

INVOLUNTARY RECALL TO ACTIVE DUTY

1. References:

a. AR 27-10, paragraph 20-3.a.(1-3): "Any RC Soldiers, including those in retired status, who are not serving on active duty are subject to UCMJ jurisdiction for offenses allegedly committed while serving in a Title 10 duty status, and involuntary orders may be issued for the purpose of: ART 32s, Courts-Martial, Article 15 proceedings."

b. AR 135-210

2. **Background:** There may be times when a Reserve Soldier allegedly commits an offense while on Title 10 orders, but then left Title 10 status before any action was taken. In this case, the Soldier may be brought back to active duty status with involuntary recall. This process requires coordination with the active duty component.

3. **Requirements:** To involuntarily recall a Reserve Soldier to active duty for the purpose of UCMJ: :

a. The Soldier has to be in a Title 10 status when the offense occurs.

b. As the Judge Advocate, you should immediately notify the Chief of Justice (COJ) on the active component side who has support responsibility of your unit. Go to AR 27-10, Table E-1 to find the active component who supports your unit. Discuss the case with the COJ, and your thoughts on a plan to recall the Soldier. This should be done early because it is the active army GCMCA that directs the order to return to active duty. Also, keep in mind that under AR 27-10, para 20-3b., "No Soldier ordered to active duty by an AA GCMCA may be confined or deprived of liberty (to include pretrial confinement or restriction) without prior approval of the involuntary order to active duty by the SECARMY or SECARMY's designee."

c. The Army Reserve OSJA prepares a request for orders to active duty. The request should include:

(1) Complete identity of the accused including grade, full name, social security number, current military status of the accused to include component to which assigned, unit to which assigned and its location, and home address of the accused at the time of the request;

(2) Detailed summary of the contemplated charges and specifications or a copy of a preferred charge sheet;

(3) Prior convictions and nonjudicial punishment if known;

(4) Summary of the evidence of the case and a copy of the report of investigation, if available;

(5) Analysis of the evidence demonstrating the need for and likelihood of successful prosecution at trial by courts-martial or the need for imposition of nonjudicial punishment through involuntary order to AD; and

(6) Indication of where the accused should be ordered to AD and why the order is advisable.

d. The active component SJA should review the Reserve Command's request, and a legal review should be processed.

e. Prepare a memo for the active duty GCMCA's signature ordering the Soldier to active duty.

f. Provide the active duty GCMCA's memorandum and the Reserve Component GCMCA's request to MPD. Use Order format 460.

g. The Soldier is then notified by his/her command, and is flagged.

h. Military Personnel, Army appropriations will pay for Soldier when the active Army Commander orders the Soldier to title 10 recall.

i. The reserve component commander will coordinate transport for the Soldier to the active installation. As a best practice the reserve component commander should send an escort with the Soldier. The escort should be senior in rank and grade.