

DOWNLOAD PDF AMENDMENTS TO ARTICLES 2 AND 36, UNIFORM CODE OF MILITARY JUSTICE

Chapter 1 : Uniform Code of Military Justice

Amendments to Articles 2 and 36, Uniform Code of Military Justice: hearings before the Military Personnel Subcommittee of the Committee on Armed Services, House of Representatives, Ninety-sixth Congress, first session, June 11 and 12,

Bush issued an executive order allowing persons involved with terrorism, whether captured in the United States or abroad, to be tried by military commissions. The order was met with some criticism because of fears of the possibility that citizens, or others, could have their civil rights violated in a court with lower standards of evidence than a civil court, and with the possibility of an unappealable death sentence. Others countered that terrorists placed themselves outside of civil society, and the rules thereof, of their own volition, and did not deserve the protections of the Constitution. The entire issue piqued the interest of many in the entire subject of military justice. What are the differences between civil and military justice, and how do foreign nationals and enemies fall into these systems? The UCMJ defines crimes that are the same as those in civilian courts, such as murder, rape, and robbery. But it also includes violations of order and discipline, such as disobedience to a superior officer, drunkenness on duty, misconduct as a prisoner of war, even adultery. The UCMJ was first established in 1950, and underwent a major revision in 1956. Military law did not suddenly spring into existence in 1950, but the UCMJ was the first attempt to turn the existing law into a comprehensive code. The system of courts-martial do not exempt a service member from trial by the civil authority - but the courts-martial can be, and often are, used in place of civil courts for all offenses committed by a service member, even if the act is committed off-base and while off-duty. The first question to answer is, who is subject to the UCMJ? According to the UCMJ, members of the military reserves are subject while in active service, as are National Guard members while in federal service. Also covered are veterans cared for in military hospitals, civilians accompanying the military during exercises, and members of other federal services such as NOAA and the Public Health Service when attached to the military, as well as prisoners of war in U.S. The next question is, how is one prosecuted under the UCMJ? Normally, offenses are handled in one of two ways. At the discretion of a commanding officer, some offenses may be handled summarily. Sentences in such non-judicial punishments might include confinement to base or loss or detention of pay. Officers are afforded leniency in summary punishment, whereas enlisted personnel may be subject to punishments such as confinement and bread and water rations for up to three days. If the officer imposing the punishment is of a high enough grade, punishments such as loss of rank may also be imposed. If the commanding officer does not or cannot impose punishment, the accused may be tried in a court-martial. General courts-martial must consist of a judge and five or more other members or just the judge if the accused so requests. Special courts-martial can consist of a judge and no less than three other members or just the judge. A summary court-martial can be convened in some circumstances, where only one commissioned officer acts as judge. Each armed force has its own judicial system, and unless under circumstances prescribed by the President, members of one service are not prosecuted under the courts-martial of another. For non-service personnel, the accused is held under the court of the service that has the person in custody. General courts-martial can try a service member for any crime described in the UCMJ, including capital crimes those for which the death penalty can apply. A general court-martial cannot try a non-service member for a capital crime. Special and summary courts-martial have more limited jurisdictions. The members of a court-martial can be any commissioned officer, a warrant officer unless the accused is a commissioned officer, and any enlisted personnel for the trial of another enlisted member. The judge in a general or special court-martial is to be a commissioned officer who is a member of the federal bar, or any state bar if qualified by the Judge Advocate General. Many rights of the accused familiar in civilian courts are present in military court, but to a much more limited degree. The right against self-incrimination exists, for example, the accused must be informed of the crime, and double jeopardy is prohibited. The Court of Military Appeals has held that all rights afforded civilians are afforded service

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members, unless the UCMJ expressly overrides a right. As for the votes of the court-martial, the death penalty must be found by a unanimous vote. Other offenses are by a two-thirds vote. Sentences of ten years confinement or more must be agreed by three-fourths of the court. Civilian courts have no jurisdiction to review military cases, with the sole exception of the Supreme Court, which, in *Ex parte Quirin*, was given appellate jurisdiction over the Court of Military Appeals. The only remaining exception to this exclusive jurisdiction is the habeas corpus process, in which a civilian court can compel the military to show cause to hold a prisoner. The Judge Advocate General has a staff of judge advocates, who perform the roles of defense attorney and prosecutor. The term "judge" is historical and does not indicate the person acts as a judge in the sense that they preside over a case. The order allowed the creation of another form of military court, called the military commission. Army, Charlottesville, Virginia, they have concurrent jurisdiction with general courts-martial, and are often used to prosecute war crimes. According to the Deskbook, "In theory, [commissions] could provide very limited evidentiary and procedural formality. Supreme Court upheld the use of military commissions for the trial of German agents landed in the United States by U-boat, and who infiltrated inside the country as spies. One of the agents contended to be a U.S. citizen. The Court did not take up the issue of his citizenship, since a citizen who adheres to the enemy and then returns to the U.S. The Court found that the Congress has the power to allow the President to convene a military commission, and that the President then had the power to actually convene a commission. A lawful combatant had to be captured and treated as a prisoner of war according to international convention. An unlawful combatant, such as a spy or a soldier operating without identifying marks, could be tried by a military commission. The question that remains for us, then, is this: It would seem that taking up arms against a nation and its people is an act of war, whether that war is declared or not. By international convention, war is waged in a certain way, by uniformed soldiers. This is the way of "civilized warfare. It can then be argued that an entire network of terrorists, like the al Qaeda network of Osama bin Laden, is an entire network of unlawful belligerents. Based on *ex parte Quirin*, these people are subject to military commission. This appears to answer the question of "can it happen," in the legal sense. The question remains, should it be? This is a question that will be answered as these commissions are convened, and we see who is tried under them, what their sentences are, and the kind of access the public has to the proceedings. Recent History As of this writing in July, 2002, we have four real cases to look at for a view of how military justice will fit into our war on terror. During the campaign in Afghanistan, hundreds of people involved with al Qaeda and the Taliban were captured. Over time, then people were mostly all moved to the U.S. Among the group were nationals from several allied nations, including Australia and England, all of whom continue to be held by the U.S. One of the biggest concerns of the U.S. Because most of them refuse to cooperate or answer questions, there has been little opportunity to gather evidence that they have committed criminal acts. The administration had indicated that both military and civilian courts would likely be used to try them, and some would even be sent to their home countries for trial. Lindh, the so-called "American Taliban," was captured in Afghanistan, and after some hand-wringing, it was decided that he should be brought back to the United States to face justice. There was some question about whether he should be detained at Guantanamo, and tried via military tribunal, but the final decision was made to try him in criminal court and he was moved to a site in Virginia. Before most of the issues surrounding his case could be brought to a judge and resolved, Lindh accepted a plea bargain where all of the terrorism charges were dropped. In the plea, Lindh plead guilty to serving in the Taliban army and in carrying weapons while doing so, both in violation of US law. A second American citizen captured in Afghanistan, Yaser Esam Hamdi, is currently in a legal limbo between the military court, where he being held as an enemy combatant, and the civil courts, where his lawyers argue his case. Hamdi was captured in Afghanistan and held in Cuba until it was discovered that he was born in Louisiana. Hamdi was moved to Virginia and is currently still being held on U.S. To evidence the limbo Hamdi is in, a federal appeals court ruled that he did not have a right to an attorney. In January 2002, the 4th U.S. Circuit Court of Appeals agreed with the government, stating, "Judicial review does not disappear during wartime but the review of battlefield captures in overseas conflicts is a highly deferential one."

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Chapter 2 : CAAFlog » Military Justice Act of

uniform code of military justice Congressional Code of Military Criminal Law applicable to all military members worldwide. Use the links below for a quick tour of the UCMJ.

The Act of August 1, , was enacted during the pendency of the codification bill. Constitutionality For information regarding constitutionality of certain provisions of section 1 Art. Prior to amendment, par. Effective Date of Amendment Amendment by Pub. Effective Date of Amendment Pub. Repeals The directory language of, but not the amendment made by, Pub. By virtue of the authority vested in me as President of the United States , and as Commander in Chief of the armed forces of the United States , I hereby prescribe the Code of Conduct for Members of the Armed Forces of the United States which is attached to this order and hereby made a part thereof. All members of the Armed Forces of the United States are expected to measure up to the standards embodied in this Code of Conduct while in combat or in captivity. To ensure achievement of these standards, members of the armed forces liable to capture shall be provided with specific training and instruction designed to better equip them to counter and withstand all enemy efforts against them, and shall be fully instructed as to the behavior and obligations expected of them during combat or captivity. The Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard except when it is serving as part of the Navy shall take such action as is deemed necessary to implement this order and to disseminate and make the said Code known to all members of the armed forces of the United States. I am prepared to give my life in their defense. II I will never surrender of my own free will. If in command, I will never surrender the members of my command while they still have the means to resist. I will make every effort to escape and aid others to escape. I will accept neither parole nor special favors from the enemy. IV If I become a prisoner of war, I will keep faith with my fellow prisoners. I will give no information or take part in any action which might be harmful to my comrades. If I am senior, I will take command. If not, I will obey the lawful orders of those appointed over me and will back them up in every way. V When questioned, should I become a prisoner of war, I am required to give name, rank , service number and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause. VI I will never forget that I am an American, fighting for freedom, responsible for my actions, and dedicated to the principles which made my country free. I will trust in my God and in the United States of America. This is a list of parts within the Code of Federal Regulations for which this US Code section provides rulemaking authority. It is not guaranteed to be accurate or up-to-date, though we do refresh the database weekly. More limitations on accuracy are described at the GPO site.

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Chapter 3 : Constitutional Topic: Military Justice - The U.S. Constitution Online - www.nxgvision.com

Additionally, Appendix provided proposed non-binding guidance to be issued by the Secretary of Defense, in consultation with the Secretary of Homeland Security, pursuant to Article 33 (Disposition Guidance) of the Uniform Code of Military Justice (UCMJ), 10 U.S.C. Comments were received suggesting changes to Analyses, Discussions, and.

Except in a summary court-martial case, such a submission shall be made within 10 days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of the staff judge advocate or legal officer under subsection d. In a summary court-martial case, such submission shall be made within seven days after the sentence is announced. Such a waiver must be made in writing and may not be revoked. For the purposes of subsection c 2 , the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of such a waiver to the convening authority. Under regulations of the Secretary concerned, a commissioned officer commanding for the time being, a successor in command, or any person exercising general court-martial jurisdiction may act under this section in place of the convening authority. Subject to regulations of the Secretary concerned, such action may be taken only after consideration of any matters submitted by the accused under subsection b or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking such action, in his sole discretion, may approve, disapprove, commute, or suspend the sentence in whole or in part. However, such person, in his sole discretion, may-- A dismiss any charge or specification by setting aside a finding of guilty thereto; or B change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification. The convening authority or other person taking action under this section shall refer the record of trial to his staff judge advocate or legal officer, and the staff judge advocate or legal officer shall use such record in the preparation of his recommendation. The recommendation of the staff judge advocate or legal officer shall include such matters as the President may prescribe by regulation and shall be served on the accused, who may submit any matter in response under subsection b. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto. In no case, however, may a proceeding in revision-- A reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty; B reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some article of this chapter; or C increase the severity of some article of the sentence unless the sentence prescribed for the offense is mandatory. If such a person disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taken action under this subsection disapproves the sentence. Such a waiver shall be signed by both the accused and by defense counsel and must be filed within 10 days after the action under sections c of this title article 60 c is served on the accused or on defense counsel. However, the United States may not appeal an order or ruling that is, or amounts to, a finding of not guilty with respect to the charge or specification. Such notice shall include a certification by the b An appeal under this section shall be forwarded by means prescribed under regulations of the President directly to the Court of Military Review and shall, whenever practicable, have priority over all other proceedings before that court. In ruling on an appeal under this section, the Court of Military review may act only with respect to matters of law, notwithstanding section c of this title article 66 c. Upon a rehearing the accused may not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more than the original sentence may be imposed unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. If the sentence approved after the first court-martial was in accordance with a pretrial agreement

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and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial. A judge advocate may not review a case under this subsection if he has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. For the purpose of reviewing court-martial cases, the court may sit in panels or as a whole in accordance with rules prescribed under subsection f. Any decision of a panel may be reconsidered by the court sitting as a whole in accordance with such rules. Appellate military judges who are assigned to a Court of Military Review may be commissioned officers or civilians, each of whom must be a member of a bar of a Federal court or the highest court of a State. The Judge Advocate General shall designate as trial counsel that appeal is not taken for the purpose of delay and if the order or ruling appealed is one which excludes evidence that the evidence is substantial proof of a fact material in the proceeding. In ruling on an appeal under this section, the Court of Military Review may act only with respect to matters of law, notwithstanding section c of this title article 66 c. The Court of Military Appeals shall act upon such a petition promptly in accordance with the rules of the court. In a case which the Judge Advocate General orders sent to the Court of Military Appeals, that action need be taken only with respect to the issues raised by him. In a case reviewed upon petition of the accused, that action need be taken only with respect to issues specified in the grant of review. The Court of Military Appeals shall take action only with respect to matters of law. If it sets aside the findings and sentence and does not order a rehearing, it shall order that the charges be dismissed. Otherwise, unless there is to be further action by the President or the Secretary concerned, the Judge Advocate General shall instruct the convening authority to take action in accordance with that decision. If the court has ordered a rehearing, but the convening authority finds a rehearing impracticable, he may dismiss the charges. The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Military Appeals in refusing to grant a petition for review. The branch office shall be under an Assistant Judge Advocate General who, with the consent of the judge Advocate General, may establish a Court of Military Review with one or more panels. That Assistant Judge Advocate General and any Court of Military Review established by him may perform for that command under the general supervision of the Judge Advocate General, the respective duties which the Judge Advocate General and a Court of Military Review established by the Judge Advocate General would otherwise be required to perform as to all cases involving sentences not requiring approval by the President. If any part of the findings or sentence is found to be unsupported in law or if reassessment of the sentence is appropriate, the Judge Advocate General may modify or set aside the findings of sentence or both. If such a case is considered upon application of the accused, the application must be filed in the office of the Judge Advocate General by the accused on or before the last day of the two-year period beginning on the date the sentence is approved under section c of this title article 60 c , unless the accused establishes good cause for failure to file within that time. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed. If the Judge Advocate General orders a rehearing by the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges. Appellate Government counsel may represent the United States before the Supreme Court in cases arising under this chapter when requested to do so by the Attorney General. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit. That part of the sentence providing for the death may not be suspended. In such a case, the Secretary, Under Secretary or Assistant t Secretary, as the case may be, may commute, remit, or suspend the sentence, or any part of the sentence, as he sees fit. In time of war or national emergency he may commute a sentence of dismissal to reduction to any enlisted grade. A person so reduced may be required to serve for the duration of the war or emergency and six months thereafter. A judgment as to legality of the proceedings is final in such cases when review is completed by a Court of Military Review and-- A the time for the accused to file a petition for review by the Court of Military Appeals has expired and the accused has not filed a timely petition for such

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review and the case is not otherwise under review by that Court; B such a petition is rejected by the Court of Military Appeals; or C review is completed in accordance with the judgment of the Court of Military Appeals and-- i a petition for a writ of certiorari is not filed within the time limits prescribed by the Supreme Court; ii such a petition is rejected by the Supreme Court; or iii review is otherwise completed in accordance with the judgment of the Supreme Court. Any other part of a court-martial sentence may be ordered executed by the convening authority or other person acting on the case under section of this title article 60 when approved by hum under that section. The probationer shall be represented at the hearing by counsel if he so desires. If he vacates the suspension, any unexecuted part of the sentence, except a dismissal, shall be executed, subject to applicable restrictions in section c of this title article 71 c. The vacation of the suspension of a dismissal is not effective until approved by the Secretary concerned. Otherwise the Judge Advocate General shall act upon the petition. RESTORATION a Under such regulations as the President may prescribe, all rights, privileges, and property affected by an executed part of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed part is included in a sentence imposed upon the new trial or rehearing. The reappointment of such a former officer shall be without regard to the existence of a vacancy and shall affect the promotion status of other officers only insofar as the President may direct. All time between the dismissal and reappointment shall be considered as actual service for all purposes, including the right to pay and allowances. Orders publishing the proceedings of courts-martials and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon a petition for a new trial as provided in section of this title article 73 and to action by the Secretary concerned as provided in section of this title article 74 , and the authority of the President.

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Chapter 4 : Uniform Code of Military Justice - Wikipedia

By the authority vested in me as President by the Constitution and the laws of the United States of America, including chapter 47 of title 10, United States Code (Uniform Code of Military Justice).

Effective upon its ratification in 1789, Article I, Section 8 of the United States Constitution provided that Congress has the power to regulate the land and naval forces. Discipline in the sea services was provided under the Articles for the Government of the United States Navy commonly referred to as Rocks and Shoals. The military justice system continued to operate under the Articles of War and Articles for the Government of the Navy until 31 May 1951, when the Uniform Code of Military Justice went into effect. Truman the next day. It took effect on 31 May. In some ways, the UCMJ has been ahead of changes in the civilian criminal justice system. For example, a rights-warning statement similar to the Miranda warnings and required in more contexts than in the civilian world where it is applicable only to custodial interrogation was required by Art. Supreme Court ruled in *Miranda v. Arizona*; Article 38 b 10 U. Supreme Court only guaranteed the provision of counsel to indigents in *Gideon v. Wainwright*. The current version of the UCMJ is printed in latest edition of the Manual for Courts-Martial, incorporating changes made by the President executive orders and National Defense Authorization Acts of 1950 and 1951. If the trial results in a conviction, the case is reviewed by the convening authority "the commanding officer who referred the case for trial by court-martial. If the sentence, as approved by the convening authority, includes death, a bad conduct discharge, a dishonorable discharge, dismissal of an officer, or confinement for one year or more, the case is reviewed by an intermediate court. Personal jurisdiction[edit] Within the exceptions below, as codified in Article 2 of the UCMJ, personal jurisdiction attaches, regardless of the physical global location of the servicemember, over all members of the uniformed services of the United States: Navy, are subject to the UCMJ if they are: Full-time active duty service under orders for a specific period, i. Soldiers and airmen in the National Guard of the United States are subject to the UCMJ only if activated mobilized or recalled to active duty in a Federal capacity under Title 10 by an executive order issued by the President, or during their Annual Training periods, which are orders issued under Title 10, during which periods of duty they are federalized into the National Guard of the United States. Several States also authorize either naval or military organized militia forces. These are collectively known as the State Guard. State Guard organizations typically are organized similarly to a military force, and usually report to the senior National Guard officer in each State, known as the Adjutant General. Each State sets the requirements to join, remain, be promoted or rewarded, and conditions of employment such as a minimum amount of duty performed in a year, and whether any duty is paid or nonpaid, and whether the individuals are covered by various civil service or retirement pension plans. Most State Guard duty is performed without pay, in a volunteer status. While the State Guard organizations are subject to recall to SAD, or other workforce requirements as imposed by their State, they are not subject to either partial or full mobilization authorities under Title 10. However, the individual State Guard members often have dual-status as both State Guard and a Federally recognized uniformed services member, such as a Texas State Guard officer who is also a retired US military officer. Such an individual could be recalled to active duty under both SAD as a State Guard member, or under one of the various authorities to recall retired or reserve military members to active duty 10 USC, various 10 USC XX authorities, and others. Additionally, the following categories of servicemembers are subject to the UCMJ as indicated: Armed Forces, Detained medical personnel and military chaplains in the custody of the U. Armed Forces, and Persons in custody of the U. Armed Forces serving a sentence imposed by a court-martial. Nonjudicial punishment Under Article 15 of the Code Subchapter III, military commanders have the authority to exercise non-judicial punishment NJP over their subordinates for minor breaches of discipline. These punishments are carried out after a hearing before the commander, but without a judge or jury. Punishments are limited to reduction in rank, loss of pay, restrictions of privileges, extra-duty, reprimands, and, aboard ships, confinement. Complaints of wrongs and loss of property[edit] Article of the

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UCMJ provides that any service member may bring a complaint of wrongs against their commanding officer to the officer exercising general court-martial authority over the commander. That officer will investigate the complaint of wrongs and then report the findings of the investigation to the service Secretary e. Article 10 U.

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Chapter 5 : Uniform Code of Military Justice - UCMJ

A primer on Article 31, Uniform Code of Military Justice. The statements of an accused are excludable from a court-martial or administrative separation board if they are obtained in violation of the privilege against self-incrimination under the Fifth Amendment to the United States Constitution, Article 31 of the Uniform Code of Military Justice, or through the use of coercion, unlawful.

PRESIDENT MAY PRESCRIBE RULES a Pretrial, trial, and post trial procedures, including modes of proof, for cases arising under this chapter triable in courts-martial, military commissions and other military tribunals, and procedures for courts of inquiry, may be prescribed by the President by regulations which shall, so far as he considers practicable, apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts, but which may not be contrary to or inconsistent with this chapter. No person subject to this chapter may attempt to coerce or, by any unauthorized means, influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any convening, approving, or reviewing authority with respect to his judicial acts. The foregoing provisions of the subsection shall not apply with respect to 1 general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial, or 2 to statements and instructions given in open court by the military judge, president of a special court-martial, or counsel. However, the person authorized under regulations prescribed under section of this title article 27 to detail counsel in his sole discretion-- A may detail additional military counsel as assistant defense counsel; and B if the accused is represented by military counsel of his own selection under paragraph 3 B , may approve a request from the accused that military counsel detailed under paragraph 3 A act as associate defense counsel. Such regulations may not prescribe any limitation based on the reasonable availability of counsel solely on the grounds that the counsel selected by the accused is from an armed force other than the armed force of which the accused is a member. To the maximum extent practicable, such regulations shall establish uniform policies among the armed forces while recognizing the differences in the circumstances and needs of the various armed forces. The Secretary concerned shall submit copies of regulations prescribed under this paragraph to the Committees on Armed Services of the Senate and House of Representatives. An assistant trial counsel of a special court-martial may perform any duty of the trial counsel. These proceedings shall be conducted in the presence of the accused, the defense counsel, and the trial counsel and shall be made part of the record. All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and in cases in which a military judge has been detailed to the court, the military judge. The military judge or a court-martial without a military judge may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just. The military judge, or if none, the court, shall determine the relevance and validity of the challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered. OATHS a Before performing their respective duties, military judges, members of general and special courts-martial, trial counsel, assistant trial counsel, defense counsel, assistant or associate defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully. The form of the oath, the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulations of the Secretary concerned. These regulations may provide that an oath to perform faithfully duties as a military judge, trial counsel, assistant trial counsel, defense counsel, or assistant or associate defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for duty, and if such an oath is taken it need not again be taken at the time the judge advocate, or other person

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is detailed to that duty. PLEAS OF THE ACCUSED a If an accused after arraignment makes an irregular pleading, or after a plea of guilty sets up matter inconsistent with the plea, or if it appears that he has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if he fails or refuses to plead, a plea of not guilty shall be entered in the record, and the court shall proceed as though he had pleaded not guilty. With respect to any other charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may, if permitted by regulations of the Secretary concurrence, be entered immediately whither vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty. Process issued in court- martial cases to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to that which courts of the Unites States having criminal jurisdiction may lawfully issue and shall run to any part of the United States, or the Territories, Commonwealths, and possessions.