

Nonjudicial Punishment

Stabilization

Communication

Investigation

Disposition

Adjudication

Resolution

References

Article 15, UCMJ; Part V, MCM; JAGINST 5800.7F (“JAGMAN”) sections 0106 - 0119

Introduction

Commanders may impose nonjudicial punishment (NJP) upon persons accused of minor offenses after a streamlined legal proceeding—called “Captain’s Mast” (Navy) or “Office Hours” (Marine Corps). NJP is a disciplinary measure less serious than trial by court-martial that provides commanders with an essential and prompt means of (1) maintaining good order and discipline and (2) promoting positive behavior changes in service members without the stigma of court-martial.

The maximum punishment at NJP is typically significantly lower than at court-martial, but service members also have fewer procedural rights than at court-martial. Additionally, service members may demand trial by court-martial in lieu of NJP, unless they are “attached to” or “embarked on” a vessel.

Definitions & Purpose

Definition	Punishment personally imposed by a commander for <u>minor offenses</u> after a simplified legal procedure. This punishment is more serious than administrative corrective measures but less serious than trial by court-martial.
Purpose	A means to promptly maintain good order and discipline and promote positive behavior changes in the command without the stigma of a court-martial conviction.
Minor Offense	An NJP authority has discretion to determine if an offense is “minor.” Generally, an offense is not minor if eligible for a dishonorable discharge or more than 1 year of confinement.

Authority to Impose

Authority	Commander	Commissioned or warrant officer exercising primary command authority over an officially-designated command may impose NJP over <u>any military personnel of the command</u> .
	Officer-in-Charge	Commissioned officer officially designated as an OIC of a unit may impose NJP upon <u>enlisted persons</u> assigned to that unit.
	Principal Assistant	Some flag/general officers in command may delegate authority to a principal assistant.
Units Attached to Ships	The CO/OIC of a unit attached to a ship will refrain from imposing NJP while embarked on a ship, and will refer all NJP matters to the ship CO for disposition. The ship CO may authorize embarked unit CO/OICs to exercise NJP authority over their personnel.	
Withholding Authority	Superior commanders may limit or withhold authority to impose NJP.	
Timing	The accused must be a member of the NJP authority’s command or unit <u>at the time punishment is imposed</u> .	

Prohibited Actions

Directing Punishment	Superiors are prohibited from directing subordinates to impose NJP or the kinds/amounts of punishment. Each NJP authority must <u>independently</u> determine whether NJP, and any punishment, is appropriate.	
Double Punishment	Cannot punish an offense that has already been subject to NJP.	
Increasing Punishment	Cannot increase the nature/amount of punishment after it has been imposed.	
Piecemeal Punishment	Cannot punish known offenses in a piecemeal fashion. Must bring all known offenses to the same proceeding.	
Delayed Punishment	Cannot punish an offense that occurred more than 2 years before the date punishment is to be imposed.	
Punishment After Civilian Trial	Federal Trial	State/Foreign Trial
	NJP Prohibited	Need GCMCA approval to NJP (must be exceptional case)

NONJUDICIAL PUNISHMENT

Right to Demand Court-Martial	
Generally	Generally, an accused can refuse nonjudicial punishment (NJP) and “demand a trial by court-martial” (i.e., “refuse NJP”).
Vessel Exception	Persons “attached to” or “embarked in” a vessel are <u>NOT</u> allowed to “demand trial by court-martial” (i.e., refuse NJP).
Effect of Demand for Court-Martial	Demanding court-martial prohibits NJP. It does <u>NOT</u> require a commander to convene a court-martial. Contact a judge advocate if faced with a demand for court-martial.

Other Rights at NJP	
Counsel	There is <u>no right to counsel</u> at NJP. NJP authorities are <u>encouraged</u> to allow accused to consult counsel before imposing NJP. Failing to do so may limit use of evidence of the NJP at a later court-martial.
Silence & Privileges	The accused maintains the right to (1) <u>remain silent</u> throughout NJP, and (2) prevent disclosure of any privileged communications with a lawyer, clergy, spouse, psychotherapist, and/or victim advocate.
Examine Evidence	An accused has the <u>right to examine documents</u> on which the NJP authority intends to rely in making a decision as to punishment.
Personal Appearance	Accused has right to personal appearance before the NJP authority. Right can be waived—but NJP authority can still require appearance.
Spokesperson	Accused has right to have spokesperson appear/speak on their behalf at NJP. This does not include right to travel/appearance expenses.
Present Evidence	Accused has right to present matters in defense orally, in writing, or both. This includes the right to have “reasonably available” witnesses preset at NJP.

Deliberation & Standard of Proof	
Consider All Evidence	Consider <u>all relevant matters presented</u> at the hearing before deciding to impose any punishment. This includes any matter presented by the accused.
Standard of Proof	NJP authority must determine that a <u>preponderance of the evidence</u> shows the allegation to be true (i.e., more likely than not is true).

Appeals	
Notice	Use JAGMAN A-1-g to advise accused of the right to appeal NJP.
Form	All NJP appeals must be in writing.
Timeline	Accused has 5 working days from the date punishment imposed to submit an appeal. Extensions may be granted for good cause.

Publishing Results of NJP	
Optional Publication	Publishing results may deter others from committing similar offenses. Commanders may announce results of NJP to their command no earlier than 5 working days and no later than 30 calendar days after the imposition of NJP via: (1) a Plan of the Day; (2) bulletin boards; or (3) daily formation.
Name of Accused	Commands may only publish the <u>name</u> of an offender in writing <i>if</i> that writing will be accessible to active duty military personnel only.
Public/Media Release	NJP results are normally not releasable to the media/general public. Consult a judge advocate if you receive a public/media request.

Modifying NJP Sentence	
Authority	Only the officer who imposed NJP or their successor in command may modify an NJP sentence.
Suspension	Pausing any part/amount of an unexecuted sentence for up to 6 months. Punishment may be reinstated if the accused violates the UCMJ during the period of suspension; otherwise, any suspended punishment is cancelled at the conclusion of the suspension period.
Mitigation	Reducing the quantity or quality of a punishment. Appropriate when accused’s later good conduct merits a reduction in punishment.
Remission	Cancelling any portion of an unexecuted punishment. Appropriate when accused’s later good conduct merits a reduction in punishment.
Set Aside	Any part or amount of the punishment is set aside and any property, privileges, or rights affected by the punishment are restored. Exercise only when NJP resulted in a clear injustice.

Documenting & Notifying Superiors of NJP	
Documenting NJP	Create record of NJP in <u>ALL</u> cases in which there is a finding of misconduct <u>and</u> some punishment is awarded. Use NAVPERs 1626/7 for Navy offenders and NAVMC 10132 for Marine offenders.
Notice of Enlisted NJP	Navy E-6 to E-9 – send final report to PERS-832. See MILPERSMAN 1616-040 for requirements.
Notice of Officer NJP	Navy Officer – send final report to PERS-834 via First Flag. See MILPERSMAN 1611-010 for requirements. Marine Officer – report misconduct to CMC (JPL). See JAGMAN A-1-I for sample letter.

“No Punishment” at NJP	
Awarding No Punishment	Awarding “no punishment” has the same effect as if the hearing were never held. No record may be created. The offenses may be the subject of a later NJP.

NONJUDICIAL PUNISHMENT PROCEDURE

Procedural Step		Attached to or Embarked on Vessel	NOT Attached to or Embarked on Vessel		
1	Notify Accused	Use JAGMAN A-1-b to inform accused of potential NJP & advise of rights.	Use JAGMAN A-1-c or A-1-d to inform accused of potential NJP & advise of rights.		
2	Election of Rights & Hearing Preparation	Consulting Counsel	No Right to Consult with Counsel. <i>Authorities are encouraged to provide an opportunity to consult with counsel to intelligently elect rights. Telephone or VTC communication is acceptable. Failure to allow consultation with counsel may limit later legal use of the NJP at court-martial.</i>		
		Election: Demand Trial by Court-Martial	N/A		
		Election: Personal Appearance	Accused is entitled to personally appear before the NJP authority, but may choose to waive a personal appearance. 1. Request Personal Appearance → conduct in-person hearing 2. Request to Waive Personal Appearance → approve or disapprove waiver <ul style="list-style-type: none"> Approve → provide opportunity to submit written matters Disapprove → conduct in-person hearing 		
		Spokesperson	Accused has right to have a spokesperson present and speak on their behalf at an in-person hearing. <i>Note: The spokesperson is not entitled to travel or similar expenses, the proceedings need not be delayed to permit the presence of the spokesperson, and the spokesperson may not question witnesses unless you allow them to do so at your discretion.</i>		
		Examine Documents	Allow the accused to examine documents or physical objects you intend to rely on to determine whether to impose NJP. <i>Note: Accused does not have the right to copies of documents.</i>		
3	Conduct In-Person Hearing (1)	Script	Use JAGMAN A-1-f (" Nonjudicial Punishment Guide ") to conduct an in-person hearing.		
		Command Attendance	Representative members of the command are authorized to attend Captain's Mast / Office Hours to demonstrate the fairness & integrity of the process. The Accused may request to confer privately with the NJP authority on matters of a personal nature.		
		Present Evidence & Witnesses	The accused may: (1) Present matters in defense, extenuation, & mitigation orally, or in writing, or both; (2) Have relevant & "reasonably available" witnesses present <i>Note: Witnesses are NOT "reasonably available" if their attendance will: (a) cost the United States money; (b) unduly delay NJP; or (c) interfere with military duties from which they cannot be excused.</i>		
		Deliberate	Consider <u>all relevant evidence</u> presented in determining whether the accused committed any alleged offenses.		
		Decide & Announce Decision	Determine whether, based on the <u>preponderance of the evidence</u> , the accused committed any offenses alleged: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border-top: 1px solid black; border-bottom: 1px solid black;"> Accused did NOT commit offenses </td> <td style="width: 50%; border-top: 1px solid black; border-bottom: 1px solid black;"> Accused committed one or more offenses </td> </tr> <tr> <td> <ul style="list-style-type: none"> Inform accused of decision Terminate the proceedings </td> <td> <ul style="list-style-type: none"> Inform accused of decision Inform the accused of punishment imposed (see Maximum Punishment chart on opposite-side) Use JAGMAN A-1-g to advise of right to appeal </td> </tr> </table>	Accused did NOT commit offenses	Accused committed one or more offenses
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4	Appeal	The accused has the right to appeal a punishment if the accused believes it to be <u>unjust</u> or <u>disproportionate</u> . Written appeal must be filed with the next superior authority within 5 working days of NJP. Extensions may be granted for good cause.			
5	Publishing Results (Optional)	Commanders may publish results of NJP in interest of good order & discipline. See Publishing Results of NJP Table.			
6	Document and Notify	Document <u>all</u> nonjudicial punishment imposed on NAVPERS 1626/7 or NAVMC 10132 . Make required notifications.			

(1) If Accused waives personal appearance, the NJP authority may elect to conduct a paper hearing. The NJP authority must honor any rights elections made by the accused, including the right to submit written matters for consideration before the NJP authority decides whether the accused committed any offense(s) and imposes any punishment.

TYPES OF PUNISHMENT

Restriction	A moral rather than a physical restraint, restriction is the least severe form of deprivation of liberty. The person may be required to perform any military duty.	Correctional Custody	Physical restraint of a person during duty or nonduty hours, or both. May be served in a confinement facility.
Extra Duties	Performance of any military duties in addition to those normally assigned. Noncommissioned & petty officers should not be assigned duties which demean their grades or positions.	Confinement	Only applies to persons “attached to” or “embarked on” a vessel. Person confined may communicate only with authorized personnel.
Forfeiture	Permanent loss of entitlement to basic pay. Does not include allowances or special/incentive pays.	Arrest in Quarters	Officer is required to remain within that officer’s quarters during the period of punishment unless limits are otherwise extended.
Reduction in Grade	One of the most severe forms of NJP. Use with discretion.	Admonition / Reprimand	Censure intended to express adverse reflection upon or criticism of a person’s conduct. Both become part of member’s record and have an appellate process. Reprimand is a more severe form of censure than admonition. See JAGMAN A-1-h for sample written admonition / reprimand.

MAXIMUM PUNISHMENT

Imposed by	Imposed Upon	Restriction (2)	Extra Duties (2) (3)	Forfeiture	Reduction in Grade (4)	Correctional Custody (5) (6)	Confinement (6) (7) (8)	Arrest in Quarters (9)	Admonition / Reprimand
Flag / General Officer	Officer	60 days	No	½ month pay for 2 months	No	No	No	30 days	Written
	E-4 to E-9	60 days	45 days	½ month pay for 2 months	1 Grade	No	No	No	Oral / Written
	E-1 to E-3	60 days	45 days	½ month pay for 2 months	1 Grade	30 Days	3 days	No	Oral / Written
O-4 to O-6	Officer	30 days	No	No	No	No	No	No	Written
	E-4 to E-9	60 days	45 days	½ month pay for 2 months	1 Grade	No	No	No	Oral / Written
	E-1 to E-3	60 days	45 days	½ month pay for 2 months	1 Grade	30 days	3 days	No	Oral / Written
O-3/below & OICs (1)	Officer	15 days	No	No	No	No	No	No	Written
	E-4 to E-9	14 days	14 days	7 days	1 Grade	No	No	No	Oral / Written
	E-1 to E-3	14 days	14 days	7 days	1 Grade	7 days	3 days	No	Oral / Written

- (1) OICs may only impose NJP on enlisted persons.
- (2) May be combined to run concurrently, but the combination may not exceed the maximum imposable for extra duties.
- (3) Should not: (a) exceed 2 hours per day; or (b) be performed on the member’s Sabbath.
- (4) Navy CPOs (E-7 to E-9) and Marine Corps E-6 to E-9 may not be reduced at NJP.

- (5) May not be combined with restriction or extra duties.
- (6) May impose on E-4 if punishment includes unsuspended reduction to E-3.
- (7) May not be combined with correctional custody, extra duties, or restriction.
- (8) May only be imposed on persons “attached to” or “embarked on” a vessel.
- (9) May not be combined with restriction.