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WHEN A SOLDIER FACES COURT-MARTIAL, WHAT DOES THAT MEAN?

IT'S A TERM THAT'S BEEN IN THE NEWS DUE TO THE IRAQI PRISON SCANDAL.



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From "Judge Judy" to the Kobe Bryant case to mock trials held in grade school, it's hard to be an American and not have a clue about how the justice system works. But if you've been following the news about the Iraqi prison scandal, you've probably been hearing the term "court-martial," and odds are it's a bit of a mystery.

A court-martial is a military court set up on an as-needed basis to try and punish crimes committed by members of the armed forces. The primary goal is to determine the facts and attain justice for all parties involved. The court then decides on an appropriate punishment if the defendant is found guilty. Although the armed forces don't have permanently established courts, convening instead on a case-by-case basis, the military legal system does adhere to a standard set of rules, the Uniform Code of Military Justice.

In order for a court-martial to begin, the accused person's commander must suggest charges and present them to an authority, who can then order a hearing — open to the public — to determine the severity of the charges and the type of court-martial that will take place.

There are three kinds of courts-martial: summary, special and general. The summary court-martial deals with relatively minor offenses or acts of misconduct and is presided over by one commissioned officer on active duty. The accused person is not entitled to representation by a military attorney but is allowed to hire a civilian lawyer. The maximum punishment in this type of case is relatively minor.



MTV News Report:
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What Is A Court
Martial?"

A special court-martial is convened for intermediate offenses that are typically less serious than crimes committed in action. At least three commissioned officers or enlisted members are generally required to preside over this type of court-martial, though a military judge may conduct the trial alone. Maximum punishments include a year in confinement, a fine of two-thirds' pay for six months, or a bad-conduct discharge.

A general court-martial is the most severe. It usually is presided over by a military judge and at least five other people — commissioned officers or enlisted members, depending on the accused person's request. In non-capital cases, however, a military judge may conduct the trial alone. Maximum punishment is death, while other sentences include confinement and dishonorable discharge.

In special and general courts-martial, the accused may decide whether to be tried by a panel of officers, a panel of both officers and enlisted members, or by a military judge alone. If a panel is selected, its members will come from the same community or command as the service member on trial.

The rules and procedures of a court-martial are similar to those in a civilian court. A judge supervises most courts-martial, and the procedures generally begin with an arraignment in which the accused is notified of the charges being brought and given a chance to plead guilty or not guilty.

Military attorneys represent the accused in special and general court-martial cases and are assigned free of charge. Service members can request a specific military attorney or, at their own expense, hire a civilian attorney.

If the accused is convicted, sentencing begins immediately. The admissible evidence for sentencing includes the impact of the crime (on the victim and the unit's morale), the performance history of the accused, and any outside circumstances that may pertain to the case.

Jurors vote by secret ballot, and unless the death penalty is being imposed, the decision doesn't have to be unanimous — a two-thirds majority will do.

Once a sentence is handed down, the court-martial is adjourned and post-trial processes begin. These can range from an automatic review, if the accused is sentenced to death, to a review by the U.S. Supreme Court, if the convicted person's petition is accepted.

The court-martial system, like the civilian court system, is intricate, and all of the described processes can vary depending on the case.

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