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SOURCE: 44 FR 55859, Sept. 28, 1979, unless otherwise noted.

§ 1290.1 References.

(a) DLAR 5720.1/AR 190-5/OPNAVINST 11200.5B/AFR 125-14/MCO 5110.1B, Motor Vehicle Traffic Supervision.

(b) DLAR 5710.1, Authority of Military Commanders To Issue Security Orders and Regulations for the Protection of Property or Places Under Their Command.

(c) Sections 1, 3401 and 3402, title 18, U.S.C.

(d) Rules of procedures for the Trial of Minor Offenses before United States Magistrates.

(e) Section 13, title 18, U.S.C., Assimilative Crimes Act.

§ 1290.2 Purpose and scope.

(a) This part 1290 implements DoD Instruction 6055.4, Department of Defense Traffic Safety Program, and sets forth basic objectives and procedures applicable to implementation of the Federal Magistrate System by DLA. This part 1290 is applicable to HQ DLA, Defense Supply Centers (DSC's), less Defense Fuel Supply Center and Defense Industrial Supply Center, and to Defense Depots, less Defense Depot Mechanicsburg. DLA activities/personnel tenant on other DoD activities will abide by the requirements of the host.

(b) This part 1290 provides Heads of DLA primary level field activities (PLFAs) with a means of exercising effective control over violators who are not otherwise under their jurisdiction.

§ 1290.3 Policy.

(a) It is the policy of HQ DLA that the Heads of DLA PLFAs will take such steps as are necessary to prevent offenses. Emphasis will be placed on prevention rather than apprehension and prosecution of offenders.

(b) The procedures outlined in this part 1290 may, at the discretion of the Head of the activity concerned, be invoked in lieu of the provisions of the Uniform Code of Military Justice (UCMJ) to deal with minor offenses of a civil nature, other than violations of state traffic laws, committed by military personnel. These procedures may also be invoked to deal with nontraffic

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minor offenses committed by civilian personnel.

§ 1290.4 Definitions.

For the purpose of this part 1290 the following definitions apply:

This part 1290 supersedes part 1290 April 26, 1972.

(a) *Law Enforcement Personnel.* Persons authorized by the Head of the PLFA to direct, regulate, control traffic; to make apprehensions or arrests for violations of traffic regulations; or to issue citations or tickets. Personnel so designated will include the Command Security Officer and all other personnel in 080, 083, 085, or 1800 series positions.

(b) *Minor Federal Offenses.* Those offenses for which the authorized penalty does not exceed imprisonment for a period of 1 year, or a fine of not more than \$1000, or both (18 U.S.C. 3401f).

(c) *Petty Federal Offenses.* Those offenses for which the authorized penalty does not exceed imprisonment for a period of 6 months or a fine of not more than \$500, or both (18 U.S.C. 1(3)).

NOTE: A petty offense is a type of minor offense.

(d) *Violation Notice.* DD Form 1805, Violation Notice, which will be used to refer all petty offenses to the U.S. Magistrate/District Courts for disposition.

NOTE: A complaint, made under oath on forms provided by the magistrate, is the prescribed form for charging minor offenses other than petty offenses.

§ 1290.5 Background.

(a) DoD Instruction 6055.4 requires that all traffic violations occurring on DoD installations be referred to the appropriate United States Magistrate, or State or local system magistrate, in the interest of impartial judicial determination and effective law enforcement. Exceptions will be made only for those rare violations in which military discipline is the paramount consideration, or where the Federal court system having jurisdiction has notified the PLFA commander it will not accept certain offenses for disposition.

(b) Generally, the Federal Magistrate System applies state traffic laws and

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appropriate Federal laws to all personnel while on Federal property (section 13, title 18 U.S.C., Assimilative Crimes Act).

§ 1290.6 Significant changes.

This revision incorporates the DoD requirement for referral of traffic violations occurring on military installations to the Federal or local magistrate.

§ 1290.7 Responsibilities.

(a) *HQ DLA*—(1) *The Command Security Officer, DLA (DLA-T)* will:

(i) Exercise staff supervision over the Magistrate system within DLA.

(ii) Provide guidance and assistance to DLA activities concerning administrative and procedural aspects of this part 1290.

(2) *The Counsel, DLA (DLA-G)* will provide guidance and assistance to DLA activities concerning legal aspects of this part 1290.

(b) *The Heads of DLA Primary Level Field Activities* will:

(1) Develop and put into effect the necessary regulatory and supervisory procedures to implement this part 1290.

(2) Ensure implementing directives authorize law enforcement/security force (080, 083, 085 and 1800 series) personnel to issue DD Form 1805.

(3) Periodically publish in the PLFA Daily or Weekly Bulletin, a listing of offenses for which mail-in procedures apply, with the amount of the fine for each, and a listing of offenses requiring mandatory appearance of the violator before the U.S. Magistrate. The listings will indicate that they are not necessarily all inclusive and that they are subject to change. A copy of the listings will be provided to the local Union representatives.

§ 1290.8 Procedures.

(a) *The U.S. Magistrate Court Provides DLA* with:

(1) The means to process and dispose of certain categories of minor offenses by mail. Under this system, U.S. Magistrate and District Courts will, by local court rule, preset fines for the bulk of petty violations (Federal or Assimilated) and permit persons charged with such violations, who do not contest the charge nor wish to have a

court hearing, to pay their fines by using mail-in, preaddressed, postage paid envelopes furnished to them with the violation notice.

(2) Efficient, minimal commitment of judicial and clerical time by using uniform procedures which centralize the collection of fines, the scheduling of mandatory hearings or hearings where violators request them, and the keeping of violator records.

(3) A simple but sure method of accounting for fines collected and tickets issued.

(4) Impartial enforcement of minor offense laws.

(b) *Court Appearances*—(1) *Mandatory Appearances*. (i) As required by the Administrative Office of the United States Courts, each District Court will determine, by local court rule, those offenses requiring mandatory appearance of violators. PLFA Counsels will coordinate with local magistrates or district courts and secure a court approved list of offenses requiring mandatory appearance of violators before the local U.S. Magistrate.

(ii) Mandatory appearance offense categories normally include:

(A) Indictable offenses.

(B) Offenses resulting in accidents.

(C) Operation of motor vehicle while under the influence of intoxicating alcohol or a narcotic or habit producing or other mind altering drug, or permitting another person who is under the influence of intoxicating alcohol, or a narcotic or habit producing or mind altering drug to operate a motor vehicle owned by the defendant or in his/her custody or control.

(D) Reckless driving or speeding.

(2) *Voluntary Appearances*—(i) *Requested by violators at the time DD Form 1805 is issued*. (A) Personnel issuing DD Form 1805 will refer violator for hearings before U.S. Magistrates in each instance where a hearing is requested by the violator.

(B) Command security officers will provide security force personnel with necessary information to facilitate scheduling violators to appear before U.S. Magistrates. Box B of the DD Form 1805 will be marked by the issuing official for each violator requesting a hearing. Additionally procedures set forth in appendix A will be