

**Open Letter From Former U.S. Military Commanders & Judge Advocates to the
Committees on Armed Services of the U.S. Senate and the House of Representatives**

Commander Authority to Administer the UCMJ is Required for an Effective U.S. Military

APPENDIX – §540F Application to Selected UCMJ Offenses

✓=Has authority under §540F
 X=Lacks authority under §540F

Who Decides Under §540F?

Maximum Authorized Punishment Includes Confinement ≤1yr = Commander Authority
 Maximum Authorized Punishment Includes Confinement >1yr = Lawyer (JAG) Authority

UCMJ Offense / Maximum Authorized Confinement	Commander (CDR)	Lawyer (JAG)
ART. 86 ABSENCE W/OUT LEAVE		
<i>Failing to go to place of duty / up to 1 month.....</i>	✓	X
<i>Absence not more than 3 days / up to 1 month.....</i>	✓	X
<i>Absence more than 3 less than 30 days / up to 6 months.....</i>	✓	X
<i>Absence more than 30 days / up to 1 year.....</i>	✓	X
<i>Absence more than 30 days terminated by apprehension / up to 18 months.....</i>	X	✓
<i>Absence from guard/watch w/ or w/out intent to abandon / up to 6 months.....</i>	✓	X
ART. 89 DISRESPECT TOWARDS/ASSAULT OF SUPERIOR COMMISSIONED OFFICER		
<i>Disrespect towards superior commissioned officer</i>		
<i>In command / up to 1 year.....</i>	✓	X
<i>In rank / up to 6 months.....</i>	✓	X
<i>Striking, drawing or lifting up a weapon or offering violence to superior commissioned officer in execution of office</i>		
<i>In time of war / up to life.....</i>	X	✓
<i>Other / up to 10 years.....</i>	X	✓

**ART. 91 INSUBORDINATE CONDUCT TOWARD WARRANT OFFICER (WO),
NONCOMMISSIONED OFFICER (NCO) OR PETTY OFFICER (PO)** **CDR** **JAG**

<i>Striking or assaulting WO in the execution of their duties / up to 5 years.....</i>	X	✓
<i>Striking or assaulting superior NCO or PO in execution of duties / up to 3 years.....</i>	X	✓
<i>Striking or assaulting other NCO or PO in execution of duties / up to 1 year.....</i>	✓	X
<i>Willfully disobeying WO / up to 2 years.....</i>	X	✓
<i>Willfully disobeying NCO or PO / up to 1 year.....</i>	✓	X
<i>Contempt or disrespect towards WO / up to 9 months</i>	✓	X
<i>Contempt or disrespect towards superior NCO or PO / up to 6 months.....</i>	✓	X
<i>Contempt or disrespect towards other NCO or PO / up to 3 months.....</i>	✓	X

ART. 92 FAILURE TO OBEY ORDER OR REGULATION **CDR** **JAG**

<i>Violation of or failure to obey general order / up to 2 years.....</i>	X	✓
<i>Violation or of failure to obey other lawful order / up to 6 months.....</i>	✓	X
<i>Dereliction in performance of duties through neglect or culpable inefficiency / up to 3 months</i>	✓	X
<i>Dereliction in performance of duties through neglect or culpable inefficiency resulting in death or grievous bodily harm (GBH) / up to 18 months.....</i>	X	✓
<i>Willful dereliction in performance of duties / up to 6 months</i>	✓	X
<i>Willful dereliction in performance of duties resulting in death or GBH / up to 2 years.....</i>	X	✓

ART. 121 LARCENY **CDR** **JAG**

<i>Property of a value of \$1,000 or less / up to 1 year.....</i>	✓	X
<i>Military property of a value of \$1,000 or any military motor vehicle, aircraft, vessel, firearm or explosive / up to 10 years.....</i>	X	✓
<i>Property other than military property of value of more than \$1,000 or any other motor vehicle, aircraft, vessel, firearm or explosive / up to 5 years.....</i>	X	✓

ART. 128 ASSAULT

CDR

JAG

<i>Simple Assault / up to 3 months.....</i>	✓	✗
<i>Simple Assault committed with unloaded firearm / up to 3 years.....</i>	✗	✓
<i>Assault consummated by battery / up to 6 months.....</i>	✓	✗
<i>Assault upon commissioned officer not in the execution of their duties / up to 3 years.....</i>	✗	✓
<i>Assault upon warrant officer not in the execution of their duties / up to 18 months.....</i>	✗	✓
<i>Assault upon an NCO or PO not in the execution of their duties / up to 6 months.....</i>	✓	✗
<i>Assault upon a sentinel or lookout or anyone performing security/military police or law enforcement duties / up to 3 years</i>	✗	✓
<i>All forms of aggravated assault.....</i>	✗	✓