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Military Justice Handbook

Guide for Summary Court-Martial Trial Procedure

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UNCLASSIFIED

Military Justice Handbook

Guide for Summary Court-Martial Trial Procedure

By Order of the Secretary of the Army:

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that accused persons are given fair and impartial trials in accordance with the requirements of law.

Applicability. This pamphlet applies to the Active Army, the Army National Guard (ARNG), and the US Army Reserve (USAR).

Proponent and exception authority. The proponent of this regulation is The Judge Advocate General.

Impact on New Manning System.

This pamphlet does not contain information that affects the New Manning System.

Interim changes. Interim changes to this pamphlet are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to The Judge Advocate General's School, Army, ATTN: JAGS-ADC, Charlottesville, VA 22903-1781.

Distribution restriction.

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The term "he" (and its derivatives) used in this text is generic and except where otherwise indicated should be applied to both male and female.

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Summary. This pamphlet is intended as a practical guide for officers detailed as summary courts-martial. It contains information relating generally to the duties of the summary court-martial, as well as a procedural guide to the conduct of the trial from the opening session through sentencing. It is designed to provide summary courts-martial with the essential procedural guidelines necessary to insure

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*This pamphlet supersedes DA Pam 27-7, 15 May 1982.

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Section I Introduction

1. Purpose and scope

a. This pamphlet is intended as a practical guide for officers detailed as summary courts-martial. It contains information relating generally to the duties of the summary court-martial, as well as a procedural guide to the conduct of the trial from the opening session through sentencing. It is designed to provide summary courts-martial with the essential procedural guidelines necessary to insure that accused persons are given fair and impartial trials in accordance with the requirements of law.

b. It is not the purpose of this pamphlet to answer all questions of procedure or substance which may arise during the trial. Many of the more routine procedural problems are discussed in a general way, however, and this guide should assist in answering some commonly encountered questions.

2. General

a. When this pamphlet and other legal materials available fail to provide sufficient information concerning law or procedure, the summary court-martial should seek advice on these matters from the judge advocate office serving the command. That office will insure that a judge advocate who is totally uninvolved in the case is made available to brief the summary court-martial and answer any questions of law or procedure which arise. For example, the summary court-martial may desire information from a judge advocate concerning what lesser offenses are included in an offense charged (MCM, 1984, part IV, para. 2-113(d); Art. 77, UCMJ) or concerning which defenses, if any, may be applicable to an offense charged. The summary court-martial should not, however, ask or accept advice from a judge advocate or any other person concerning what factual conclusions should be drawn from the evidence in the case or concerning the amount or nature of a sentence which should be imposed upon an accused. These are matters solely and wholly within the responsibility of the summary court-martial, without recourse to the opinions or recommendations of other persons.

b. The proceedings of a summary court-martial are open, and, unless they are to appear as witnesses in the case, individuals desiring to attend as spectators must be permitted to be present at any portion of the proceedings not involving the disclosure of classified information.

c. The accused may be represented during the summary court-martial proceedings by a civilian lawyer provided by him or by a military lawyer if one has been made available for that purpose by competent authority. Civilian or military counsel representing the accused should be allowed to cross-examine witnesses for the government, examine witnesses for the defense, state objections to the reception of evidence and questions asked of witnesses by the summary court-martial, make argument concerning the weight or sufficiency of the evidence or the appropriateness of a sentence, and otherwise perform the normal functions of counsel.

d. An officer detailed as a summary court-martial should be familiar with the entire contents of this pamphlet. If not, the officer runs the risk of committing unintentional error through lack of knowledge or by oversight. Needless error in the conduct of trials by summary courts-martial reflects adversely on the armed forces and the operation of the system of justice provided by the Congress in the Uniform Code of Military Justice. In preparing for and conducting a trial, the officer appointed as a summary court-martial must be totally impartial, both in appearance and actuality, for it is a judicial function that the officer is performing.

3. Key to references

Table 1
Key to References

Reference	In open text	In parenthesis or similar context
Manual for Courts-Martial, United States, 1984	The Manual	MCM, 1984
An Article of the Uniform Code of Military Justice	Article 15	Art. 15
A chapter of the Manual	Chapter XIII of the Manual	MCM, 1984, Chap. XIII
Rules for Courts-Martial	Rule for Court-Martial 101	R.C.M. 101
An appendix of the Manual	Appendix 5 of the Manual	MCM, 1984, App. 5
A rule of evidence from Part III of the Manual	Rule 304	Mil R. Evid. 304
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