

USAREC Regulation 190-3

Military Police

Procedures in Drunk Driving Cases

**Headquarters
United States Army Recruiting Command
1307 3rd Avenue
Fort Knox, KY 40121-2725
30 September 2011**

UNCLASSIFIED

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Procedures in Drunk Driving Cases

For the Commander:

HEATHER L. GARRETT
Colonel, GS
Chief of Staff

Official:

JOSEPH P. BONANO
Assistant Chief of Staff, G-6

History. This UPDATE revises USAREC Reg 190-3, which is effective 30 September 2011. Because of the extensive changes made, no attempt has been made to highlight the changes.

Summary. This regulation prescribes policies and procedures for drunk driving

incidents involving United States Army Recruiting Command personnel.

Applicability. This regulation is applicable to all military personnel or civilian recruiters assigned or attached to the United States Army Recruiting Command.

Proponent and exception authority. The proponent of this regulation is the Staff Judge Advocate. The proponent has the authority to approve exceptions to this regulation that are consistent with controlling law and regulation.

Army management control process. This regulation contains management control provisions in accordance with AR 11-2 but does not identify key management controls that must be evaluated.

Supplementation. Supplementation of this regulation is prohibited.

Suggested improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQ USAREC, ATTN: RCSJA, 1307 3rd Avenue, Fort Knox, KY 40121-2726.

Distribution. Distribution of this regulation has been made in accordance with USAREC Pam 25-30, distribution A. This regulation is printed in the Recruiting Station Administration UPDATE. This regulation is also available electronically and can be found on the USAREC Enterprise Portal.

*This regulation supersedes USAREC Regulation 190-3, 30 September 2006.

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Glossary

1. Purpose

This regulation sets out procedures and information in drunk driving cases for:

- a. Suspension and reinstatement of driving privileges for Government vehicles.
- b. Written general officer (GO) reprimands.
- c. Nonjudicial punishment (Article 15) for drunk drivers.

2. References

For required and related publications and prescribed and referenced forms see appendix A.

3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

4. Responsibilities

- a. Commanders will ensure that members of their command are reminded of the adverse effect drunk driving incidents will have on their careers.
- b. Commanders will review the service records of Soldiers involved in drunk driving incidents to determine if administrative reduction, bar to reenlistment, administrative separation, or other adverse action is warranted.
- c. All United States Army Recruiting Command (USAREC) personnel are required to report immediately to their recruiting company (Rctg Co) commander or next more senior commander, if appropriate, all known or suspected cases of drunk driving involving all USAREC personnel, both military and civilian and contract recruiters. This requirement also applies to contract employees who use a Government-owned vehicle for the performance of their duties.
- d. Recruiting battalion (Rctg Bn) commanders are required to include training on the provisions of this regulation during the annual training conference.

5. Policy

- a. Drunk driving is serious misconduct, service discrediting, and inimical to the public image of this command. Commanders will ensure that appropriate actions are taken quickly but fairly.
- b. Upon receiving information of any drunk driving incident or driving under the influence of drugs by one of their Soldiers, commanders must forward evidence of such incidents directly to Headquarters, United States Army Recruiting Command (HQ USAREC), Staff Judge Advocate (SJA), for issuance of a written reprimand in accordance with AR 190-5 and paragraphs 6b(1) through (6) of this regulation. Suspension of Government driving privileges is required for all incidents of drunk driving as provided in paragraph 6a.
- c. Drunk driving or driving under the influence of drugs is considered a serious incident and must be reported through the chain of command to HQ USAREC, SJA, in accordance with USAREC Reg 190-4 utilizing USAREC Form 958 (Incident Information Report).

6. Procedures

- a. Suspension of Government driving privileges for Soldiers and civilian recruiters.
 - (1) The Rctg Co commander will suspend Government driving privileges immediately when any one of the following occurs:
 - (a) the individual is charged with drunk driving or driving under the influence of drugs;
 - (b) the individual has a blood alcohol content (BAC) of at least 0.05 percent or in violation of state law, whichever is lower, if the sample was taken because the individual was driving, operating, or in actual physical control of a motor vehicle;
 - (c) the individual refuses to take a lawfully requested chemical test; or
 - (d) other credible evidence of drunk driving, such as physical observation or field sobriety tests by law enforcement or medical personnel, supports a determination of drunk driving regardless of the disposition of any charge by local or military authorities.
 - (2) Government driving privileges will be suspended whether or not the civilian driver's license was suspended.
 - (3) The suspension will remain in effect until:
 - (a) final disposition (i.e., findings and sentence) of any charge related to drunk driving;
 - (b) return of any state driving privileges that were suspended or revoked (written evidence should be provided by the Soldier); and
 - (c) the Rctg Bn commander, after such disposition has occurred, makes a written determination that the individual's driving presents no discernible risk stemming from alcohol or drug abuse. Normally, the Rctg Bn commander's recommendation will be based on a favorable Army Substance Abuse Program (ASAP) referral.

(4) Privately-owned vehicles may not be used to transport applicants, prospects, or contacts during performance of official duties while Government driving privileges are suspended.

(5) In the event a contract employee is charged with a drunk driving or driving under the influence, the contract provisions between the Government and the contractor will be applicable. Rctg Bns will provide notice to the contracting officer's representative within 24 hours of discovering the incident.

b. Drunk driving written reprimands for Soldiers.

(1) The Soldier will be flagged immediately in accordance with AR 600-8-2. The flag will remain in effect until a written reprimand is issued and a filing determination is made, or a determination is made by the appropriate authority that a written reprimand will not be given.

(2) The following procedures are established for processing drunk driving written reprimands:

(a) Within 14 calendar days of learning about a drunk driving incident, the Soldier's Rctg Bn commander will gather the best evidence readily available and forward that information directly to HQ USAREC, ATTN: RCSJA, 1307 3rd Avenue, Fort Knox, KY 40121-2726. Calling the police officer who made the arrest is the best source for the police report and the results of any tests administered. The court clerk is the best source to retrieve all court documents. Send a separate copy of this evidence to the brigade judge advocate (BJA).

(b) The best evidence readily available normally will include:

1. Military or civilian police reports including all statements and other documents.
2. Results of field sobriety, breathalyzer, and blood alcohol or other chemical tests.
3. Reports of refusal to complete or to consent to chemical testing.
4. Records of civil court (or federal magistrate) convictions with the specific charge of which the Soldier was convicted.

5. All prior drunk driving citations (to include traffic tickets resulting from the drunk driving) with court dispositions.

(c) Forward this information even if civilian court (or federal magistrate) proceedings are pending. If there are problems obtaining any of the required evidence, submit what is available and explain the difficulties encountered for the missing evidence to HQ USAREC, ATTN: RCSJA.

(d) If the incident occurs on a military installation, the Rctg Bn or immediate commander will state whether the installation is processing a written GO reprimand for the incident.

(e) The Rctg Bn commander will include a statement of alcohol rehabilitation status. Military personnel who are apprehended for drunk driving (on or off duty) shall be referred to the local ASAP in accordance with AR 600-85. If the individual is not referred to ASAP, the commander will provide a written explanation.

(f) The Rctg Bn commander will explain what disciplinary and other actions have been taken or are contemplated. A bar to reenlistment normally should be initiated if the criteria for a written reprimand is warranted. The commander's explanation is particularly important in the case of repeat offenders.

(g) In accordance with this regulation, USAREC Form 943 (Drunk Driving Incident Information) (see fig 1) will be used for providing the required information.

(h) The SJA will prepare the written reprimand. When signed by a GO, the written reprimand will be sent directly to the Rctg Bn commander to obtain the Soldier's acknowledgment or rebuttal. The SJA will provide the recruiting brigade commander with a copy. (For cases involving the headquarters staff, consult the SJA Office.)

(3) The written acknowledgment or rebuttal will be returned by the Soldier directly to their immediate Rctg Bn commander. That commander will provide their recommendation on filing of the written reprimand along with the following information:

- (a) An update on the status of rehabilitation.
- (b) Any related disciplinary and adverse administrative action regarding the Soldier.
- (c) A statement of the Soldier's duty performance while assigned to USAREC.
- (4) Intermediate commanders will provide recommendations on the filing of the written reprimand.
- (5) The BJA will monitor the processing of the file for timeliness and review the file to ensure that it is complete.
- (6) Upon receipt at this headquarters, the appropriate GO will make the decision on filing the written reprimand in accordance with AR 600-37.

c. Nonjudicial punishment.

(1) The authority to impose nonjudicial punishment under the provisions of Article 15, Uniform Code of Military Justice, for drunk driving is withdrawn from Rctg Co commanders in accordance with AR 27-10, paragraph 3-7d. Any nonjudicial punishment in such cases will be imposed by Rctg Bn or higher commanders.

(2) The BJA or SJA must be consulted prior to imposition of nonjudicial punishment for drunk driving or related misconduct. Because civilian courts (or federal magistrates) usually adjudicate drunk or impaired driving offenses in the continental United States, nonjudicial punishment usually should only be used when other misconduct is involved, such as driving a Government vehicle within 8 hours of drinking alcoholic beverages.

d. Questions on any aspect of this regulation should be addressed to the SJA at DSN 536-0547 or commercial (502) 626-0547.

DRUNK DRIVING INCIDENT INFORMATION (For use of this form see USAREC Reg 190-3)	
INSTRUCTIONS: Fill in the information requested below and attach the necessary documentation. Then forward this document directly to Office of the Staff Judge Advocate, HQ USAREC, Fort Knox, KY 40121-2725. Use continuation sheets if needed.	
1.	PERSONNEL INVOLVED: a. Grade and Name: _____ b. Duty Position and Service Component: _____ c. Organization (Rctg Co and Rctg Bn): _____
2.	CIRCUMSTANCES: a. Date and place (to include city and state): _____ b. How incident arose (e.g., stopped for speeding, had accident, etc.): _____ _____ c. Law enforcement agency involved: _____ d. Injuries and/or property damage: _____ _____ e. Privately-owned vehicle (POV) or government-owned vehicle (GOV): _____ f. Blood alcohol content: _____ g. Type of test: <input type="checkbox"/> Blood <input type="checkbox"/> Breath <input type="checkbox"/> Urine
3.	CIVILIAN ACTIONS: a. Court date and/or results: _____ b. Punishment by civilian authorities: _____ c. Rehabilitation program, if any: _____ d. License suspended, length of suspension: _____
4.	MILITARY ACTIONS (Flag, government driving privileges suspended, Article 15, bar to reenlistment, etc.): _____
5.	ALL PREVIOUS ALCOHOL RELATED INCIDENTS (dates and circumstances): _____
6.	Rctg Bn commander intentions for either recommending separation or retention on active duty, and rationale for the recommendation are attached. Yes <input type="checkbox"/> No <input type="checkbox"/>
7.	Statement of soldier's duty performance while assigned to USAREC is attached. Yes <input type="checkbox"/> No <input type="checkbox"/>
8.	Military alcohol and/or drug rehabilitation screening done. Yes <input type="checkbox"/> No <input type="checkbox"/> Status: _____
9.	Supporting documents. Attach copies of civilian or military police reports, court records, blood and/or breathalyzer test, and any other documents which provide information regarding the incidents. _____ <div style="text-align: right; margin-top: 20px;"> _____ <i>(Rctg Bn S1 or Commander)</i> </div>

Figure 1. USAREC Form 943

Appendix A References

Section I Required Publications

AR 27-10

Military Justice. (Cited in para 6c(1).)

AR 190-5

Motor Vehicle Traffic Supervision. (Cited in para 5b.)

AR 600-8-2

Suspension of Favorable Personnel Actions (Flags). (Cited in para 6b(1).)

AR 600-37

Unfavorable Information. (Cited in para 6b(6).)

AR 600-85

Army Substance Abuse Program (ASAP). (Cited in para 6b(2)(e).)

UCMJ

Uniform Code of Military Justice. (Cited in para 6c(1).)

USAREC Reg 190-4

Serious Incident Report. (Cited in para 5c.)

Section II Related Publications

AR 385-55

Prevention of Motor Vehicle Accidents.

AR 600-8-24

Officer Transfers and Discharges.

AR 635-200

Active Duty Enlisted Administrative Separations.

USAREC Reg 56-1

Management of Government-Owned Vehicles.

USAREC Reg 380-4

Security Program.

Section III Prescribed Form

USAREC Form 943

Drunk Driving Incident Information. (Prescribed in para 6b(2)(g).)

Section IV Referenced Form

USAREC Form 958

Incident Information Report.

Glossary

Section I Abbreviations

ASAP

Army Substance Abuse Program

BAC

blood alcohol content

BJA

brigade judge advocate

GO

general officer

HQUSAREC

Headquarters, United States Army Recruiting Command

Rctg Bn

recruiting battalion

Rctg Co

recruiting company

SJA

Staff Judge Advocate

USAREC

United States Army Recruiting Command

Section II Terms

drunk driving

Driving, operating, or other actual physical control of a motor vehicle while intoxicated or impaired due to the use of alcohol or drugs in violation of state or federal law. In cases where evidence of BAC is available, intoxicated driving refers to a BAC of 0.08 percent or higher, or is in violation of state law. Impaired driving refers to a BAC of at least 0.05 percent, but less than 0.08 percent, or in violation of state law.

government vehicles

This term includes motor vehicles owned, rented, or leased by any department of the Federal Government.

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