



# Inappropriate Relationships and Fraternalization

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# Agenda

- Opening Remarks
- How We Got Here
- The Rules
- So What?
- Beyond a Reasonable Doubt?
- Discussion/Questions





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# BLUF

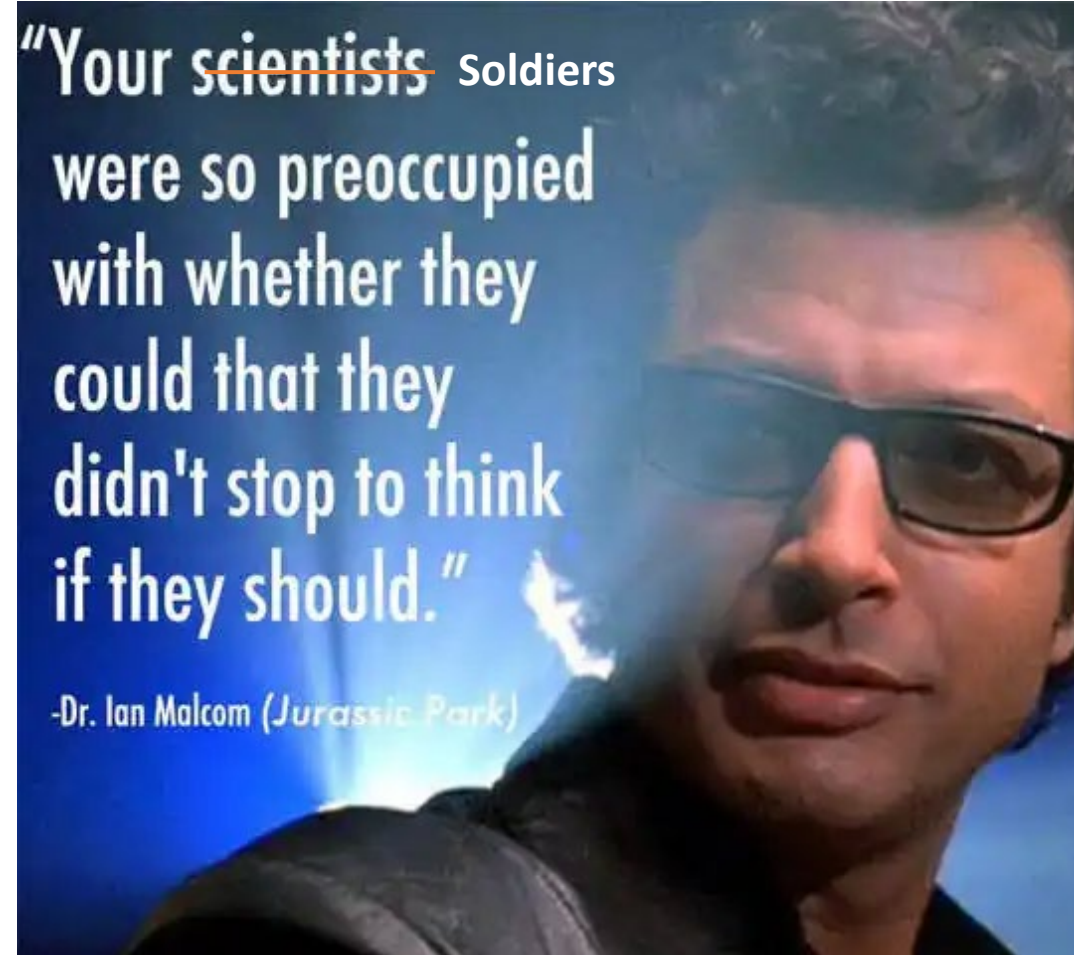
- Perception is reality
- Properly manage personal relationships
- This is a profession of arms, be professional
- Recruiters have special considerations / rules

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# How We Got Here...



<https://youtu.be/5sME0ffogOs>

***Bayonets, Forward!***

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## How We Got Here...

“Service Secretaries will, by policy, prohibit personal relationships such as dating, sharing living accommodations, engaging in intimate or sexual relations, business enterprises, commercial solicitations, gambling and borrowing between officer and enlisted regardless of their Service.”

**Defense Secretary William S. Cohen, 29 Jul 98**



## How We Got Here...

- “**Sex-Related Offenses Major Reason Behind Commander Dismissals**” - 20 Jan 2013 (AP)
- “At least 30 percent of military commanders fired over the past eight years lost their jobs because of sexually related offenses, including harassment, adultery, **and improper relationships. . .**”
- Gen. Martin Dempsey concluded that while **training** is adequate, it may need to start earlier in Service Members' careers and be **reinforced more frequently**.



## References

- AR 600-20 (Army Command Policy), paras 4-14, 4-15, and 4-16 (24 July 2020)
- DA PAM 600-35 (Relationships Between Soldiers of Different Ranks) 21 July 2017
- UCMJ Article 92, Violation of a Regulation
- UCMJ Article 134, Fraternization
- MCMJ §447 Failure to Obey an Order
- MCMJ §460 Behavior that is Prejudicial to Good Order and Discipline of Military Forces or that Discredits Military Forces



# The Rules

## 4-14. Relationships between Soldiers of different grades

*a.* The term "officer" used in this paragraph includes both commissioned and WOs, unless otherwise stated. The term "noncommissioned officer" refers to a Soldier in the grade of corporal to CSM/SGM. The term "junior enlisted Soldier" refers to a Soldier in the grade of private to specialist. The provisions of this paragraph apply to both relationships between Soldiers in the RA and USAR, and between Soldiers and personnel of other military services.

*b.* Soldiers of different grades must be cognizant that their interactions do not create an actual or clearly predictable perception of undue familiarity between an officer and an enlisted Soldier, or between an NCO and a junior enlisted Soldier. Examples of familiarity between Soldiers that may become "undue" can include repeated visits to bars, night-clubs, eating establishments, or homes between an officer and an enlisted Soldier, or an NCO and a junior enlisted Soldier, except for social gatherings, that involve an entire unit, office, or work section. All relationships between Soldiers of different grades are prohibited if they—

- (1) Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.
- (2) Cause actual or perceived partiality or unfairness.
- (3) Involve, or appear to involve, the improper use of grade or rank or position for personal gain.
- (4) Are, or are perceived to be, exploitative or coercive in nature.
- (5) Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

*c.* Certain types of personal relationships between officers and enlisted Soldiers, or NCOs and junior enlisted Soldiers, are prohibited. Prohibited relationships include the following:

(2) Dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel, or NCOs and junior enlisted Soldiers. This prohibition does not apply to the following:

*(a)* Marriages between an officer and an enlisted member or an NCO and a junior enlisted Soldier. However, when evidence of fraternization between an officer and enlisted member or an NCO and a junior enlisted Soldier prior to their marriage exists, their marriage does not preclude appropriate command action based on the prior fraternization. Commanders have a wide range of responses available including counseling, reprimand, order to cease a relationship prior to marriage, reassignment, administrative action, or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is appropriate. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied.

AR 600-20 • 24 July 2020





# The Rules

**PUNITIVE**

ANNUAL FOR  
COURTS-MARTIAL  
UNITED STATES  
(2012 EDITION)

**Article  
92,  
UCMJ**



- The rule is punitive.
- All Soldiers bear responsibility for compliance.
- However:
  - Senior member in the best position to limit relationship.
  - Punishments may differ.
- Applies across Service lines
- Gender neutral



# The Rules – Part I

# STATUS BASED RULES

WARRANT OFFICER					OFFICER										
W-1	W-2	W-3	W-4	W-5	O-1	O-2	O-3	O-4	O-5	O-6	O-7	O-8	O-9	O-10	SPECIAL
Warrant Officer (W01)	Chief Warrant Officer (CW2)	Chief Warrant Officer (CW3)	Chief Warrant Officer (CW4)	Chief Warrant Officer (CW5)	Second Lieutenant (2LT)	First Lieutenant (1LT)	Captain (CPT)	Major (MAJ)	Lieutenant Colonel (LTC)	Colonel (COL)	Brigadier General (BG)	Major General (MG)	Lieutenant General (LTG)	General (GEN)	General of the Army (GA)

ENLISTED											
E-1	E-2	E-3	E-4	E-5	E-6	E-7	E-8	E-9	Senior Enlisted Advisor		
Private E-1 (PV1)	Private E-2 (PV2)	Private First Class (PFC)	Corporal (CPL)	Sergeant (SGT)	Staff Sergeant (SSG)	Sergeant First Class (SFC)	Master Sergeant (MSG)	First Sergeant (1SG)	Sergeant Major (SGM)	Command Sergeant Major (CSM)	Sergeant Major of the Army (SMA)



# Fraternization

**The policy applies to relationships between:**

- Army personnel (including military technicians in ARNG / USAR)
- Army and other military services personnel
- Different gender and same gender
- All Officers (commissioned & warrant) and enlisted Soldiers
- Noncommissioned Officers (corporal to command sergeant major / sergeant major) and junior enlisted Soldiers (private to specialist)

Violations of paragraphs 4–14b, 4–14c, and 4–15 may be punished under UCMJ, Art. 92 as a violation of a lawful general regulation



# Fraternization

## Prohibited:

- Personal relationships
- On-going business relationship
- Gambling

**Exception:** Business relationships that existed on or before 6 November 2014 provided the individuals are not in the same Chain of Command and the relationship does not meet the criteria in AR 600-20, para 4-14b.



# Personal Relationships

- Dating, shared living accommodations, and intimate or sexual relationships between Officer and enlisted, or NCOs and junior enlisted Soldiers are prohibited.
  - Exception: Marriages between Officer / Enlisted; NCO / Jr. Enlisted.
    - Exception to exception: dating relationship which existed before marriage can be basis of punitive action
- **One Year Grace Period:**
  - Soldier with a change in status from enlisted / NCO to Officer or junior enlisted to NCO has a one year grace period to marry or end the relationship.
  - No safe harbor for prior conduct.



## Exception For ARNG / USAR only:

- Exception For ARNG / USAR only:
  - Primarily civilian acquaintance, if not in AD status (other than AT).
  - This applies to M-Day soldiers, NOT AGR/ Dual Status Fed Tech

Question: Can a permitted relationship become an improper relationship?



# Further Restrictions for Recruiters / Trainers

- AR 600-20, paragraph 4-15
- Who does it cover?
  - Recruiters and prospects, applicants, and/or recruits
  - trainers providing entry-level training or permanent party personnel and trainees
- What is prohibited?



# Further Restrictions for Recruiters / Trainers

- What is prohibited?
  - Develop, attempt to develop, or conduct a personal, intimate, or sexual relationship with any prospect, applicant, recruit, or trainee. These relationships include, but are not limited to, dating, handholding, kissing, embracing,
  - caressing, and engaging in sexual activities. Prohibited personal, intimate, or sexual relationships include those relationships conducted in person; through a third person; or via cards, letters, emails, telephone calls, instant messaging, video, photographs, social media, social networking, and any other means of communication.
  - (b) Use rank or position, threats, pressure, or promise of return of favors or favorable treatment in an attempt to gain sexual favors from any prospect, applicant, recruit, or trainee.
  - (c) Make sexual advances toward, or seek or accept sexual advances or favors from, any prospect, applicant, re-cruit, or trainee. In addition, recruiters and trainers will report all offers of sexual favors or sexual advances any prospect, applicant, recruit, or trainee makes to their chain of command.
  - (d) Allow any prospect, applicant, recruit, or trainee to enter their dwelling.
  - (e) Establish a common household with any prospect, applicant, recruit, or trainee (that is, they will not share the same living area in an apartment, house, or other dwelling). This prohibition does not include facilities open to all members of a homeowners association or all tenants in an apartment complex.
  - (f) Allow any prospect, applicant, recruit, or trainee to enter their privately owned vehicles. Exceptions are permitted for official business when the safety or welfare of the prospect, applicant, recruit, or trainee is at risk. Recruiters and trainers will report all such instances to their chain of command as soon as practicable.





# Further Restrictions for Recruiters / Trainers

- (g) Provide alcohol to, or consume alcohol with, any prospect, applicant, recruit, or trainee on a personal social basis. This prohibition does not apply to the practice of participation in religious services, rites, or rituals.
- (h) Attend social gatherings, clubs, bars, theaters, or similar establishments on a personal social basis with any prospect, applicant, recruit, or trainee.
- (i) Gamble with any prospect, applicant, recruit, or trainee.
- (j) Lend money to, borrow money from, or otherwise become indebted to or by any prospect, applicant, recruit, or trainee.
- (k) Solicit donations from any prospect, applicant, recruit, or trainee.
- (l) Hire or otherwise employ, in an official or personal capacity, any prospect, applicant, recruit, or trainee (for example, for babysitting or maintenance jobs).



# Further Restrictions for Recruiters / Trainers

- (m) Accept personal goods, in an official or personal capacity, from any prospect, applicant, recruit, or trainee for storage or any other reason.
- (n) Participate in closed-door discussions with any prospect, applicant, recruit, or trainee. Recruiters and trainers will keep doors open when meeting with prospects, applicants, recruits, and trainees except when—
  - 1. Another person at least 18 years of age or older is present;
  - 2. Because of the proximity of others, it is necessary to protect personally identifiable, sensitive, or confidential information (these closed-door sessions will be short in duration); or
  - 3. The design of the office is such that the door opens to a public area where the office is left unprotected from the elements or allows unwanted public interaction. In these cases, the door will be left unlocked and clearly marked that it is open for business and visitors are welcome.



# Administrative requirements for recruiters

- (a) Before performing recruiter duties, recruiters will sign a **DD Form 2982** (Recruiter/Trainer Prohibited Activities Acknowledgment) to acknowledge their understanding of the prohibitions listed in paragraph 4–15c(1) and their responsibilities to avoid the prohibited inappropriate behaviors and relations outlined in this regulation. Recruiters will recertify the DD Form 2982 annually. The DD Form 2982 will be locally filed and kept for 1 year after the recruiter has left the unit.
- (b) During the initial visit, recruiters will provide all applicants with contact information they can use to notify someone if they believe their recruiter has acted improperly.
- (c) No later than the first visit with a recruiter after a recruit's entry into the Delayed Entry Program (DEP), Future Soldier Program, Delayed Training Program, or Recruit Sustainment Program, a recruit must sign a DD Form 2983 (Recruit/Trainee Prohibited Activities Acknowledgment) to acknowledge their understanding of the prohibitions listed in paragraph 4–15c(2). The DD Form 2983 will be filed in the recruit's enlistment Electronic Records System and kept in accordance with system policy.
- (d) Exceptions may be granted to accommodate relationships that existed before the recruit started the recruiting process. These relationships include, but are not limited to, Family members. Only the recruiter's commander in the rank of MAJ or higher, or a higher level authority, has the authority to approve these exceptions. Recruiters must request the exception in writing to their commander. Higher level commanders may withhold this authority from subordinate commanders. All exceptions will be documented on DD Form 2982 and DA Form 2983, as applicable.



# Adultery

- UCMJ Art 134 Prejudicial to Good Order and Discipline..
- MCMJ MCMJ §460 Behavior that is Prejudicial to Good Order and Discipline of Military Forces or that Discredits Military Forces
  - While not strictly a crime, failing to maintain your familial relationships can have detrimental effect on good order a discipline / readiness.
  - Punishable by Art 415 (NJP), Administrative action (GOMOR / Admin Sep)



## Ongoing Business Relationships

- Loaning or borrowing money, commercial solicitation, or joint business venture.
- Exceptions:
  - Landlord/tenant relationships
  - One time transactions (house or car sale)
- For ARNG / USAR only:
  - Business relationships which exist due to civilian occupation



# Gambling

- PROHIBITED: Gambling between Officers and enlisted personnel; and NCOs and junior enlisted Soldiers.
- BUT: It is not gambling if there is nothing at stake
  - Office pool for bragging rights
  - Charitable or other community functions
- <https://www.youtube.com/watch?v=AyLHlobW0HQ>



## The Rules – Part II

**perception**  
**equals**  
**reality**



# Relationships Among Different Ranks

- **Expanded Effects Based Test**

1. Compromise, or **APPEAR** to compromise the integrity of authority
2. Cause actual / **PERCEIVED** partiality or unfairness
3. Involve / **APPEAR** to involve improper use of rank
4. Are, or **PERCEIVED** to be, exploitative or coercive
5. Cause actual / **PREDICTABLE** adverse impact on discipline, authority, morale, or mission accomplishment





## Rules Caveat

Policy prohibitions are not intended to preclude normal team-building associations, such as:

- Community organizations
- Religious activities
- Unit social functions
- Athletic teams
- Family gatherings



# MCMJ

- Article 415 potential maximum consequences
  - Reprimand
  - Up to 16 hours of extra duty
  - Reduction in rank for enlisted Soldiers
  - Forfeiture of up to 5 days pay
  - Prohibit promotion for up to one year



## So What?

- “Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair.” AR 600-20, para 4-14f.
- Commander’s Options:
  - Written counseling / Training
  - Administrative (e.g., GOMOR, Admin. Separation)
  - Article 15 or MCMJ Article 415 non-judicial punishment
    - Can be company grade, field grade, or general officer
  - Court martial if on Active Duty



# So what?

- Recruiting is a Position of Special Trust and Authority (POSTA)
  - POSTA can be withdrawn or withheld when adverse information is known, ie a substantiated finding of misconduct (AR 600-37)
- Recruiters can be deemed unsuitable and reassigned for failing to meet acceptable standards of conduct, to include involvement in unfavorable incidents or commission of acts that adversely reflect on the Army and the recruiter and that violate civil law, civilian criminal law, or the UCMJ (AR 601-1, para. 5-6)



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## Beyond a Reasonable Doubt?



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# Scenario 1

A female Major (single) and a male CW3 (unhappily married) work near one another in the HQ (different sections, same unit). They begin a friendship and start to have coffee together weekly. (Both are full time)

Six months go by and now they lunch together at least 3 times a week and work out together at least 4 times a week.

SPC Hollywood sees these two Officers off post 2 weekends in a row. On Monday, 6 JAN, SPC Hollywood asks if they are dating.

The Specialist fills out a DA1559 (IG Action Request form).

*What happens next? What do you think?*

GO

IN THE  
GRAY

NO-GO



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# Scenario 1

- Explanation: While they may just be friends this example highlights a perception issue.

**NO-GO**



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## Scenario 2

SFC Female Reed, an unmarried platoon sergeant of 1st Platoon, A Company, is dating PFC Male Adams, an unmarried single Soldier in B Company. Both are in the same battalion. Their relationship is common knowledge in both companies because they eat their lunches together and spend much of their time together. Although both characterize their relationship as serious, they have not discussed marriage. ***Both company commanders are aware of the relationship and do not believe it adversely affects their units.***

GO

IN THE  
GRAY

NO-GO

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## Scenario 2

### Explanation:

**The dating relationship is an explicit violation of AR 600-20.** Commanders have a wide range of responses available including counseling, reprimand, order to cease, reassignment, or adverse action. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair. Generally, the commander should take the minimum action necessary to ensure that the needs of good order and discipline are satisfied. ***SFC Reed and PFC Adams should be counseled, at a minimum, by their respective unit commanders concerning their relationship. SFC Reed must be vigilant that she takes no action that could cause, be perceived as causing, or even remotely suggest special treatment for PFC Adams. They need to end the relationship or get married.***

**NO-GO**



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## Scenario 3

First Sergeant (1SG) Hamilton and Staff Sergeant (SSG) Barber are members of the same U.S. Army Reserve (USAR) troop program unit. In their civilian employment they **work for the same company** and are **good friends**. Their company commander has received **several complaints** that 1SG Hamilton is giving SSG Barber preferential treatment. ***Initial due diligence inquiry satisfies the commander that there is truth to the allegation.***

GO

IN THE  
GRAY

NO-GO

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## Scenario 3

### Explanation:

***The company commander should counsel the 1SG to ensure immediate correction and decide whether administrative action is necessary.***

Although **SSG Barber** is not the senior NCO, he is a military leader and should also be counseled/educated on the proper relationship between Soldiers of different ranks. It is very difficult, and perhaps even awkward, for reservists who work side-by-side 5 days a week in a civilian job to reverse roles and adhere to a more rigid military regimen while in uniform or on duty. ***ARNG and USAR Soldiers must maintain the balance between the civilian and military environment and must always be sensitive to what is expected of them.***

IN THE  
GRAY

perception  
equals  
reality



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## Scenario 4a

CPT Male Smith and SSG Female Clark, both Army Reserve Soldiers, are in the same troop program unit. They are not in the same rating chain and have no official relationship as far as duties or positions are concerned. They have spoken on occasion during drill. They recognize each other at the mall, strike up a conversation, and subsequently begin dating on a regular basis. You are the battalion commander. Someone tells you they saw the two at a restaurant.

**GO**

**IN THE  
GRAY**

**NO-GO**



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## Scenario 4a

### Explanation:

Although the two individuals first met each other through the unit, their relationship exists primarily due to a civilian acquaintanceship. They are therefore covered by the Reserve exception in AR 600-20. **The prohibition against dating does not apply to them.**

GO



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## Scenario 4b

Four months later, as their civilian relationship has grown, CPT Smith requests that SSG Clark be transferred to his section because his SFC NCO in charge left the unit. CPT Smith will be SSG Clark's officer in charge. Although there are other SFCs in the unit, CPT Smith contends that SSG Clark is better qualified. He also asserts that by working in the SFC position, SSG Clark will enhance his chances for promotion. One of the unit's existing SFCs wants the position and complains to you, the battalion commander. What action do you take?

GO

IN THE  
GRAY

NO-GO



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## Scenario 4b

### **Explanation:**

You disapprove the transfer because it would be improper and violate the policy. It would raise an appearance of impropriety by likely compromising the integrity of the supervisory authority, would cause actual or perceived partiality or unfairness, and would create a clearly predictable adverse impact on discipline, authority, and morale in the section. CPT Smith should be counseled on the requirements of both the new policy and the Standards of Conduct regulation.

**NO-GO**



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## Scenario 5

Early in the morning on July 5, at drill, command discovered a passed out Soldier in an armory; they also discovered other Soldiers in the room who were also intoxicated. All of the Soldiers in the room were lower enlisted Soldiers except for one 1LT; all of the Soldiers were the same gender. The unresponsive Soldier ultimately came to and stated that she had been drinking the night prior, on July 4. She stated that she drank in the armory, and that her and other Soldiers had also snuck in multiple exception-to-policy beers. Further investigation revealed that most of the Soldiers had been drinking for much of the nights in the armory. The 1LT was found to have snuck in some White Claws, because that is what lieutenants like.

**GO**

**IN THE  
GRAY**

**NO-GO**

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## Scenario 5

### Explanation:

The 1LT violated AR 600-20 when she fraternized with the lower enlisted Soldiers by joining them in an armory party....

Amongst other potential violations of law / policy...

**NO-GO**



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# Best Practices

- Special trust and confidence in ALL leaders
- Promote health and welfare of all
- Maintain good order, morale, and discipline

***Appearance of impropriety can be just as bad as actual misconduct***



# QUESTIONS?

"Your scientists  
were so preoccupied  
with whether they  
could that they  
didn't stop to think  
if they should."

-Dr. Ian Malcom (*Jurassic Park*)

