have an open hearing before me. You may request a person to speak on your behalf. You may present witnesses or other evidence to show why you shouldn't be punished at all (matters of defense) or why punishment should be very light (matters of extenuation and mitigation). I will consider everything you present before deciding whether I will impose punishment or the type and amount of punishment I will impose. 2/ If you do not want me to dispose of this report of misconduct with Article 15, you have the right to demand trial by court-martial instead. 3/ In deciding what you want to do you have the right to consult with legal counsel located at [REDACTED]. You now have 48 hours to decide what you want to do. 4/

DATE 19 OCT 03 TIME 1430	NAME, GRADE, AND ORGANIZATION OF [REDACTED]	SIGNATURE [REDACTED]
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3. Having been afforded the opportunity to consult with counsel, my decisions are as follow: (Initial appropriate blocks, date, and sign)

- a. ☐ I demand trial by court-martial.
b. ☐ I do not demand trial by court-martial and in the Article 15 proceedings:
(1) I request the hearing be ☐ Open ☐ Closed. (2) A person to speak in my behalf ☐ Is ☐ Is not requested.
(3) Matters in defense, mitigation, and/or extenuation: ☐ Are not presented ☐ Will be presented in person ☐ Are attached.

DATE 20 OCT 03	NAME AND GRADE OF SERVICE MEMBER [REDACTED]	SIGNATURE [REDACTED]
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4. In a(n) ☐ Open ☐ Closed hearing 5/ all matters presented in defense, mitigation, and/or extenuation, having been considered, the following punishment is imposed: 5/ 6/ Forfeiture of \$150 pay per month for two months; Forfeiture of \$350 pay per month for two months, suspended, to be automatically remitted if not vacated before 30 Apr 04; Extra Duty for 30 days, suspended, to be automatically remitted if not vacated before 30 Apr 04.

5. I direct the original DA Form 2627 be filed in the ☐ Performance fiche ☐ Restricted fiche of the OMPF. 2/
6. You are advised of your right to appeal to the [REDACTED] within 5 calendar days. An appeal made after that time may be rejected as untimely. Punishment is effective immediately unless otherwise stated above.

DATE 20 OCT 03	NAME, GRADE, AND ORGANIZATION OF COMMANDER [REDACTED]	SIGNATURE [REDACTED]
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7. (Initial appropriate block, date, and sign)

- a. ☐ I do not appeal b. ☐ I appeal and do not submit additional matters 8/ 9/ c. ☐ I appeal and submit additional matters 8/ 9/

DATE 21 OCT 03	NAME AND GRADE OF SERVICE MEMBER [REDACTED]	SIGNATURE [REDACTED]
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8. I have considered the appeal and it is my opinion that:

DATE	NAME AND GRADE OF JUDGE ADVOCATE	SIGNATURE
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After consideration of all matters presented in appeal, the appeal is:
☐ Denied ☐ Granted as follows: 10/

DATE	NAME, GRADE, AND ORGANIZATION OF COMMANDER	SIGNATURE
------	--	-----------

1. I have seen the action taken on my appeal.	DATE	SIGNATURE OF SERVICE MEMBER
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ALLIED DOCUMENTS AND/OR COMMENTS 11/ 12/ 13/
CID REPORT
DA FORM 2823

006966

FORM 2627, AUG 84

EDITION OF NOV 82 IS OBSOLETE

ORIGINAL
USAPPC V1.00