

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 struck out “, the Canal Zone,” after “Puerto Rico”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
326	32:91.	June 3, 1916, ch. 134, § 102, 39 Stat. 208.

The words “not in Federal service” are substituted for the words “Except in organizations in the service of the United States”. The words “have the jurisdiction and powers” are substituted for the words “and have cognizance of the same subjects, and possess like powers”. The words “of three kinds, namely”, “provided for by the laws and regulations governing”, “proceedings of courts-martial of the National Guard”, and “modes of” are omitted as surplusage.

§ 327. General courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory or Puerto Rico or by the commanding general of the National Guard of the District of Columbia.

(b) A general court-martial may sentence to—

- (1) a fine of not more than \$200;
- (2) forfeiture of pay and allowances;
- (3) a reprimand;
- (4) dismissal or dishonorable discharge;
- (5) reduction of a noncommissioned officer to the ranks; or
- (6) any combination of these punishments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 100-456, div. A, title XII, § 1234(b)(4), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, § 103, 39 Stat. 208.
327(b)	32:92 (less 1st 46 words).	

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”.

In subsection (b), the words “A general court-martial may sentence to—” are substituted for the words “and such courts shall have the power to impose * * * to sentence”. The words “any combination of these punishments” are substituted for the words “or any two or more of such punishments may be combined in the sentences imposed by such courts”.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 substituted “Territory or Puerto Rico” for “Territory, Puerto Rico, or the Canal Zone,”.

§ 328. Special courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority.

(b) A special court-martial may not try a commissioned officer.

(c) A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than \$100 for a single offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
328(a)	32:93 (less last sentence).	June 3, 1916, ch. 134, § 104, 39 Stat. 208.
328(b)	32:93 (1st 32 words of last sentence).	
328(c)	32:93 (last sentence, less 1st 32 words).	

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”. The words “where troops are on duty” are inserted for clarity. The words “for his command” are omitted, since they cast doubt on the right of a court-martial to try others than members of the command of the appointing authority. The words “air base, auxiliary air base”, “wing, group”, and “detached squadron” are inserted to clarify the applicability of the revised section to Air Force organizations. The words “convene” and “convened” are substituted for the words “appoint” and “appointed” to conform to 32:92 and similar provisions of section 823 of title 10 (article 23 of the Uniform Code of Military Justice). The words “when by the latter deemed advisable” are omitted as surplusage.

In subsection (b), the positive authority of a special court-martial to try any person subject to military law is omitted as covered by section 326 of this title.

In subsection (c), the words “for a single offense” are inserted for clarity.

§ 329. Summary courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment, may convene a summary court-martial consisting of one commissioned officer. The proceedings shall be informal.

(b) A summary court-martial may sentence to a fine of not more than \$25 for a single offense, to forfeiture of pay and allowances, and to reduction of a noncommissioned officer to the ranks.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
329(a)	32:94 (words before 1st semi-colon of 1st sentence, and 1st 8 words of last sentence).	June 3, 1916, ch. 134, § 105, 39 Stat. 208.
329(b)	32:94 (less words before 1st semicolon of 1st sentence, and less 1st 8 words of last sentence).	

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”. The words “where troops are on duty” and “commissioned” are inserted for clarity. The words “air base, auxiliary air base”, “wing, group”, and “detached squadron” are inserted to clarify the applicability of the revised section to Air Force organizations. The word “convene” is substituted for the word “appoint” to conform to 32:92 and similar provisions of section 824 of title 10 (article 24 of the Uniform Code of Military Justice). The word “corps”, referring to those corps covered by 32:192 and 193, is omitted as covered by the words “other detachment”. The words “who shall have power to administer oaths and to try the enlisted men of such place or command for breaches of discipline and violations of laws governing such organizations” are omitted as covered by section 326 of this title.

In subsection (b), the words “and the minutes thereof shall be the same as prescribed for summary courts of the Army of the United States” are omitted as covered by section 326 of this title.

§ 330. Confinement instead of fine

In the National Guard not in Federal service, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each dollar of the authorized fine.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
330	32:95.	June 3, 1916, ch. 134, § 106, 39 Stat. 209.

The words “Federal service” are substituted for the words “service of the United States”. The words “including summary courts” and “authorized to be imposed” are omitted as surplusage. The words “may sentence * * * to confinement not more than” are substituted for the words “shall have power to sentence to confinement * * * *Provided*, That such sentences of confinement shall not exceed”.

§ 331. Dismissal or dishonorable discharge

In the National Guard not in Federal service, no sentence of dismissal or dishonorable discharge may be executed until it is approved by the Governor of the State or territory or Puerto Rico, whichever is concerned, or, in the case of the National Guard of the District of Columbia, by its commanding general.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100-456, div. A, title XII, § 1234(b)(3), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
331	32:96.	June 3, 1916, ch. 134, § 107, 39 Stat. 209.

The words “Federal service” are substituted for the words “service of the United States”. The words “from

the service” and “imposed by a * * * court-martial” are omitted as surplusage.

AMENDMENTS

1988—Pub. L. 100-456 substituted “the Governor of the State or territory or Puerto Rico,” for “the governor of the State or Territory, Puerto Rico, or the Canal Zone,”.

§ 332. Compelling attendance of accused and witnesses

In the National Guard not in Federal service, the president of a court-martial or a summary court officer may—

(1) issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(2) issue subpoenas duces tecum and other subpoenas;

(3) enforce by attachment the attendance of witnesses and the production of books and papers; and

(4) sentence for refusal to be sworn or to answer, as provided in actions before civil courts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
332	32:97 (1st par.).	June 3, 1916, ch. 134, § 108, (1st par.), 39 Stat. 209.

The words “Federal service” are substituted for the words “service of the United States”. The word “may” is substituted for the words “shall have power”. The words “for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order” are substituted for the words “to arrest accused persons and to bring them before the court for trial whenever such persons shall have disobeyed an order in writing * * * a copy of the charge or charges having been delivered to the accused with such order”.

§ 333. Execution of process and sentence

In the National Guard not in Federal service, the processes and sentences of its courts-martial shall be executed by the civil officers prescribed by the laws of the States concerned. In a State where no provision is made for executing those processes and sentences, and in the Territories, Puerto Rico, and the District of Columbia, the process or sentence shall be executed by a United States marshal or deputy marshal, who shall make a return to the military officer issuing the process or the court imposing the sentence.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100-456, div. A, title XII, § 1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
333	32:94 (less 1st par.).	June 3, 1916, ch. 134, § 108 (less 1st par.), 39 Stat. 209.

The words “In the National Guard not in Federal service * * * its courts-martial” are substituted for the