

MILPERSMAN 1640-020

WHEN CONFINEMENT IS NOT APPROPRIATE

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References	(a) Uniform Code of Military Justice (UCMJ) (b) Manual for Courts-Martial United States (MCM) (c) Manual of the Judge Advocate General (JAGMAN) (d) United States Navy Regulations (NAVREGS) (e) DODD 1325.04 of 17 Aug 2001
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1. **Policy**. Per references (a) through (e), a member shall not be confined:

- a. for safekeeping or protective custody;
- b. while awaiting trial by court-martial when the only charge preferred is violation of reference (a), article 86, unless the number of offenses or the circumstances surrounding the member's return to military control clearly indicate that confinement is necessary to ensure the member's presence at trial;
- c. while awaiting completion of appellate review after that portion of the sentence relating to confinement has been served;
- d. while awaiting administrative discharge solely because of the impending discharge;
- e. solely because of emotional instability; or
- f. for offenses that are to be referred to a summary court-martial (SCM) or disposed of at nonjudicial punishment (NJP).