

§ 635.23

32 CFR Ch. V (7-1-09 Edition)

§ 635.23 DA Form 4833 (Commander's Report of Disciplinary or Administrative Action).

(a) *Use.* DA Form 4833 is used with DA Form 3975 to—

(1) Record actions taken against identified offenders.

(2) Report the disposition of offenses investigated by civilian law enforcement agencies.

(b) *Preparation by the Provost Marshal/Director of Emergency Services.* The installation Provost Marshal/Director of Emergency Services initiates this critical document and is responsible for its distribution and establishing a suspense system to ensure timely response by commanders. Disposition reports are part of the reporting requirements within DA, DOD, and DOJ.

(c) *Completion by the unit commander.* Company, troop, and battery level commanders are responsible and accountable for completing DA Form 4833 with supporting documentation in all cases investigated by MPI, civilian detectives employed by the Department of the Army, and the PMO. The Battalion Commander or the first Lieutenant Colonel in the chain of command is responsible and accountable for completing DA Form 4833 with support documentation (copies of Article 15s, court-martial orders, reprimands, etc) for all USACIDC investigations. The commander will complete the DA Form 4833 within 45 days of receipt.

(1) Appropriate blocks will be checked and blanks annotated to indicate the following:

(i) Action taken (for example, judicial, nonjudicial, or administrative). In the event the commander takes action against the soldier for an offense other than the one listed on the DA Form 3975, the revised charge or offense will be specified in the REMARKS section of the DA Form 4833.

(ii) Sentence, punishment, or administrative action imposed.

(iii) Should the commander take no action, the DA Form 4833 must be annotated to reflect that fact.

(2) If the commander cannot complete the DA Form 4833 within 45 days, a written memorandum is required to explain the circumstances. The delay will have an impact on other reporting

requirements (e.g., submitting fingerprint cards to the FBI).

(d) *Procedures when subjects are reassigned.* When the subject of an offense is reassigned, the Provost Marshal/Director of Emergency Services will forward the DA Form 3975, DA Form 4833, and all pertinent attachments to the gaining installation Provost Marshal/Director of Emergency Services who must ensure that the new commander completes the document. Copies of the documents may be made and retained by the processing Provost Marshal Office/Directorate of Emergency Services before returning the documents to the losing installation Provost Marshal/Director of Emergency Services for completion of automated entries and required reports.

(e) *Report on subjects assigned to other installations.* When the DA Form 3975 involves a subject who is assigned to another installation, the initiating Provost Marshal/Director of Emergency Services will forward the original and two copies of DA Form 4833 to the Provost Marshal/Director of Emergency Services of the installation where the soldier is permanently assigned. The procedures in paragraph (d) of this section will be followed for soldiers assigned to other commands.

(f) *Offenses not reportable to USACRC.* When the offense is not within a category reportable to USACRC, the original DA Form 4833 is retained by the Provost Marshal/Director of Emergency Services. Otherwise, the original is sent to the Director, USACRC for filing with the MPR.

(g) *Civilian court proceedings.* If a soldier is tried in a civilian court, and the Provost Marshal/Director of Emergency Services has initiated a MPR, the Provost Marshal/Director of Emergency Services must track the civilian trial and report the disposition on DA Form 4833 as appropriate. That portion of the signature block of DA Form 4833 that contains the word "Commanding" will be deleted and the word "Reporting" substituted. The Provost Marshal/Director of Emergency Services or other designated person will sign DA Form 4833 before forwarding it to USACRC.

(h) *Dissemination to other agencies.* A copy of the completed DA Form 4833 reflecting offender disposition will also be provided to those agencies or offices that originally received a copy of DA Form 3975 when evidence is involved. The evidence custodian will also be informed of the disposition of the case. Action may then be initiated for final disposition of evidence retained for the case now completed.

(i) *Review of offender disposition by the Provost Marshal/Director of Emergency Services.* On receipt of DA Form 4833 reflecting no action taken, the Provost Marshal/Director of Emergency Services will review the MPR. The review will include, but is not limited to the following—

(1) Determination of the adequacy of supporting documentation.

(2) Whether or not coordination with the supporting Staff Judge Advocate should have been sought prior to dispatch of the report to the commander for action.

(3) Identification of functions that warrant additional training of military police or security personnel (for example, search and seizure, evidence handling, or rights warning).

(j) *Offender disposition summary reports.* Provost Marshals/Directors of Emergency Services will provide the supported commander (normally, the general courts-martial convening authority or other persons designated by such authority) summary data of offender disposition as required or appropriate. Offender disposition summary data will reflect identified offenders on whom final disposition has been reported. These data will be provided in the format and at the frequency specified by the supported commander.

§ 635.24 Updating the COPS MPRS.

Installation Provost Marshals/Directors of Emergency Services will establish standard operating procedures to ensure that every founded offense is reported into the COPS MPRS. Timely and accurate reporting is critical. If a case remains open, changes will be made as appropriate. This includes reporting additional witnesses and all aspects of the criminal report.

§ 635.25 Submission of criminal history data to the CJIS.

(a) *General.* This paragraph establishes procedures for submitting criminal history data (fingerprint cards) to CJIS when the Provost Marshal/Director of Emergency Services has completed a criminal inquiry or investigation. The policy only applies to members of the Armed Forces and will be followed when a military member has been read charges and the commander initiates proceedings for—

(1) *Field Grade Article 15, Uniform Code of Military Justice.* Initiation refers to a commander completing action to impose non-judicial punishment. Final disposition shall be action on appeal by the next superior authority, expiration of the time limit to file an appeal, or the date the military member indicates that an appeal will not be submitted.

(2) *A special or general courts-martial.* Initiation refers to the referral of court-martial charges to a specified court by the convening authority or receipt by the commander of an accused soldier's request for discharge in lieu of court-martial. Final disposition of military judicial proceedings shall be action by the convening authority on the findings and sentence, or final approval of a discharge in lieu of court-martial. The procedures in this subpart meet administrative and technical requirements for submitting fingerprint cards and criminal history information to CJIS. No variances are authorized. Results of summary court-martial will not be reported to the FBI.

(3) *DA Form 4833.* In instances where final action is taken by a magistrate, the Provost Marshal/Director of Emergency Services will complete the DA Form 4833.

(4) *Fingerprint cards.* Provost Marshal Offices/Directorates of Emergency Services will submit fingerprint cards on subjects apprehended as a result of Drug Suppression Team investigations and operations unless the USACIDC is completing the investigative activity for a felony offense. In those cases, the USACIDC will complete the fingerprint report process.

(b) *Procedures.* The following procedures must be followed when submitting criminal history data to CJIS.