

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
3 BILL NO. 2362

By: Kannady of the House

and

Simpson of the Senate

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6
7 An Act relating to militia; authorizing the Adjutant
8 General to request certain confidential information;
9 directing the dissemination of certain confidential
10 information under certain circumstances; amending 44
11 O.S. 2011, Section 21, which relates to the Military
12 Department; *** Uniform State Code of Military
13 Justice; providing for codification; providing for
14 recodification; and providing an effective date.

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AUTHOR: Add the following Senate Coauthor: Rosino

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

"An Act relating to militia; authorizing the Adjutant
General to request certain confidential information;
directing the dissemination of certain confidential
information under certain circumstances; amending 44
O.S. 2011, Section 21, which relates to the Military
Department; providing Military Department
composition; establishing certain command and control
over state military forces under certain conditions;
amending 44 O.S. 2011, Section 212, which relates to
action against officer or enlisted person; updating
citations; updating military member references;
eliminating liability for certain acts of defense;
creating the Oklahoma Uniform Code of Military
Justice; establishing good order and discipline;
defining terms; providing persons subject to the
Oklahoma Uniform Code of Military Justice;
establishing subject matter jurisdiction;
establishing primary jurisdiction; authorizing the

1 promulgation of regulations; determining jurisdiction
2 over certain crimes; authorizing imposition of
3 nonjudicial punishment; establishing jurisdiction for
4 certain discharged personnel; subjecting certain
5 convicted persons to court-martial; prohibiting
6 relief from jurisdiction under certain conditions;
7 reserving certain statutory sections; providing
8 applicability at all times and places; authorizing
9 certain courts to convene under certain conditions;
10 requiring certain judge advocates make certain
11 inspections; requiring certain judge advocate
12 communications; prohibiting service as a judge
13 advocate for persons serving in certain other
14 capacities; providing for investigation and
15 disposition of matters pertaining to the fitness of
16 military judges; listing rights of victims of certain
17 offense; defining term; construing section;
18 authorizing victim petition for certain appeal or
19 relief; defining term; authorizing apprehension of
20 persons reasonably believed to have committed certain
21 offenses; authorizing issuance of warrant of arrest;
22 providing warrant of arrest content requirements;
23 directing warrant of arrest to certain peace
24 officers; defining terms; authorizing orders of
arrest and confinement; authorizing certain offenders
be ordered into arrest or confinement; providing
place of confinement; prohibiting refusal of
committed prisoners; requiring report of certain
prisoner information; prohibiting confinement in
immediate association with certain other prisoners;
prohibiting certain punishment before trial;
authorizing delivery of certain offenders to civil
authorities; directing return of certain offender
under certain conditions; authorizing nonjudicial
punishments; limiting or withholding certain
authority; delegating powers; listing nonjudicial
punishments authorized to be imposed by certain
authorities; limiting duration of nonjudicial
punishments; requiring notice and documentation of
nonjudicial punishments; providing right to certain
trial for certain nonjudicial punishments;
authorizing certain appeal; authorizing absence from
drill or certain training; prohibiting the barring of
certain trials; prohibiting duplicative nonjudicial
punishments; limiting time period to impose
nonjudicial punishments; applying forfeiture of pay
to certain period; authorizing promulgation of rules;

1 classifying courts-martial; defining types of courts-
2 martial; establishing courts-martial jurisdiction for
3 force components; establishing general courts-
4 martial; establishing special courts-martial
5 jurisdiction; establishing jurisdiction of summary
6 courts-martial; providing for summary courts-martial
7 appeal procedure; authorizing certain persons to
8 convene general courts-martial; authorizing certain
9 persons to convene special courts-martial;
10 authorizing certain persons to convene summary
11 courts-martial; authorizing certain persons to serve
12 on courts-martial; requiring military judge for
13 general and special courts-martial; providing for
14 military judge selection and qualifications;
15 providing certain counsel for general and special
16 courts-martial; providing selection, qualifications
17 and reimbursement for certain counsel; providing for
18 court reporters and interpreters for courts-martial;
19 assembling courts-martial with members; providing
20 certain membership requirements; providing for
21 certain alternate members; requiring certain amount
22 of members under certain circumstances; providing for
23 charges and specifications; providing certain writing
24 contents; requiring certain notice and determination;
prohibiting compulsory self-incrimination; requiring
disclosure of certain rights; prohibiting immaterial
or degrading statements or evidence; requiring
preliminary hearing before referral to general court-
martial; requiring preliminary hearing be conducted
by an impartial hearing officer; requiring submission
of certain written report; requiring disclosure of
certain rights; requiring preliminary hearing be
recorded; providing effect of evidence of uncharged
offense; providing effect of certain violation;
defining victim; requiring disposition of certain
guidance; requiring certain advice to convening
authority and consultations before referral for
trial; defining term; requiring service of charges;
determining commencement of trial; authorizing
continuances of certain hearings; establishing
procedure for courts-martial trials; prohibiting
unlawful influencing action of the court; providing
duties of trial counsel, defense counsel and
assistant counsel; authorizing military judge to call
court into session under certain conditions;
requiring certain proceeding be conducted in certain
manner; authorizing continuances for parties;

1 authorizing certain challenges; establishing
2 challenges procedures; requiring certain military
3 officials take an oath; establishing statute of
4 limitations for military offenses; prohibiting
5 certain second trials; providing effect of certain
6 pleas; requiring opportunity to obtain witnesses and
7 other evidence in trials by courts-martial; making
8 refusal to appear or testify an indirect contempt
9 offense; authorizing punishment for certain contempt
10 offenses; establishing contempt proceeding
11 requirements; authorizing depositions be ordered;
12 establishing deposition proceeding requirements;
13 admitting sworn testimony from records of courts of
14 inquiry into evidence; establishing affirmative
15 defense of lack of mental responsibility; requiring
16 certain voting and rulings on military proceedings;
17 requiring votes for conviction, sentencing and other
18 matters; requiring announcement of certain findings
19 and sentencing; authorizing certain plea agreements;
20 requiring separate record of certain proceedings;
21 dispersing copies of proceedings; prohibiting cruel
22 and unusual punishments; providing certain sentencing
23 guidelines; establishing effective dates of
24 sentences; providing for execution of confinement;
reducing member pay grade under certain
circumstances; forfeiting pay and allowances during
confinement; authorizing enforcement of fines or
adjudication of pecuniary liability; prohibiting
finding of sentence on the ground of error of law;
authorizing a finding of a lesser included offense;
providing posttrial processing requirements in
general and special courts-martial; limiting
authority to act on sentence in specified posttrial
circumstances; authorizing posttrial actions in
summary courts-martial and certain general and
special courts-martial; authorizing entry of judgment
and providing content requirements; authorizing
waiver to right of appeal; authorizing withdrawal of
appeal; authorizing the State of Oklahoma to make
certain appeals; providing rehearing proceeding
requirements; requiring judge advocate review of
finding of guilty in summary court-martial; requiring
transmittal and review of certain records;
establishing a Military Court of Appeals for the
State of Oklahoma; providing appointment of appellate
military judge; requiring review of certain decisions
by the Court of Criminal Appeals; authorizing review

1 of certain findings and sentence by State Judge
2 Advocate; appointing certain appellate counsel;
3 requiring hearing for vacation of the suspension of a
4 certain sentence; authorizing petition for a new
5 trial on certain grounds; authorizing the remittance
6 and suspension of the unexecuted part of any
7 sentence; restoring certain rights, privileges and
8 property; declaring certain proceeds, findings and
9 sentences to be final; requiring leave to be taken
10 pending review of certain courts-martial convictions;
11 prohibiting trial for persons lacking mental capacity
12 or mental responsibility; making certain actions
13 those of a principal; prohibiting persons acting as
14 accessory after the fact; authorizing conviction of
15 certain charged offenses; defining term; making an
16 attempt a punishable offense; making a conspiracy a
17 punishable offense; making soliciting others to
18 commit an offense a punishable offense; making
19 malingering a punishable offense; making a breach of
20 medical quarantine a punishable offense; making
21 desertion a punishable offense; making certain
22 absences a punishable offense; making missing the
23 movement of or jumping from certain vessels a
24 punishable offense; making certain actions of
resistance, flight, breach of arrest, and escape
punishable offenses; making use of contemptuous words
against officials a punishable offense; making
certain actions toward a superior commissioned
officer a punishable offense; making willful
disobedience of a superior commissioned officer a
punishable offense; making certain insubordinate
conduct a punishable offense; making failure to obey
an order or regulation a punishable offense; making
cruelty and maltreatment a punishable offense; making
certain activities with military recruit or trainee a
punishable offense; making mutiny or sedition a
punishable offense; making certain actions of a
sentinel or lookout a punishable offense; making
certain actions of disrespect toward a sentinel or
lookout a punishable offense; making release of
prisoner without authority and drinking with prisoner
a punishable offense; making unlawful detention a
punishable offense; making misconduct as a prisoner a
punishable offense; making misbehavior before the
enemy a punishable offense; making actions of
compelling surrender a punishable offense; making
improper use of countersign a punishable offense;

1 making forcing a safeguard a punishable offense;
2 making aiding the enemy a punishable offense; making
3 unlawful disclosure of confidential information a
4 punishable offense; making certain actions related to
5 public records a punishable offense; making certain
6 fraudulent actions a punishable offense; making
7 unlawful enlistment, appointment or separation a
8 punishable offense; making certain false or
9 unauthorized actions a punishable offense; making
10 wearing certain unauthorized apparel a punishable
11 offense; making certain false statements and swearing
12 a punishable offense; making certain actions related
13 to military property a punishable offense; making
14 certain actions related to captured or abandoned
15 property a punishable offense; making certain actions
16 related to nonmilitary property a punishable offense;
17 making improper hazarding of vessel or aircraft a
18 punishable offense; making drunkenness and
19 incapacitation a punishable offense; making certain
20 actions related to controlled substances a punishable
21 offense; making certain actions related to
22 endangerment a punishable offense; making riot and
23 breach of peace a punishable offense; making
24 provoking speeches or gestures a punishable offense;
making wrongful broadcast or distribution of intimate
images a punishable offense; making sexual assault a
punishable offense; providing certain defenses;
making other sexual misconduct a punishable offense;
making fraternization a punishable offense; making
larceny and wrongful appropriation a punishable
offense; making actions of fraud against the
government a punishable offense; making assault a
punishable offense; making stalking a punishable
offense; making perjury a punishable offense; making
subornation of perjury a punishable offense; making
obstructing justice a punishable offense; making
concealing a serious offense a punishable offense;
making wrongful refusal to testify a punishable
offense; making noncompliance with procedural rules a
punishable offense; making wrongful interference with
adverse administrative proceeding a punishable
offense; making retaliation a punishable offense;
making conduct unbecoming an officer and a gentleman
a punishable offense; making certain general conduct
a punishable offense; authorizing courts of inquiry
to convene under certain circumstances; providing
courts of inquiry proceeding requirements;

1 authorizing administration of oaths; requiring
2 certain sections of law be explained to enlisted
3 members; authorizing complaints of wrongdoing;
4 requiring certain redress of injuries to property;
5 authorizing the Governor to delegate certain
6 authorities; establishing precedence of regulations;
7 directing publication in the Oklahoma Administrative
8 Code; directing payment and collection of certain
9 fines be deposited in certain fund; construing the
10 Code; providing immunity for certain duties; limiting
11 jurisdiction for certain crimes; requiring certain
12 continuances for certain military service; amending
13 44 O.S. 2011, Section 208, which relates to
14 discrimination against officers or enlisted members;
15 expanding discrimination prohibition to cover members
16 of the Civil Air Patrol and certain judges;
17 authorizing all appropriate means necessary to
18 protect national security; amending 44 O.S. 2011,
19 Sections 241, 242, 243, 244, 247 and 248, which
20 relate to the State Guard Act; updating citations;
21 modifying rule-making authority; providing
22 applicability; requiring certain executive order;
23 updating gender-neutral references; eliminating
24 certain jurisdiction; renaming act; amending 21 O.S.
2011, Section 133, which relates to military
punishment; modifying applicability; amending 75 O.S.
2011, Sections 250.4, as last amended by Section 12,
Chapter 430, O.S.L. 2014, and 251, as amended by
Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp.
2018, Sections 250.4 and 251), which relate to the
Administrative Procedures Act; exempting military
publications from certain provisions of the act;
directing the Secretary of State to establish method
for publication and archiving of military
publications; authorizing electronic filing of
certain publications; requiring publication and
archiving of all military publications after certain
date; repealing 44 O.S. 2011, Sections 3200, 3201,
3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213,
3214, 3215, 3216, 3217, 3218, 3221, 3231, 3232, 3233,
3234, 3235, 3236, 3241, 3242, 3243, 3244, 3245, 3246,
3247, 3248, 3249, 3251, 3252, 3253, 3254, 3255, 3256,
3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268, 3269,
3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278,
3279, 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297,
3298, 3301, 3302, 3303, 3304, 3305, 3306, 3307, 3308,
3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317,

1 3318, 3319, 3320, 3321, 3331, 3332, 3333, 3334, 3335,
3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344,
2 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353,
3354, 3355, 3356, 3357, 3358, 3359, 3360, 3361, 3362,
3 3363, 3364, 3365, 3366, 3367, 3368, 3369, 3370, 3371,
3372, 3373, 3374, 3375, 3376, 3377, 3378, 3379, 3380,
4 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388, 3389,
3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399,
5 4000, 4001 and 4002, which relate to the Uniform
State Code of Military Justice; providing for
6 codification; providing for recodification; and
7 providing an effective date.
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9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 26.2 of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

13 The Adjutant General or the Adjutant General's designee may request
14 from a district attorney or law enforcement agency confidential
15 criminal justice information relating to the member of the National
16 Guard for use in an administrative or court-martial action. Unless
17 the district attorney or law enforcement agency determines that
18 dissemination of the requested confidential criminal justice
19 information would jeopardize a pending investigation or other
20 pending criminal proceeding, the district attorney or the
21 investigating law enforcement agency shall disseminate the requested
22 information to the Adjutant General or the Adjutant General's
23 designee.
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1 SECTION 2. AMENDATORY 44 O.S. 2011, Section 21, is
2 amended to read as follows:
3 Section 21. The Military Department of the State of Oklahoma is
4 hereby established and shall be ~~administered and controlled by~~ under
5 the command and control of the Governor as Commander in Chief, with
6 the Adjutant General as the executive and administrative head
7 thereof. The Military Department shall be constituted of the state
8 military forces, as defined by Section 801 of this title, and is
9 hereby organized into a joint headquarters ~~with separate branches~~
10 ~~for the~~ which shall be identified as the joint forces headquarters.
11 The joint forces headquarters shall be jointly staffed by Army
12 National Guard and the Air National Guard, and there personnel who,
13 under the authority and direction of the Adjutant General, shall
14 support and assist the Adjutant General in the exercise of command
15 and control over state military forces when not activated for
16 federal duty under Title 10 of the United States Code. There shall
17 be assigned to ~~each~~ the joint force headquarters, officers, enlisted
18 ~~men~~ personnel and civilian employees as may be considered necessary
19 by the Governor as Commander in Chief and as may be authorized by
20 law and Army National Guard regulations and Air National Guard
21 regulations.

22 SECTION 3. AMENDATORY 44 O.S. 2011, Section 212, is
23 amended to read as follows:
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1 Section 212. A. If a suit or proceeding shall be commenced in
2 any court by any person against any ~~officer or enlisted person~~
3 member of the military forces for any act done by ~~such officer or~~
4 ~~enlisted person~~ the member in his or her official capacity in the
5 discharge of any duty under Sections 1 through 117, 208 through
6 ~~235.2~~ 237, ~~or 241 through 250~~, or 800 through 946 of this title, or
7 against any ~~soldier~~ member of the state military forces as defined
8 in Section 801 of this title acting under the authority or order of
9 any such officer, or by virtue of any warrant issued by him or her
10 pursuant to law, it shall be the duty of the Attorney General or
11 Judge Advocate to defend such person.

12 The actual court costs of such a defense shall be a legal charge
13 against the state and shall be submitted to the Legislature for
14 payment. Before any suit or proceeding shall be filed or maintained
15 against any ~~officer or soldier~~ member of state military forces as
16 herein provided, the plaintiff shall be required to give security,
17 to be approved by the court in a sum not less than One Hundred
18 Dollars (\$100.00), to secure the costs. If the plaintiff fails to
19 recover judgment such costs shall be taxed and judgment rendered
20 therefor against him or her and his or her sureties.

21 B. Any officer or enlisted person of the state military forces
22 acting in his or her official capacity in the discharge of any duty
23 under Sections 1 through 117, 208 through 235.3, or 241 through 250
24 of this title, or any member of state military forces acting under

1 the authority or order of any such officer, or by virtue of any
2 warrant issued by him or her pursuant to law, shall be immune from
3 personal liability for any acts that include the use of deadly force
4 in self-defense or in defense of another person from what the member
5 reasonably believes is the imminent use of unlawful deadly force.

6 SECTION 4. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 800 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 PART I.

10 GENERAL PROVISIONS

11 Sections 800 through 946 of this title shall be known and may be
12 cited as the "Oklahoma Uniform Code of Military Justice". With the
13 Oklahoma Uniform Code of Military Justice, good order and discipline
14 shall be established and safeguarded within state military forces
15 pursuant to Section 40 of Article V of the Oklahoma Constitution.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 801 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 1. Definitions.

20 A. As used in the Oklahoma Uniform Code of Military Justice,
21 unless the context otherwise requires:

22 1. "Accuser" means a person who signs and swears to charges,
23 any person who directs that charges nominally be signed and sworn to
24

1 by another, and any other person who has an interest other than an
2 official interest in the prosecution of the accused;

3 2. "Adjutant General" means the commander and most senior
4 military officer of the Oklahoma National Guard appointed by the
5 Governor with the advice and consent of the Senate. The Adjutant
6 General exercises command and control over the Oklahoma National
7 Guard when it is not activated for federal duty under Title 10 of
8 the United States Code. The Adjutant General serves as the
9 executive and administrative head of the Military Department of the
10 State of Oklahoma as provided for in Section 21 of this title;

11 3. "Administrative control (ADCON)" means the control or
12 exercise of authority over subordinate units and other organizations
13 or units with respect to administration and support, including
14 control of resources and equipment, personnel management, unit
15 logistics, individual and unit training, readiness, mobilization,
16 demobilization and other matters not included in the operational
17 missions of the subordinate units or other organizations or units.
18 Lawfully issued orders implementing administrative control may
19 incorporate references to the Oklahoma Uniform Code of Military
20 Justice (OUCMJ) for disciplinary purposes;

21 4. "Allowance" means an amount of money provided to members of
22 the state military forces when adequate services or facilities are
23 not provided by the military. Allowances are usually provided tax-

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1 free for basic housing, basic subsistence, cost of living, clothing
2 expenses and separation from family members;

3 5. "Arrest in quarters" means moral restraint, as opposed to
4 physical restraint, limiting the liberty of an officer. The limits
5 of arrest in quarters are set by the authority imposing nonjudicial
6 punishment and may extend beyond the physical quarters of an
7 officer;

8 6. "Assistant Adjutant General" means an officer appointed by
9 the Adjutant General to assist the Adjutant General in the discharge
10 and performance of his or her duties. An Assistant Adjutant General
11 shall meet the qualifications prescribed by law for the Adjutant
12 General. At least one Assistant Adjutant General for the Army
13 National Guard and one Assistant Adjutant General for the Air
14 National Guard are customarily appointed to establish lines of
15 command and administration into each component of the state military
16 forces. Additional assistant adjutants general may be appointed
17 pursuant to law, custom or National Guard regulations;

18 7. "Cadet" or "officer candidate" means a person who is
19 enrolled in or attending a state military academy, a regional
20 training institute, or any other formal education program for the
21 purpose of becoming a commissioned officer in the state military
22 forces;

23 8. "Classified information" means:
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- 1 a. any information or material that has been determined
2 pursuant to federal law, by an Executive Order issued
3 by the President in execution of federal law, or a
4 lawfully promulgated federal regulation, to require
5 protection against unauthorized disclosure for reasons
6 of national security and that is so designated, and
7 b. any restricted data, as defined in Section 11(y) of
8 the Atomic Energy Act of 1954 (42 U.S.C., Section
9 2014(y));

10 9. "Code" means the Oklahoma Uniform Code of Military Justice
11 (OUCMJ);

12 10. "Command authority" means the authority that a commander
13 lawfully exercises over subordinates by virtue of rank or
14 assignment. Disciplinary authority under the OUCMJ is inherent to
15 command authority;

16 11. "Commander" means a designated commissioned officer vested
17 with command authority pursuant to law, regulation, assignment,
18 lawful order or custom;

19 12. "Commanding officer" includes only commissioned officers of
20 the state military forces and shall include officers in charge only
21 when administering nonjudicial punishment under Section 815 (Article
22 15) of this title. "Commander" has the same meaning as "commanding
23 officer" unless the context otherwise requires;

1 13. "Component" means one of two constituent parts that make up
2 the state military forces, namely the army force responsible for
3 land-based operations and the air force responsible for aerial
4 operations and related support activities;

5 14. "Confidential information" means any information or
6 material that shall be designated as confidential pursuant to
7 Section 24A.27 of Title 51 of the Oklahoma Statutes and any
8 information or material that may be kept confidential pursuant to
9 Section 24A.28 of Title 51 of the Oklahoma Statutes that has not
10 previously been released by an appropriate authority;

11 15. "Convening authority" includes, in addition to the person
12 who convened the court, a commissioned officer commanding for the
13 time being or a successor in command to the convening authority;

14 16. "Day" means calendar day and is not synonymous with the
15 term "unit training assembly". Any punishment authorized by this
16 act which is measured in terms of days shall, when served in a
17 status other than annual field training, be construed to mean
18 succeeding duty days;

19 17. "Court of Criminal Appeals" means the Oklahoma Court of
20 Criminal Appeals, the highest court in the State of Oklahoma with
21 appellate jurisdiction in criminal cases. It is the court of last
22 resort for courts-martial conducted under the Code;

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1 18. "Duty status" means duty in the state military forces under
2 an order issued by authority of law, and includes travel to and from
3 such duty;

4 19. "Enlisted member" means a person in an enlisted grade;

5 20. "Fatigue duty" means general labor performed by members of
6 the state military forces when unarmed, including but not limited to
7 cleaning, digging, loading, organizing, etc.;

8 21. "Fine" means a type of punishment that makes a member
9 pecuniarily liable to the State of Oklahoma for the amounts
10 specified by nonjudicial punishment or adjudged by a court-martial.
11 A fine may be paid in cash by a member, collected by deduction from
12 the current pay of a member or collected by deduction on settlement
13 of the pay account of a member upon discharge;

14 22. "Forfeiture" means a loss of monetary compensation provided
15 to members of the Oklahoma National Guard or Oklahoma State Guard
16 for performance of military duties as a result of nonjudicial
17 punishment or as adjudged by a court-martial. A forfeiture is
18 applicable to basic pay and allowances if total forfeitures of pay
19 and allowances are specifically adjudged by a general court-martial;
20 provided, that forfeitures other than total forfeitures shall not
21 apply to special pay, other than hardship duty pay, or proficiency
22 or incentive pay;

1 23. "Grade" means a step or degree in a graduated scale of
2 office or military rank which is established and designated as a
3 grade by law or regulation;

4 24. "Installation commander" means a commissioned officer
5 responsible for the protection of assigned forces and assets,
6 lodging, dining and administrative reporting, regardless of the
7 command relations of the various types of forces present on the
8 installation. For purposes of this definition, an installation is
9 an Armed Forces Reserve Center, air base, armory, camp, post,
10 readiness center, office building, the joint forces headquarters or
11 other facility, location, structure or property so designated as an
12 "installation" by the Adjutant General;

13 25. "Joint forces headquarters" means the joint headquarters
14 provided for and established in Section 21 of this title;

15 26. "Judge advocate" means a commissioned officer of the
16 organized state military forces who is a member in good standing of
17 the bar of the highest court of a state, and is certified or
18 designated as a judge advocate in the Judge Advocate General's Corps
19 of the Army or the Air Force, or a reserve component of the same;

20 27. "May" is used in a permissive sense. The phrase "no person
21 may" means that no person is required, authorized, or permitted to
22 do the act prescribed;

23 28. "Military court" means a court-martial or a court of
24 inquiry;

1 29. "Military Court of Appeals" means the intermediate
2 appellate court of record established in Section 866 of this title
3 (Article 66) and charged with conducting an appellate review of
4 questions of law arising from general and special courts-martial
5 proceedings conducted by the state military forces and, when
6 necessary in furtherance of its jurisdiction, reviewing all
7 petitions for extraordinary relief properly brought before it;

8 30. "Military department" means the administrative agency
9 established in Section 21 of this title charged with coordinating
10 and supervising state military forces. The military department
11 consists of a joint forces headquarters, an army component and an
12 air force component under the command and control of the Adjutant
13 General when not activated for federal duty under Title 10 of the
14 United States Code;

15 31. "Military judge" means a judicial officer who presides over
16 a general or special court-martial and is detailed in accordance
17 with Section 826 of this title (Article 26);

18 32. "Military offenses" means those offenses designated as
19 punitive articles under Sections 877 (Article 77, Principals), 878
20 (Article 78, Accessory after the fact), 879 (Article 79, Conviction
21 of offense charged, lesser included offenses, and attempts), 880
22 (Article 80, Attempts), 881 (Article 81, Conspiracy), 882 (Article
23 82, Soliciting commission of offenses), 883 (Article 83,
24 Malingering), 884 (Article 84, Breach of medical quarantine), 885

1 (Article 85, Desertion), 886 (Article 86, Absence without leave),
2 887 (Article 87, Missing movement; jumping from vessel), 887A
3 (Article 87A, Resistance, flight, breach of arrest, and escape), 888
4 (Article 88, Contempt toward officials), 889 (Article 89, Disrespect
5 toward superior commissioned officer; assault of superior
6 commissioned officer), 890 (Article 90, Willfully disobeying
7 superior commissioned officer), 891 (Article 91, Insubordinate
8 conduct toward warrant officer, or noncommissioned officer), 892
9 (Article 92, Failure to obey order or regulation), 893 (Article 93,
10 Cruelty and maltreatment), 893A (Article 93A, Prohibited activities
11 with military recruit or trainee by person in position of special
12 trust), 894 (Article 94, Mutiny or sedition), 895 (Article 95,
13 Offenses by sentinel or lookout), 895A (Article 95A, Disrespect
14 toward sentinel or lookout), 896 (Article 96, Release of prisoner
15 without authority; drinking with prisoner), 897 (Article 97,
16 Unlawful detention), 898 (Article 98, Misconduct as prisoner), 899
17 (Article 99, Misbehavior before the enemy), 900 (Article 100,
18 Subordinate compelling surrender), 901 (Article 101, Improper use of
19 countersign), 902 (Article 102, Forcing a safeguard), 903B (Article
20 103B, Aiding the enemy), 903C (Article 103C, Unlawful disclosure of
21 confidential information), 904 (Article 104, Public records
22 offenses), 904A (Article 104A, Fraudulent enlistment, appointment,
23 or separation), 904B (Article 104B, Unlawful enlistment,
24 appointment, or separation), 905A (Article 105A, False or

1 unauthorized pass offenses), 906A (Article 106A, Wearing
2 unauthorized insignia, decoration, badge, ribbon, device, or lapel
3 button), 907 (Article 107, False official statements; false
4 swearing), 908 (Article 108, Military property-loss, damage,
5 destruction, or wrongful disposition), 908A (Article 108A, Captured
6 or abandoned property), 909 (Article 109, Property other than
7 military property-waste, spoilage, or destruction), 910 (Article
8 110, Improper hazarding of vessel or aircraft), 912 (Article 112,
9 Drunkenness and other incapacitation offenses), 912A (Article 112A,
10 Wrongful use, possession, etc., of controlled substances), 914
11 (Article 114, Endangerment offenses), 916 (Article 116, Riot or
12 breach of peace), 917 (Article 117, Provoking speeches or gestures),
13 917A (Article 117A, Wrongful broadcast or distribution of intimate
14 visual images), 920 (Article 120, Sexual assault generally), 920C
15 (Article 120C, Other sexual misconduct), 920D (Article 120D,
16 Fraternalization), 921 (Article 121, Larceny and wrongful
17 appropriation), 924 (Article 124, Frauds against the government),
18 928 (Article 128, Assault), 930 (Article 130, Stalking), 931
19 (Article 131, Perjury), 931A (Article 131A, Subornation of perjury),
20 931B (Article 131B, Obstructing justice), 931C (Article 131C,
21 Misprision of serious offense), 931D (Article 131D, Wrongful refusal
22 to testify), 931F (Article 131F, Noncompliance with procedural
23 rules), 931G (Article 131G, Wrongful interference with adverse
24 administrative proceeding), 932 (Article 132, Retaliation), 933

1 (Article 133, Conduct unbecoming an officer and a gentleman) and 934
2 (Article 134, General article) of this title;

3 33. "Military publication" means a written publication of an
4 administrative nature such as a regulation, instruction, pamphlet,
5 circular, permanent or general order, numbered adjutant general
6 policy memorandum or blank form promulgated or published by or under
7 the authority of the Adjutant General. An order or directive issued
8 by the Adjutant General that is operational in nature or issued in
9 execution of a military mission shall not be included within the
10 meaning of military publication. Rules of procedure published by
11 the State Judge Advocate for the Military Court of Appeals are
12 included in the meaning of military publication;

13 34. "Month's pay" means the amount of basic pay that would be
14 paid to a member if that member were serving on active duty;

15 35. "National security" means the national defense and foreign
16 relations of the United States;

17 36. "Nexus" means the appearance of a connection between a
18 nonmilitary offense and the state military forces which brings
19 discredit or dishonor to the state military forces due to
20 representations of membership in the state military forces by a
21 member. Such representations may be made directly or indirectly,
22 including but not limited to publication on social media or other
23 electronic communication platforms;

1 37. "Noncommissioned officer" means an enlisted member above
2 the pay grade of E-4 or an enlisted member in the army component of
3 state military forces holding the rank of corporal;

4 38. "Nonjudicial punishment" means punishment imposed
5 administratively by a commander or officer in charge for minor
6 offenses in lieu of a court-martial;

7 39. "Officer" means a commissioned or warrant officer;

8 40. "Officer in charge" means a commissioned or warrant officer
9 designated as such by appropriate authority;

10 41. "Pay" means monetary compensation provided to members of
11 the state military forces in exchange for performance of military
12 duties carried out pursuant to a lawful order or otherwise under the
13 authority of law, including basic pay, special pay, proficiency pay
14 and incentive pay. "Pay" shall not mean allowances as defined in
15 this section;

16 42. "Rank" means the order of precedence among members of the
17 state military forces;

18 43. "Record", when used in connection with the proceedings of a
19 court-martial, means:

20 a. an official written transcript, written summary, or other
21 writing relating to the proceedings, or

22 b. an official audiotape, videotape, digital image or file,
23 or similar material from which sound, or sound and visual images,
24 depicting the proceedings may be reproduced;

1 44. "Regulation" means a written, administrative expression of
2 executive authority issued by an executive branch officer which
3 carries with it the force and effect of law due to inherent command
4 authority or express delegation of authority by the legislative
5 branch; regulations provided for in the Code are published and
6 archived by the Secretary of State;

7 45. "Rehearing" means a new trial on the findings, on the
8 sentence, or on both;

9 46. "Restriction" means moral restraint, as opposed to physical
10 restraint, limiting access to physical places or participation in
11 certain activities. In comparison to arrest in quarters,
12 "restriction" is a lesser punishment;

13 47. "Senior Assistant Adjutant General" means an Assistant
14 Adjutant General who either possesses the most time in grade or has
15 been designated in writing by the Adjutant General as the Senior
16 Assistant Adjutant General for his or her force component
17 irrespective of time in grade;

18 48. "Senior force component judge advocate" means the judge
19 advocate assigned as chief legal advisor to the Senior Assistant
20 Adjutant General of the same component of the state military forces
21 as the accused. Unless there is a conflict of interest, a senior
22 force component judge advocate may also serve as legal counsel to
23 the Adjutant General and may be designated as the State Judge
24

1 Advocate. The customary duty station of a senior force component
2 judge advocate is joint forces headquarters;

3 49. "Shall" is used in an imperative sense;

4 50. "State" means one of the several states, the District of
5 Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin
6 Islands;

7 51. "State active duty" means full-time duty in the state
8 military forces under an order of the Governor or otherwise issued
9 by authority of law, and paid by state funds, and includes travel to
10 and from such duty;

11 52. "State Judge Advocate" means a member of the Oklahoma
12 National Guard qualified as a judge advocate, as defined in this
13 section, and who is designated in writing by the Adjutant General as
14 the State Judge Advocate;

15 53. "State military forces" means the National Guard of the
16 State of Oklahoma, which includes an army component and an air force
17 component, as defined in Title 32, United States Code, and Section
18 41 of this title; the Oklahoma State Guard, organized pursuant to
19 Section 109 of Title 32, United States Code, and established
20 pursuant to the Oklahoma State Guard Act; and any other military
21 force organized under the Constitution and laws of the State of
22 Oklahoma when not in a status placing them under exclusive federal
23 jurisdiction pursuant to Chapter 47 of Title 10, United States Code.
24 Unless otherwise established by Oklahoma law, the unorganized

1 militia, as provided for in Section 41 of this title, or any other
2 state military force that does not meet this definition shall not be
3 considered part of the "state military forces" under the Code;

4 54. "Superior commissioned officer" means a commissioned
5 officer superior in rank or command;

6 55. "Supplies" means materiel, equipment and stores of all
7 types possessed or lawfully controlled by state military forces; and

8 56. "Title 32 active duty" means training or other duty, other
9 than inactive duty, performed by a member of the Army National Guard
10 of the United States or the Air National Guard of the United States
11 in the member's status as a member of the Oklahoma National Guard
12 pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of the
13 United States Code for which the member is entitled to pay from the
14 United States or for which the member has waived pay from the United
15 States.

16 B. Other terms not specifically defined herein shall be defined
17 by military rules or regulations and customs and usage of the
18 National Guard and the Armed Forces of the United States.

19 C. If a term is not defined in either subsection A of this
20 section nor defined as provided in subsection B of this section, it
21 shall receive the construction and usage customarily accorded by
22 reference to dictionaries of the English language in existence at
23 the time of adoption of this act.

24

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 802 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 2. Persons subject to the Oklahoma Uniform Code of Military
5 Justice.

6 A. The Oklahoma Uniform Code of Military Justice applies to all
7 members of the state military forces at all times who are not in
8 active federal service, as defined by Title 10 of the United States
9 Code.

10 B. Subject matter jurisdiction is established if more likely
11 than not a nexus exists between an offense, either military or
12 nonmilitary, and the state military forces. Courts-martial shall
13 have primary jurisdiction over military offenses as defined in the
14 Code.

15 C. The civilian courts shall have primary jurisdiction over
16 nonmilitary offenses when an act or omission violates both the Code
17 and local criminal law. In such a case, a court-martial may be
18 initiated only after the civilian authority has declined to
19 prosecute or has dismissed the charge, provided jeopardy has not
20 attached. When a member is not in a duty status under Title 32 of
21 the United States Code or on state active duty orders, there shall
22 be a rebuttable presumption that subject matter jurisdiction does
23 not exist under the Code. The Governor or Adjutant General may
24 promulgate additional regulations prescribing how a convening

1 authority shall determine the existence of a nexus between a
2 nonmilitary offense and state military forces.

3 D. Jurisdiction over attempted crimes, conspiracy crimes,
4 solicitation and accessory crimes shall be determined by the
5 underlying offense.

6 E. If a commander or officer in charge determines that a nexus
7 exists between a nonmilitary offense and the state military forces,
8 for purposes of administrative action, the commander or officer in
9 charge may impose nonjudicial punishment regardless of whether
10 courts-martial jurisdiction is then possessed or later acquired by
11 the state military forces.

12 SECTION 7. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 803 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 3. Jurisdiction to try certain personnel.

16 A. Each person discharged from the state military forces who is
17 later charged with having fraudulently obtained a discharge is,
18 subject to Section 904A of this title, subject to trial by court-
19 martial on that charge and is, after apprehension, subject to the
20 Oklahoma Uniform Code of Military Justice while in custody under the
21 direction of the state military forces for that trial. Upon
22 conviction of the charge, the person shall be subject to trial by
23 court-martial for all offenses under the Oklahoma Uniform Code of
24 Military Justice committed before the fraudulent discharge.

1 B. No person who has deserted from the state military forces
2 shall be relieved from amenability to the jurisdiction of the
3 Oklahoma Uniform Code of Military Justice by virtue of a separation
4 from any later period of service.

5 SECTION 8. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 804 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 805 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 5. Territorial applicability of Oklahoma Uniform Code
13 of Military Justice.

14 The Oklahoma Uniform Code of Military Justice applies at all
15 times and in all places. Courts-martial and courts of inquiry may
16 be convened while state military forces are deployed outside the
17 state with the same jurisdiction and powers as if the proceedings
18 were held inside the state, and offenses committed outside the state
19 may be tried and punished either inside or outside of the state.

20 SECTION 10. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 806 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 6. Judge advocates.
24

1 A. The senior force component judge advocates in each of the
2 state's military force components or those judge advocates'
3 delegates shall make frequent inspections in the field in
4 supervision of the administration of military justice in that force
5 component.

6 B. Convening authorities shall at all times communicate
7 directly with their judge advocates in matters relating to the
8 administration of military justice. The judge advocate of any
9 command is entitled to communicate directly with the judge advocate
10 of a superior or subordinate command, or with the State Judge
11 Advocate.

12 C. No person who, with respect to a case, serves in a capacity
13 specified in subsection D of this section may later serve as a judge
14 advocate to any reviewing or convening authority upon the same case.

15 D. The capacities referred to in subsection C of this section
16 are, with respect to the case involved, any of the following:

17 1. Preliminary hearing officer, court member, military judge,
18 military magistrate, or appellate judge; or

19 2. Counsel who have acted in the same case or appeared in any
20 proceeding before a military judge, preliminary hearing officer, or
21 appellate court.

22 SECTION 11. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 806A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 6A. Investigation and disposition of matters pertaining
2 to the fitness of military judges.

3 The Adjutant General shall promulgate regulations prescribing
4 procedures for the investigation and disposition of charges,
5 allegations, or information pertaining to the fitness of a military
6 judge to perform the duties of the judge's position. To the extent
7 practicable, the procedures shall be uniform for both force
8 components.

9 SECTION 12. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 806B of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 6B. Rights of the victim of an offense under the
13 Oklahoma Uniform Code of Military Justice.

14 A. A victim of an offense under the Oklahoma Uniform Code of
15 Military Justice has the following rights:

- 16 1. The right to be reasonably protected from the accused;
17 2. The right to reasonable, accurate and timely notice of any
18 of the following:

- 19 a. a public hearing concerning the continuation of
20 confinement prior to trial of the accused,
21 b. a preliminary hearing under Section 832 of this title
22 (Article 32) relating to the offense,
23 c. a court-martial relating to the offense,
24

1 d. a public proceeding of the parole board relating to
2 the offense, and

3 e. the release or escape of the accused;

4 3. The right not to be excluded from any public hearing or
5 proceeding described in paragraph 2 of this subsection unless the
6 military judge or preliminary hearing officer, as applicable, after
7 receiving clear and convincing evidence, determines that testimony
8 by the victim of an offense under the Code would be materially
9 altered if the victim heard other testimony at that hearing or
10 proceeding;

11 4. The right to be reasonably heard at any of the following:

12 a. a public hearing concerning the continuation of
13 confinement prior to trial of the accused,

14 b. a sentencing hearing relating to the offense, and

15 c. a public proceeding of the parole board relating to
16 the offense;

17 5. The reasonable right to confer with the counsel representing
18 the government at any proceeding described in paragraph 2 of this
19 subsection;

20 6. The right to receive restitution as provided in law;

21 7. The right to proceedings free from unreasonable delay; and

22 8. The right to be treated with fairness and with respect for
23 the dignity and privacy of the victim of an offense under the Code.
24

1 B. In this section, the term "victim of an offense under the
2 Code" means an individual who has suffered direct physical,
3 emotional, or pecuniary harm as a result of the commission of an
4 offense under the Oklahoma Uniform Code of Military Justice.

5 C. Nothing in this section shall be construed:

6 1. To authorize a cause of action for damages; or

7 2. To create, to enlarge, or to imply any duty or obligation to
8 any victim of an offense under the Code or other person for the
9 breach of which the State of Oklahoma or any of its officers or
10 employees could be held liable in damages.

11 D. Enforcement by Military Court of Appeals.

12 1. If the victim of an offense under the Code believes that a
13 preliminary hearing ruling under Section 832 of this title (Article
14 32) or a court-martial ruling violates the rights of the victim
15 afforded by paragraph 4 of subsection A of this section, the victim
16 may petition the Military Court of Appeals for a writ of mandamus to
17 require the preliminary hearing officer or the court-martial to
18 comply with the provisions of paragraph 4 of subsection A of this
19 section.

20 2. If the victim of an offense under the Code is subject to an
21 order to submit to a deposition, notwithstanding the availability of
22 the victim to testify at the court-martial trying the accused for
23 the offense, the victim may petition the Military Court of Appeals
24 for a writ of mandamus to quash such order.

1 A. Apprehension is the taking of a person into custody.

2 B. Any person authorized by the Oklahoma Uniform Code of
3 Military Justice or by Chapter 47 of Title 10 of the United States
4 Code, or by regulations issued under either, to apprehend persons
5 subject to the Oklahoma Uniform Code of Military Justice, any
6 marshal of a court-martial appointed pursuant to the provisions of
7 the Code, and any civil officer or peace officer having authority to
8 apprehend offenders under the laws of the United States or of a
9 state, may do so upon reasonable belief that an offense has been
10 committed and that the person apprehended committed it.

11 C. Commissioned officers, warrant officers and noncommissioned
12 officers have authority to quell quarrels, frays, and disorders
13 among persons subject to the Code and to apprehend persons subject
14 to the Code who take part therein.

15 SECTION 14. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 808 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 8. Warrant of arrest, issuance, contents, service.

19 A. A warrant of arrest for the purposes of securing the
20 presence of an accused at any court-martial proceedings or in
21 execution of a sentence of confinement may be issued by a general or
22 special court-martial convening authority.

23 B. The warrant issued under this section shall:

24 1. Be in writing and in the name of the State of Oklahoma;

1 2. State the date when issued and the municipality or county
2 where issued;

3 3. State the name and rank of the person to be arrested;

4 4. State the offense charged against the person to be arrested;

5 5. Command that the person against whom the complaint was made
6 be arrested, conducted to a designated civil or military facility
7 under the control of the state or federal government, placed in
8 custody as directed, and booked;

9 6. Be signed by an authorized officer of the armed forces of
10 this state; and

11 7. Specify the amount of bail.

12 C. The warrant shall be directed to all peace officers in the
13 state or federal government and the provost marshal of the Oklahoma
14 National Guard. Such officers shall have the power and authority to
15 conduct the arrested person to the designated facility without
16 regard to territorial jurisdiction.

17 SECTION 15. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 809 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 9. Imposition of restraint.

21 A. Arrest is the restraint of a person by an order, not imposed
22 as a punishment for an offense, directing that person to remain
23 within certain specified limits. Confinement is the physical
24 restraint of a person.

1 B. An enlisted member may be ordered into arrest or confinement
2 by any commissioned officer by an order, oral or written, delivered
3 in person or through other persons subject to the Oklahoma Uniform
4 Code of Military Justice. A commanding officer may authorize
5 warrant officers or noncommissioned officers to order enlisted
6 members of his or her command or subject to his or her authority
7 into arrest or confinement.

8 C. A commissioned officer or a warrant officer may be ordered
9 into arrest or confinement only by a commanding officer to whose
10 authority he or she is subject, by an order, oral or written,
11 delivered in person, or by another commissioned officer. The
12 authority to order such persons into arrest or confinement shall not
13 be delegated.

14 D. No person may be ordered into arrest or confinement except
15 for probable cause.

16 E. Nothing in this section limits the authority of persons
17 authorized to apprehend offenders to secure the custody of an
18 alleged offender until proper authority may be notified.

19 SECTION 16. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 810 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 10. Restraint of persons charged.

23 A. 1. Unless otherwise provided in paragraph 2 of this
24 subsection, any person subject to the Oklahoma Uniform Code of

1 Military Justice who is charged with an offense under the Code may
2 be ordered into arrest or confinement, as the circumstances require.

3 2. When a person subject to the Code is charged only with an
4 offense that is normally tried by summary court-martial, the person
5 ordinarily shall not be ordered into confinement.

6 B. 1. When a person subject to the Code is ordered into arrest
7 or confinement before trial, immediate steps shall be taken:

8 a. to inform the person of the specific offense of which
9 the person is accused, and

10 b. to try the person or to dismiss the charges and
11 release the person.

12 2. To facilitate compliance with paragraph 1 of this
13 subsection, the Adjutant General shall promulgate regulations
14 setting forth procedures relating to referral for trial, including
15 procedures for prompt forwarding of the charges and specifications
16 and, if applicable, the preliminary hearing report submitted under
17 Section 832 of this title (Article 32).

18 SECTION 17. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 811 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 11. Place of confinement, reports and receiving of
22 prisoners.

23 A. Persons confined before or during trial by court-martial
24 shall be confined in any place of confinement under the control of

1 any of the armed forces, in any county jail or in any penal or
2 correctional facility under the control of the Oklahoma Department
3 of Corrections.

4 B. No provost marshal, commander of a guard, master at arms,
5 warden, keeper, or officer of a place of confinement designated in
6 subsection A of this section shall refuse to receive or keep any
7 prisoner committed to his or her charge, when the committing person
8 furnishes a statement, signed by him or her, of the offense charged
9 against the prisoner.

10 C. Every commander of a guard, master at arms, warden, keeper,
11 or officer of a place of confinement designated in subsection A of
12 this section, to whose charge a prisoner is committed shall, within
13 twenty-four (24) hours after that commitment or as soon as he or she
14 is relieved from guard, report to the commanding officer of the
15 prisoner the name of the prisoner, the offense charged against him
16 or her, and the name of the person who ordered or authorized the
17 commitment.

18 SECTION 18. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 812 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 12. Prohibition of confinement of members of the state
22 military forces with enemy prisoners and certain others.

23 No member of the state military forces shall be placed in
24 confinement in immediate association with:

1 1. Enemy prisoners; or

2 2. Other individuals:

3 a. who are detained under the law of war and are foreign
4 nationals, and

5 b. who are not members of the armed forces.

6 SECTION 19. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 813 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 13. Punishment prohibited before trial.

10 No person, while being held for trial, shall be subjected to
11 punishment or penalty other than arrest or confinement upon the
12 charges pending against him or her, nor shall the arrest or
13 confinement imposed upon him or her be any more rigorous than the
14 circumstances required to insure his or her presence, but he or she
15 may be subjected to minor punishment during that period for
16 infractions of discipline.

17 SECTION 20. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 814 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 14. Delivery of offenders to civil authorities.

21 A. Under such regulations as the Adjutant General may
22 prescribe, a person subject to the Oklahoma Uniform Code of Military
23 Justice who is in a duty status and who is accused of an offense
24

1 against civil authority may be delivered, upon request, to the civil
2 authority for trial.

3 B. When delivery under this section is made to any civil
4 authority of a person undergoing sentence of a court-martial, the
5 delivery, if followed by conviction in a civil tribunal, interrupts
6 the execution of the sentence of the court-martial, and the
7 offender, after having answered to the civil authorities of his or
8 her offense shall, upon the request of competent military authority,
9 be returned to the place of original custody for the completion of
10 his or her sentence.

11 PART III.

12 NONJUDICIAL PUNISHMENT

13 SECTION 21. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 815 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 15. Commanding officer's nonjudicial punishment.

17 A. Except as provided in subsection B of this section, any
18 commanding officer and, for purposes of this section, any officer in
19 charge, may impose disciplinary punishments for minor offenses
20 arising under the punitive articles of the Oklahoma Uniform Code of
21 Military Justice without the intervention of a court-martial.

22 B. Any superior commander may limit or withhold the exercise of
23 nonjudicial punishment authority by subordinate commanders,
24 including limiting authority over certain categories of military

1 personnel or offenses. Likewise, individual cases may be reserved
2 by a superior commander. A superior authority may limit or withhold
3 any power that a subordinate might otherwise exercise under this
4 section.

5 C. Except as provided in subsection K of this section, the
6 Governor, the Adjutant General, or a general officer in command may
7 delegate the powers established under this section to a principal
8 assistant who is a member of the state military forces and is also a
9 member of the same force component as the accused.

10 D. Any commanding officer may impose upon enlisted members of
11 the officer's command:

12 1. An admonition;

13 2. A reprimand;

14 3. The withholding of privileges for not more than six (6)
15 months which need not be consecutive;

16 4. The forfeiture of pay of not more than seven (7) days' pay;

17 5. A fine of not more than seven (7) days' pay;

18 6. A reduction to the next inferior pay grade, if the grade
19 from which demoted is within the promotion authority of the officer
20 imposing the reduction or any officer subordinate to the one who
21 imposes the reduction;

22 7. Extra duties, including fatigue or other duties, for not
23 more than fourteen (14) days, which need not be consecutive; and
24

1 8. Restriction to certain specified limits, with or without
2 suspension from duty, for not more than fourteen (14) days, which
3 need not be consecutive.

4 E. Any commanding officer of the grade of major or above may
5 impose upon enlisted members of the officer's command:

6 1. An admonition;

7 2. A reprimand;

8 3. The withholding of privileges for not more than six (6)
9 months which need not be consecutive;

10 4. The forfeiture of not more than one-half (1/2) of one (1)
11 month's pay per month for two (2) months;

12 5. A fine of not more than one (1) month's pay;

13 6. A reduction to the lowest or any intermediate pay grade, if
14 the grade from which demoted is within the promotion authority of
15 the officer imposing the reduction or any officer subordinate to the
16 one who imposes the reduction, but an enlisted member in a pay grade
17 above E-4 shall not be reduced more than two pay grades;

18 7. Extra duties, including fatigue or other duties, for not
19 more than forty-five (45) days which need not be consecutive; and

20 8. Restriction to certain specified limits, with or without
21 suspension from duty, for not more than sixty (60) days which need
22 not be consecutive.

1 F. The Governor, the Adjutant General, an officer exercising
2 general or special court-martial convening authority, or a general
3 officer in command may impose:

4 1. Upon officers of the officer's command:

5 a. any punishment authorized in subsection E of this
6 section, except for the punishments provided in
7 paragraphs 6 and 7 of subsection E of this section,
8 and

9 b. arrest in quarters for not more than thirty (30) days
10 which need not be consecutive; and

11 2. Upon enlisted members of the officer's command, any
12 punishment authorized in subsection E of this section.

13 Admonitions or reprimands given as nonjudicial punishment to
14 commissioned officers and warrant officers shall be administered in
15 writing. In all other cases, unless otherwise prescribed by
16 regulations promulgated by the Adjutant General, such punishments
17 may be administered either orally or in writing.

18 G. Whenever any punishments are combined to run consecutively,
19 the total length of the combined punishment shall not exceed the
20 authorized duration of the longest punishment included in the
21 combination, and there shall be an apportionment of punishments so
22 that no single punishment in the combination exceeds its authorized
23 length under this section.

1 H. Once the commander has determined that nonjudicial
2 punishment is appropriate, the commander shall provide reasonable
3 notice to the member of his or her intent to impose nonjudicial
4 punishment. At the time the commander provides notification as
5 required in this subsection, the member shall be entitled to examine
6 all statements and other evidence that the commander has examined
7 and intends to rely upon as the basis for punishment. The member
8 shall be provided a copy of the documentary evidence unless it is
9 privileged, classified, or otherwise restricted by law, regulation,
10 or instruction. At the time the commander provides notification as
11 required in this subsection, the commander shall also inform the
12 member as to the quantum of punishment potentially to be imposed.
13 While a member undergoing nonjudicial punishment is not entitled to
14 representation by a duly appointed defense counsel, the member may
15 seek legal advice from any judge advocate available for this
16 purpose.

17 I. The right to demand trial by court-martial in lieu of
18 nonjudicial punishment shall arise only when arrest in quarters or
19 restriction will be considered as punishments. If the commanding
20 officer determines that arrest in quarters or restriction will be
21 considered as punishments, prior to the offer of nonjudicial
22 punishment the accused shall be notified in writing of the right to
23 demand trial by court-martial. Should the commanding officer
24 determine that the punishment options will not include arrest in

1 quarters or restriction, the accused shall be notified that there is
2 no right to trial by court-martial in lieu of nonjudicial
3 punishment. Upon notification by the commander or officer in charge
4 of his or her intent to impose nonjudicial punishment that includes
5 arrest in quarters or restriction, the accused shall be afforded a
6 reasonable amount of time to confer with legal counsel and to
7 prepare a response.

8 J. A person punished under this section who considers the
9 punishment unjust or disproportionate to the offense may, through
10 his or her chain of command, appeal to the Senior Assistant Adjutant
11 General of the same component of the state military forces as the
12 accused within fifteen (15) days after the punishment is announced
13 to the accused. The officer exercising appellate authority may, at
14 his or her discretion, extend the deadline for an appeal. The
15 appeal shall be promptly forwarded and decided, and the member shall
16 not be punished until the appeal is decided. The Senior Assistant
17 Adjutant General exercising appellate authority may exercise the
18 same powers with respect to the punishment imposed as may be
19 exercised under subsection I of this section by the officer who
20 imposed the punishment. Before acting on an appeal from a
21 punishment, the Senior Assistant Adjutant General shall refer the
22 case to a judge advocate for consideration and advice.

23 K. Except for nonjudicial punishment imposed by the Governor or
24 the Adjutant General, the final appellate authority for nonjudicial

1 punishment imposed within state military forces is the Adjutant
2 General. A person punished under this section whose appeal was
3 previously denied by a Senior Assistant Adjutant General may lodge
4 an additional appeal with the Adjutant General within five (5) days
5 after the appeal is denied. In the event the officer imposing
6 nonjudicial punishment is the Senior Assistant Adjutant General, an
7 appeal thereof shall be addressed directly to the Adjutant General.
8 In the event the officer imposing nonjudicial punishment is the
9 Adjutant General, an appeal thereof shall be addressed directly to
10 the Governor. An appeal offered pursuant to this subsection shall
11 be made only in writing. Neither the Governor nor the Adjutant
12 General shall delegate his or her duties as an appellate authority
13 under this subsection.

14 L. Whenever nonjudicial punishment is imposed under this
15 section:

16 1. After adjudication and while the punishment is being carried
17 out or while the adjudged punishment is pending before the appellate
18 authority, the commander or officer in charge who imposed the
19 nonjudicial punishment, upon the request of the accused, may:

- 20 a. excuse the accused from attendance at scheduled unit
21 training assemblies, or
22 b. arrange for the accused to drill on alternate dates
23 and in alternate locations; or
24

1 2. If necessary to maintain good order and discipline within
2 the unit, the commander or officer in charge who imposed the
3 nonjudicial punishment may order the accused to drill on alternate
4 dates and in alternate locations. The order shall be reduced to
5 writing and shall become part of the record of nonjudicial
6 punishment.

7 M. The imposition and enforcement of disciplinary punishment
8 under this section for any act or omission shall not be a bar to
9 trial by court-martial or a civilian court of competent jurisdiction
10 for a crime or offense arising out of the same act or omission; but
11 the fact that a disciplinary punishment has been enforced may be
12 demonstrated by the accused upon trial and, when so demonstrated, it
13 shall be considered in determining the measure of punishment to be
14 adjudged in the event of a finding or verdict of guilty.
15 Nonjudicial punishment shall not be imposed for an offense
16 previously tried by a civilian court unless so authorized by
17 regulations promulgated by the Adjutant General.

18 N. When nonjudicial punishment has been imposed for an offense,
19 punishment shall not again be imposed for the same offense under
20 this section. Once nonjudicial punishment has been imposed, it may
21 not be increased, upon appeal or otherwise. When a commander or
22 officer in charge determines that nonjudicial punishment is
23 appropriate for a particular member, all known offenses determined
24 to be appropriate for disposition by nonjudicial punishment and

1 ready to be considered at that time, including all offenses arising
2 from a single incident or course of conduct, shall be considered
3 together and shall not be made the basis for multiple punishments.
4 This subsection shall in no way restrict the right of a commander to
5 prefer court-martial charges for an offense previously punished
6 under the provisions of this section.

7 O. In accordance with subsection B of Section 843 of this title
8 (Article 43, subsection B), a person accused of an offense is not
9 liable to be punished under this section if the offense was
10 committed more than two (2) years before the imposition of
11 punishment. Periods in which the accused is absent without
12 authority shall be excluded in computing the period of limitation
13 prescribed in this section.

14 P. Whenever a punishment of forfeiture of pay is imposed under
15 this section, the forfeiture shall not apply to pay accruing before
16 the date that punishment is imposed, but only pay accruing on or
17 after the date that punishment is imposed.

18 Q. The Adjutant General may promulgate regulations prescribing
19 the type and form of records to be kept of proceedings conducted
20 pursuant to this section. The Adjutant General may promulgate any
21 other regulations necessary to carry out the provisions of this
22 section.

23 PART IV.

24 COURTS-MARTIAL JURISDICTION

1 SECTION 22. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 816 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 16. Courts-martial classified.

5 A. The three kinds of courts-martial in the state military
6 forces are the following:

7 1. General courts-martial, as described in subsection B of this
8 section;

9 2. Special courts-martial, as described in subsection C of this
10 section; and

11 3. Summary courts-martial, as described in subsection D of this
12 section.

13 B. General courts-martial. General courts-martial are of the
14 following two types:

15 1. A general court-martial consisting of a military judge and
16 eight members, subject to paragraph 3 of subsection E of Section 825
17 and Section 829 of this title (Article 25, subsection E, paragraph
18 3, and Article 29); and

19 2. A general court-martial consisting of a military judge
20 alone, if, before the court is assembled, the accused, knowing the
21 identity of the military judge and after consultation with defense
22 counsel, requests, orally on the record or in writing, a court
23 composed of a military judge alone and the military judge approves
24 the request.

1 C. Special courts-martial. Special courts-martial are of the
2 following two types:

3 1. A special court-martial consisting of a military judge and
4 four members, subject to paragraph 3 of subsection E of Section 825
5 and Section 829 of this title (Article 25, subsection E, paragraph
6 3, and Article 29); and

7 2. A special court-martial consisting of a military judge
8 alone:

9 a. if the case is so referred by the convening authority,
10 subject to Section 819 of this title (Article 19) and
11 such limitations as may be prescribed by regulations
12 promulgated by the Adjutant General, or

13 b. if the case is referred under paragraph 1 of this
14 subsection and, before the court is assembled, the
15 accused, knowing the identity of the military judge
16 and after consultation with defense counsel, requests,
17 orally on the record or in writing, a court composed
18 of a military judge alone and the military judge
19 approves the request.

20 D. Summary court-martial. A summary court-martial consists of
21 one commissioned officer.

22 SECTION 23. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 817 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 17. Jurisdiction of courts-martial in general.

2 A. Each force component shall have court-martial jurisdiction
3 over all persons subject to the Oklahoma Uniform Code of Military
4 Justice. The exercise of jurisdiction by one force component over
5 personnel of the other force component shall be in accordance with
6 regulations promulgated by the Adjutant General.

7 B. In all cases, the force component review after that by the
8 officer with authority to convene a general court-martial for the
9 command which held the trial, where that review is required under
10 the Code, shall be carried out by the same force component of which
11 the accused is a member.

12 SECTION 24. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 818 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 18. General courts-martial.

16 Subject to Section 817 of this title (Article 17), general
17 courts-martial shall have jurisdiction to try persons subject to the
18 Oklahoma Uniform Code of Military Justice for any offense made
19 punishable by the Code and may, under such limitations as the
20 Governor or Adjutant General may prescribe by regulation, adjudge
21 any punishment not forbidden by the Code.

22 SECTION 25. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 819 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 19. Jurisdiction of special courts-martial.

2 A. Subject to Section 817 of this title (Article 17), special
3 courts-martial have jurisdiction to try persons subject to the
4 Oklahoma Uniform Code of Military Justice for any offense made
5 punishable by the Code and may, under such limitations prescribed by
6 regulation promulgated by the Governor or Adjutant General, adjudge
7 any punishment not forbidden by the Code except dishonorable
8 discharge, dismissal, confinement for more than one (1) year,
9 forfeiture of pay exceeding two-thirds (2/3) pay per month, or
10 forfeiture of pay for more than one (1) year.

11 B. Neither confinement for more than six (6) months, nor
12 forfeiture of pay for more than six (6) months may be adjudged if
13 charges and specifications are referred to a special court-martial
14 consisting of a military judge alone under subparagraph a of
15 paragraph 2 of subsection C of Section 816 of this title (Article
16 16, subsection C, paragraph 2, subparagraph a).

17 SECTION 26. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 820 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 20. Jurisdiction and appeals of summary courts-martial.

21 A. Subject to Section 817 of this title (Article 17), summary
22 courts-martial have jurisdiction to try persons subject to the
23 Oklahoma Uniform Code of Military Justice, except officers, cadets
24 and officer candidates for any offense made punishable by the Code

1 under such limitations as may be prescribed by regulation
2 promulgated by the Governor or Adjutant General. No person with
3 respect to whom summary courts-martial have jurisdiction shall be
4 brought to trial before a summary court-martial if he or she objects
5 thereto. If objection to trial by summary court-martial is made by
6 an accused, trial may be ordered by special or general court-martial
7 as may be appropriate. Summary courts-martial may, under such
8 limitations as may be prescribed by regulation promulgated by the
9 Governor or Adjutant General, adjudge any punishment not forbidden
10 by the Code except dismissal, dishonorable or bad-conduct discharge,
11 confinement for more than one (1) month, hard labor without
12 confinement for more than forty-five (45) days, restriction to
13 specified limits for more than two (2) months, or forfeiture of more
14 than two-thirds (2/3) of one (1) month's pay.

15 B. A summary court-martial is a noncriminal forum. A finding
16 of guilty at a summary court-martial does not constitute a criminal
17 conviction.

18 C. Regular appeals. A person found guilty at a summary court-
19 martial who considers the punishment unjust or disproportionate to
20 the offense may appeal to the Senior Assistant Adjutant General of
21 the same component of the state military forces as the accused
22 within thirty (30) calendar days after the date the accused receives
23 written notice from the convening authority that the convening
24 authority has complied with the requirements of subsection B of

1 Section 860C of this title (Article 860C, subsection B). Before
2 acting on an appeal submitted pursuant to this subsection, the
3 Senior Assistant Adjutant General shall refer the case to a judge
4 advocate for consideration and advice.

5 D. Appeals in certain instances. Except for summary courts-
6 martial convened by the Governor or the Adjutant General, the final
7 appellate authority for summary courts-martial convened pursuant to
8 this Code shall be the Adjutant General. A person found guilty at a
9 summary court-martial whose appeal was previously denied by the
10 Senior Assistant Adjutant General may lodge an additional appeal
11 with the Adjutant General within fifteen (15) calendar days after
12 the appeal is denied. In the event the officer who convened the
13 summary court-martial is the Senior Assistant Adjutant General, an
14 appeal thereof shall be addressed directly to the Adjutant General.
15 In the event the officer who convened the summary court-martial is
16 the Adjutant General, an appeal thereof shall be addressed directly
17 to the Governor. An appeal offered pursuant to this subsection
18 shall be made only in writing. Neither the Governor nor the
19 Adjutant General shall delegate his or her duties as an appellate
20 authority under this subsection.

21 E. The Adjutant General may promulgate regulations prescribing
22 the type and form of records to be kept of appellate proceedings
23 undertaken pursuant to subsections C and D of this section.

24

1 SECTION 27. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 821 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 RESERVED.

5 PART V.

6 COMPOSITION OF COURTS-MARTIAL

7 SECTION 28. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 822 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 22. Who may convene general courts-martial.

11 A. General courts-martial may be convened by:

12 1. The Governor;

13 2. The Adjutant General;

14 3. Any other commanding officer in the state military forces
15 designated by the Adjutant General; or

16 4. Any other commanding officer in the state military forces
17 designated by the Governor.

18 B. If any such officer is an accuser, the court shall be
19 convened by superior competent authority, and may in any case be
20 convened by such authority if considered desirable by that superior
21 authority.

22 SECTION 29. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 823 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 23. Who may convene special courts-martial.

2 A. Special courts-martial may be convened by:

3 1. Any person who may convene a general court-martial;

4 2. The Senior Assistant Adjutant General of the same component
5 of the state military forces as the accused;

6 3. The officer designated as the army land component commander
7 when the accused is a member of the army component of state military
8 forces;

9 4. The officer designated as the air component commander when
10 the accused is a member of the air component of state military
11 forces;

12 5. The commanding officer of a brigade in the army component of
13 state military forces;

14 6. The commanding officer of a wing in the air component of
15 state military forces; or

16 7. Any other commanding officer designated by the Adjutant
17 General.

18 B. If any such officer is an accuser, the court shall be
19 convened by superior competent authority, and may in any case be
20 convened by such authority if considered desirable by that superior
21 authority.

22 SECTION 30. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 824 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 24. Who may convene summary courts-martial.

2 A. Summary courts-martial may be convened by:

3 1. Any person who may convene a general or special court-
4 martial;

5 2. The commanding officer of a battalion in the army component
6 of state military forces;

7 3. The commanding officer of a group in the air component of
8 state military forces; or

9 4. Any other commanding officer designated by the Adjutant
10 General.

11 B. If any such officer is an accuser, the court shall be
12 convened by superior competent authority, and may in any case be
13 convened by such authority if considered desirable by that superior
14 authority.

15 SECTION 31. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 825 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 25. Who may serve on courts-martial.

19 A. Any commissioned officer who is a member of the same force
20 component as the accused is eligible to serve on all courts-martial
21 for the trial of any person who may lawfully be brought before such
22 courts for trial.

23 B. Any warrant officer who is a member of the same force
24 component as the accused is eligible to serve on general and special

1 courts-martial for the trial of any person, other than a
2 commissioned officer, who may lawfully be brought before such courts
3 for trial.

4 C. 1. Any enlisted member from the same force component as the
5 accused is eligible to serve on a general or special court-martial
6 for the trial of an enlisted member.

7 2. Before a court-martial with a military judge and members is
8 assembled for trial, an enlisted member who is an accused may
9 personally request, orally on the record or in writing, that:

10 a. the membership of the court-martial be comprised
11 entirely of officers, or

12 b. enlisted members comprise at least one-third (1/3) of
13 the membership of the court-martial, regardless of
14 whether enlisted members have been detailed to the
15 court-martial.

16 3. After such a request, the accused may not be tried by a
17 general or special court-martial if the membership of the court-
18 martial is inconsistent with the request.

19 D. The accused in a court-martial with a military judge and
20 members may, after the findings are announced and before any matter
21 is presented in the sentencing phase, request, orally on the record
22 or in writing, sentencing by members.

23

24

1 E. 1. No person subject to the Oklahoma Uniform Code of
2 Military Justice may be tried by a court-martial any member of which
3 is junior to him or her in rank or grade.

4 2. When convening a court-martial, the convening authority
5 shall detail as members thereof such members of the same force
6 component as the accused as, in his or her opinion, are best
7 qualified for the duty by reason of age, education, training,
8 experience, length of service, and judicial temperament. No member
9 of the state military force is eligible to serve as a member of a
10 general or special court-martial when he or she is the accuser or a
11 witness or has acted as preliminary hearing officer or as counsel in
12 the same case.

13 3. The convening authority shall detail not less than the
14 number of members necessary to impanel the court-martial under
15 Section 829 of this title (Article 29).

16 F. Before a court-martial is assembled for the trial of a case,
17 the convening authority may excuse a member of the court from
18 participating in the case. Under regulations promulgated by the
19 Adjutant General, the convening authority may delegate his or her
20 authority under this subsection to his or her staff judge advocate,
21 to an assistant staff judge advocate or to any other principal
22 assistant.

23
24

1 SECTION 32. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 826 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 26. Military judge of a general or special court-
5 martial.

6 A. A military judge shall be detailed to each general and
7 special court-martial. The Adjutant General shall promulgate
8 regulations prescribing the manner of selection, certification and
9 detailing of military judges for such general and special courts-
10 martial. The military judge shall preside over each open session of
11 the court-martial to which he or she has been detailed.

12 B. A military judge shall be a member of the bar of the highest
13 court of a state, or a member of the bar of a federal court.

14 C. A military judge shall be qualified, by reason of education,
15 training, experience, and judicial temperament, for duty as a
16 military judge and shall be one of the following:

17 1. A commissioned officer of the state military forces who is a
18 member of the bar of the highest court of a state, or a member of
19 the bar of a federal court, and who is certified to be qualified for
20 such duty by the State Judge Advocate;

21 2. A retired commissioned officer of the state military forces
22 who is a member of the bar of the highest court of a state, or a
23 member of the bar of a federal court, and who is certified to be
24 qualified for such duty by the State Judge Advocate;

1 3. A judge advocate in any department of the Armed Forces of
2 the United States serving on active duty within the meaning of Title
3 10 of the United States Code who is certified to be qualified for
4 duty as a military judge by the Judge Advocate General of the armed
5 force of which such military judge is a member;

6 4. A judge presently serving in any judicial district within
7 the State of Oklahoma who possesses at least one (1) year of trial
8 experience and who currently serves or previously served as a judge
9 advocate in any department of the Armed Forces of the United States,
10 to include reserve components of the same;

11 5. A retired judge or justice who served in any judicial
12 capacity within the judicial department of the State of Oklahoma and
13 who previously served as a judge advocate in any department of the
14 Armed Forces of the United States, to include reserve components of
15 the same;

16 6. A federal district court judge presently serving in any
17 federal judicial district within the State of Oklahoma who possesses
18 at least one (1) year of trial experience and who previously served
19 as a judge advocate in any department of the Armed Forces of the
20 United States, to include reserve components of the same; or

21 7. A retired federal district court judge or retired federal
22 appellate court judge who previously served as a judge advocate in
23 any department of the Armed Forces of the United States, to include
24 reserve components of the same.

1 D. 1. In accordance with regulations prescribed under
2 subsection A of this section, a military judge of a general or
3 special court-martial shall be designated for detail by the senior
4 force component judge advocate of the same force component as the
5 accused.

6 2. Neither the convening authority nor any member of the staff
7 of the convening authority shall prepare or review any report
8 concerning the effectiveness, fitness, or efficiency of the military
9 judge so detailed, which relates to the military judge's performance
10 of duty as a military judge.

11 3. A commissioned officer of the state military forces who is
12 certified to be qualified for duty as a military judge of a general
13 court-martial:

14 a. may perform such duties only when the officer is
15 assigned and directly responsible to the senior force
16 component judge advocate of the force component of
17 which the military judge is a member, and

18 b. may perform duties of a judicial or nonjudicial nature
19 other than those relating to the officer's primary
20 duty as a military judge of a general court-martial
21 only when such duties are assigned to the officer by
22 or with the approval of that senior force component
23 judge advocate.

24

1 4. A commissioned officer of any department of the Armed Forces
2 of the United States serving on active duty within the meaning of
3 Title 10 of the United States Code who, pursuant to the Oklahoma
4 Uniform Code of Military Justice and the regulations promulgated
5 pursuant to subsection A of this section, is certified to be
6 qualified for duty as a military judge of a general court-martial
7 shall not be assigned other duties of a judicial or nonjudicial
8 nature other than those relating to the officer's primary duty as a
9 military judge of a general court-martial, except when such duties
10 are assigned to the officer by or with the approval of the Judge
11 Advocate General of the armed force of which the military judge is a
12 member.

13 5. In accordance with regulations promulgated by the Adjutant
14 General, assignments of military judges under this section who are
15 members of the state military forces shall be for appropriate
16 minimum periods, subject to such exceptions as may be authorized in
17 the regulations.

18 E. No person is eligible to act as military judge in a case if
19 he or she is the accuser, a witness or has acted as preliminary
20 hearing officer or a counsel in the same case.

21 F. The military judge of a court-martial may not consult with
22 the members of the court except in the presence of the accused,
23 trial counsel, and defense counsel, nor may he or she vote with the
24 members of the court.

1 G. A military judge who is a commissioned officer in the state
2 military forces may be detailed under subsection A of this section
3 to a court-martial or a proceeding under subsection A of Section 830
4 of this title (Article 30, subsection A) that is convened in a
5 different force component of the state military forces, when so
6 permitted by the senior force component judge advocate of the force
7 component of which the military judge is a member.

8 SECTION 33. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 826 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 34. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 827 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 27. Detail of trial counsel and defense counsel.

16 A. 1. Trial counsel and defense counsel shall be detailed for
17 each general and special court-martial. Assistant trial counsel and
18 assistant and associate defense counsel may be detailed for each
19 general and special court-martial. The Adjutant General shall
20 promulgate regulations providing for the manner in which counsel are
21 detailed for such courts-martial and for the persons who are
22 authorized to detail counsel for such courts-martial.

23 2. No person who, with respect to a case, has served as a
24 preliminary hearing officer, court member, military judge, military

1 magistrate, or appellate judge, may later serve as trial counsel,
2 assistant trial counsel, or, unless expressly requested by the
3 accused, as defense counsel or assistant or associate defense
4 counsel in the same case. No person who has acted for the
5 prosecution may act later in the same case for the defense, nor may
6 any person who has acted for the defense act later in the same case
7 for the prosecution.

8 B. Trial counsel, defense counsel, or assistant defense counsel
9 detailed for a general or a special court-martial:

10 1. Shall be a judge advocate who is a graduate of an accredited
11 law school or is a member of the bar of a federal court or of the
12 highest court of a state; and

13 2. Shall be certified as competent to perform such duties by
14 the senior force component judge advocate of the same force
15 component of the state military forces of which he or she is a
16 member.

17 C. Any costs arising from the detailing of a military defense
18 counsel from a National Guard organization other than the Oklahoma
19 National Guard may be reimbursed out of funds available in the
20 Military Justice Fund established in Section 941 of this title.

21 SECTION 35. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 828 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 28. Detail or employment of reporters and interpreters.

1 Under such regulations as the Adjutant General may prescribe,
2 the convening authority of a court-martial or court of inquiry shall
3 detail or employ qualified court reporters, who shall record the
4 proceedings of and testimony taken before that court. Under like
5 regulations the convening authority of a court-martial or court of
6 inquiry may detail or employ interpreters who shall interpret for
7 the court.

8 SECTION 36. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 829 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 29. Assembly and impaneling of members; detail of new
12 members and military judges.

13 A. The military judge shall announce the assembly of a general
14 or special court-martial with members. After such a court-martial
15 is assembled, no member may be absent, unless the member is excused:

16 1. As a result of a challenge;

17 2. Under subparagraph b of paragraph 1 of subsection B of this
18 section; or

19 3. By order of the military judge or the convening authority
20 for disability or other good cause.

21 B. 1. Under rules promulgated by the Adjutant General, the
22 military judge of a general or special court-martial with members
23 shall:

24

1 a. after determination of challenges, impanel the court-
2 martial, and

3 b. excuse the members who, having been assembled, are not
4 impaneled.

5 2. In a general court-martial, the military judge shall impanel
6 eight members.

7 3. In a special court-martial, the military judge shall impanel
8 four members.

9 C. In addition to members specified in subsection B of this
10 section, the military judge shall impanel alternate members, if the
11 convening authority authorizes alternate members.

12 D. 1. If, after members are impaneled, the membership of the
13 court-martial is reduced to:

14 a. fewer than six members with respect to a general
15 court-martial, or

16 b. fewer than four members with respect to a special
17 court-martial,

18 the trial may not proceed unless the convening authority details
19 new members and, from among the members so detailed, the military
20 judge impanels new members sufficient in number to provide the
21 membership specified in paragraph 2 of this subsection.

22 2. The membership referred to in paragraph 1 of this subsection
23 is as follows:

1 a. at least six but not more than eight members with
2 respect to a general court-martial, and

3 b. four members with respect to a special court-martial.

4 E. If the military judge is unable to proceed with the trial
5 because of disability or otherwise, a new military judge shall be
6 detailed to the court-martial.

7 F. 1. In the case of new members detailed under subsection D
8 of this section, the trial may proceed with the new members present
9 after the evidence previously introduced is read or, in the case of
10 audiotape, videotape, or similar recording, is played, in the
11 presence of the new members, the military judge, the accused, and
12 counsel for both sides.

13 2. In the case of a new military judge under subsection E of
14 this section, the trial shall proceed as if no evidence had been
15 introduced, unless the evidence previously introduced is read or, in
16 the case of audiotape, videotape, or similar recording, is played,
17 in the presence of the new military judge, the accused, and counsel
18 for both sides.

19 PART VI.

20 PRETRIAL PROCEDURE

21 SECTION 37. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 830 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 30. Charges and specifications.

1 A. Charges and specifications:

2 1. May be preferred only by a person subject to the Oklahoma
3 Uniform Code of Military Justice; and

4 2. Shall be preferred by presentment in writing, signed under
5 oath before a commissioned officer of the armed forces who is
6 authorized to administer oaths.

7 B. The writing specified in paragraph 2 of subsection A of this
8 section shall state that the signer:

9 1. Has personal knowledge of, or has investigated, the matters
10 set forth in the charges and specifications; and

11 2. The matters set forth in the charges and specifications are
12 true, to the best of the knowledge and belief of the signer.

13 C. When charges and specifications are preferred under
14 subsection A of this section, the proper authority shall, as soon as
15 practicable:

16 1. Inform the person accused of the charges and specifications;
17 and

18 2. Determine what disposition should be made of the charges and
19 specifications in the interest of justice and discipline.

20 SECTION 38. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 831 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 31. Compulsory self-incrimination prohibited.
24

1 A. No person subject to the Oklahoma Uniform Code of Military
2 Justice shall compel any person to incriminate himself or herself or
3 to answer any question the answer to which may tend to incriminate
4 him or her.

5 B. No person subject to the Code shall interrogate or request
6 any statement from an accused or a person suspected of an offense
7 without first informing that person of the nature of the accusation
8 and advising that person that the person does not have to make any
9 statement regarding the offense of which the person is accused or
10 suspected and that any statement made by the person may be used as
11 evidence against the person in an administrative board proceeding,
12 in nonjudicial punishment, or in a trial by court-martial.

13 C. No person subject to the Code shall compel any person to
14 make a statement or produce evidence in the course of an
15 administrative board proceeding, nonjudicial punishment or before
16 any military court if the statement or evidence is not material to
17 the issue and may tend to degrade the person.

18 D. No statement obtained from any person in violation of this
19 section or through the use of coercion, unlawful influence, or
20 unlawful inducement may be received in evidence against the person
21 in an administrative board proceeding, in nonjudicial punishment or
22 in a trial by court-martial.

23
24

1 SECTION 39. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 832 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 32. Preliminary hearing required before referral to
5 general court-martial.

6 A. In general.

7 1. a. Except as provided in subparagraph b of this
8 paragraph, a preliminary hearing shall be held before
9 referral of charges and specifications for trial by
10 general court-martial. The preliminary hearing shall
11 be conducted by an impartial hearing officer, detailed
12 by the convening authority in accordance with
13 subsection B of this section.

14 b. Under regulations promulgated by the Adjutant General,
15 a preliminary hearing need not be held if the accused
16 submits a written waiver to the convening authority
17 and the convening authority determines that a hearing
18 is not required.

19 2. The purpose of the preliminary hearing shall be limited to
20 determining the following:

21 a. whether or not the specification alleges an offense
22 under the Oklahoma Uniform Code of Military Justice,

23 b. whether or not there is probable cause to believe that
24 the accused committed the offense charged,

1 c. whether or not the convening authority has court-
2 martial jurisdiction over the accused and over the
3 offense, and

4 d. a recommendation as to the disposition that should be
5 made of the case.

6 B. Hearing officer.

7 1. A preliminary hearing under this section shall be conducted
8 by an impartial hearing officer, who shall be a judge advocate who
9 is certified under paragraph 2 of subsection B of Section 827 of
10 this title (Article 27, subsection B, paragraph 2).

11 2. Whenever practicable, the hearing officer shall be equal in
12 grade or senior in grade to military counsel who are detailed to
13 represent the accused or the government at the preliminary hearing.

14 C. Report to convening authority. After a preliminary hearing
15 under this section, the hearing officer shall submit to the
16 convening authority a written report, accompanied by a recording of
17 the preliminary hearing as required under subsection E of this
18 section, that includes the following:

19 1. For each specification, a statement of the reasoning and
20 conclusions of the hearing officer with respect to determinations
21 under paragraph 2 of subsection A of this section, including a
22 summary of relevant witness testimony and documentary evidence
23 presented at the hearing and any observations of the hearing officer
24

1 concerning the testimony of witnesses and the availability and
2 admissibility of evidence at trial;

3 2. Recommendations for any necessary modifications to the form
4 of the charges or specifications;

5 3. An analysis of any additional information submitted after
6 the hearing by the parties or by a victim of an offense that, under
7 such rules as the Adjutant General may promulgate, is relevant to
8 disposition under Sections 830 and 834 of this title (Articles 30
9 and 34); and

10 4. A statement of action taken on evidence adduced with respect
11 to uncharged offenses, as described in subsection F of this section.

12 D. Rights of accused.

13 1. The accused shall be advised of the charges against the
14 accused and of the accused's right to be represented by counsel at
15 the preliminary hearing under this section. The accused has the
16 right to be represented at the preliminary hearing as provided in
17 Section 838 of this title (Article 38) and in regulations prescribed
18 under that article.

19 2. The accused may cross-examine witnesses who testify at the
20 preliminary hearing and present additional evidence that is relevant
21 to the issues for determination under paragraph 2 of subsection A of
22 this section.

23 3. The presentation of evidence and examination, including
24 cross-examination, of witnesses at a preliminary hearing shall be

1 limited to the matters relevant to determinations under paragraph 2
2 of subsection A of this section.

3 E. Effect of evidence of uncharged offense. If evidence
4 adduced in a preliminary hearing conducted under subsection A of
5 this section indicates that the accused committed an uncharged
6 offense, the hearing officer may consider the subject matter of that
7 offense without the accused having first been charged with the
8 offense if the accused:

9 1. Is present at the preliminary hearing;

10 2. Is informed of the nature of each uncharged offense
11 considered; and

12 3. Is afforded the opportunities for representation, cross-
13 examination, and presentation consistent with subsection D of this
14 section.

15 F. Effect of violation. The requirements of this section are
16 binding on all persons administering the Code, but failure to follow
17 the requirements does not constitute jurisdictional error. A defect
18 in a report under subsection C of this section is not a basis for
19 relief if the report is in substantial compliance with subsection C
20 of this section.

21 SECTION 40. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 833 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 33. Disposition guidance.

1 The Adjutant General shall issue nonbinding guidance regarding
2 factors that commanders, convening authorities, staff judge
3 advocates, and judge advocates should take into account when
4 exercising their duties with respect to disposition of charges and
5 specifications in the interest of justice and discipline under
6 Sections 830 and 834 of this title (Articles 30 and 34). Such
7 guidance shall take into account, with appropriate consideration of
8 military requirements, the principles contained in official guidance
9 of the United States Attorney General to attorneys for the
10 government with respect to disposition of federal criminal cases in
11 accordance with the principle of fair and evenhanded administration
12 of federal criminal law.

13 SECTION 41. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 834 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 34. Advice to convening authority before referral for
17 trial.

18 A. General court-martial.

19 1. Staff judge advocate advice required before referral.

20 Before referral of charges and specifications to a general court-
21 martial for trial, the convening authority shall submit the matter
22 to the staff judge advocate for advice, which the staff judge
23 advocate shall provide to the convening authority in writing. The
24 convening authority may not refer a specification under a charge to

1 a general court-martial unless the staff judge advocate advises the
2 convening authority in writing that:

- 3 a. the specification alleges an offense under the
4 Oklahoma Uniform Code of Military Justice,
- 5 b. there is probable cause to believe that the accused
6 committed the offense charged, and
- 7 c. a court-martial would have jurisdiction over the
8 accused and the offense.

9 2. Staff judge advocate recommendation as to disposition.

10 Together with the written advice provided under paragraph 1 of this
11 subsection, the staff judge advocate shall provide a written
12 recommendation to the convening authority as to the disposition that
13 should be made of the specification in the interest of justice and
14 discipline.

15 3. Staff judge advocate advice and recommendation to accompany
16 referral. When a convening authority makes a referral for trial by
17 general court-martial, the written advice of the staff judge
18 advocate under paragraph 1 of this subsection and the written
19 recommendation of the staff judge advocate under paragraph 2 of this
20 subsection with respect to each specification shall accompany the
21 referral.

22 B. Special court-martial; convening authority consultation with
23 judge advocate. Before referral of charges and specifications to a
24

1 special court-martial for trial, the convening authority shall
2 consult a judge advocate on relevant legal issues.

3 C. General and special courts-martial; correction of charges
4 and specifications before referral. Before referral for trial by
5 general court-martial or special court-martial, changes may be made
6 to charges and specifications:

7 1. To correct errors in form; and

8 2. When applicable, to conform to the substance of the evidence
9 contained in a report under subsection C of Section 832 of this
10 title (Article 32, subsection C).

11 D. Referral defined. In this section, the term "referral"
12 means the order of a convening authority that charges and
13 specifications against an accused be tried by a specified court-
14 martial.

15 SECTION 42. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 835 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 35. Service of charges; commencement of trial.

19 A. In general. Trial counsel detailed for a court-martial
20 under Section 827 of this title (Article 27) shall cause to be
21 served upon the accused a copy of the charges and specifications
22 referred for trial.

23 B. Commencement of trial.

24

1 SECTION 43. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 836 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 36. Procedure for courts-martial.

5 A. The procedure, in all cases tried by courts-martial under
6 the Oklahoma Uniform Code of Military Justice, shall be the federal
7 Rules for Courts-Martial, as prescribed in the most recent edition
8 of the Manual for Courts-Martial, United States, including all
9 amendments thereto adopted from time to time, except when such rules
10 are contrary to or inconsistent with the Code.

11 B. The federal Military Rules of Evidence shall govern the
12 modes of proof in all cases tried by courts-martial under the Code,
13 as prescribed in the most recent edition of the Manual for Courts-
14 Martial, United States, including all amendments thereto adopted
15 from time to time, except when such rules are contrary to or
16 inconsistent with the Code.

17 C. The Governor or Adjutant General may promulgate additional
18 regulations applicable to courts-martial procedure. All regulations
19 made under this section shall be uniform insofar as practicable.

20 SECTION 44. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 837 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 37. Unlawfully influencing action of court.
24

1 A. No authority convening a general, special, or summary court-
2 martial nor any other commanding officer, or officer serving on the
3 staff thereof, shall censure, reprimand, or admonish the court or
4 any member, military judge, or counsel thereof, with respect to the
5 findings or sentence adjudged by the court, or with respect to any
6 other exercise of its or his or her functions in the conduct of the
7 proceeding. No person subject to the Oklahoma Uniform Code of
8 Military Justice shall attempt to coerce or, by an unauthorized
9 means, influence the action of the court-martial or any other
10 military tribunal or any member thereof, in reaching the findings or
11 sentence in any case, or the action of any convening, approving, or
12 reviewing authority with respect to his or her judicial acts. The
13 foregoing provisions of this subsection shall not apply with respect
14 to:

15 1. General instructional or informational courses in military
16 justice if such courses are designed solely for the purpose of
17 instructing members of a command in the substantive and procedural
18 aspects of courts-martial; or

19 2. To statements and instructions given in open court by the
20 military judge or counsel.

21 B. In the preparation of an effectiveness, fitness, or
22 efficiency report or any other report or document used in whole or
23 in part for the purpose of determining whether a member of the state
24 military forces is qualified to be advanced in grade, or in

1 determining the assignment or transfer of a member of the state
2 military forces, or in determining whether a member of the state
3 military forces should be retained, no person subject to the Code
4 may, in preparing any such report:

5 1. Consider or evaluate the performance of duty of any such
6 member as a member of a court-martial; or

7 2. Give a less favorable rating or evaluation of any member of
8 the state military forces because of the zeal with which such
9 member, as counsel, represented any accused before a court-martial.

10 SECTION 45. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 838 of Title 44, unless there is
12 created a duplication in numbering, reads as follows:

13 ARTICLE 38. Duties of trial counsel and defense counsel.

14 A. The trial counsel of a general or special court-martial
15 shall prosecute in the name of the State of Oklahoma, and shall,
16 under the direction of the court, prepare the record of the
17 proceedings.

18 B. 1. The accused has the right to be represented in his or
19 her defense before a general or special court-martial or at a
20 preliminary hearing under Section 832 of this title (Article 32) as
21 provided in this subsection.

22 2. The accused may be represented by civilian counsel if
23 provided by the accused.

24 3. The accused may be represented:

- 1 a. by military counsel detailed under Section 827 of this
2 title (Article 27), or
3 b. by military counsel of his or her own selection if
4 that counsel is reasonably available as determined
5 under regulations prescribed under paragraph 7 of this
6 subsection.

7 4. If the accused is represented by civilian counsel, military
8 counsel detailed or selected under paragraph 3 of this subsection
9 shall act as associate counsel unless excused at the request of the
10 accused.

11 5. Except as provided under paragraph 6 of this subsection, if
12 the accused is represented by military counsel of his or her own
13 selection under subparagraph b of paragraph 3 of this subsection,
14 any military counsel detailed under subparagraph a of paragraph 3 of
15 this subsection shall be excused.

16 6. The accused is not entitled to be represented by more than
17 one military counsel. However, the person authorized under
18 regulations prescribed under Section 827 of this title (Article 27)
19 to detail counsel, in his or her sole discretion:

- 20 a. may detail additional military counsel as assistant
21 defense counsel, and
22 b. if the accused is represented by military counsel of
23 his or her own selection under subparagraph b of
24 paragraph 3 of this subsection, may approve a request

1 from the accused that military counsel detailed under
2 subparagraph a of paragraph 3 of this subsection, act
3 as associate defense counsel.

4 7. The Adjutant General shall, by regulation, define
5 "reasonably available" for the purpose of subparagraph b of
6 paragraph 3 of this subsection, and establish procedures for
7 determining whether the military counsel selected by an accused
8 under that paragraph is reasonably available. Such regulations may
9 not prescribe any limitation based on the reasonable availability of
10 counsel solely on the grounds that the counsel selected by the
11 accused is from a force component other than the one of which the
12 accused is a member. To the maximum extent practicable, such
13 regulations shall establish uniform policies between the force
14 components of the state military forces while recognizing the
15 differences in the circumstances and needs of both force components.

16 C. In any court-martial proceeding resulting in a conviction,
17 the defense counsel:

18 1. May forward for attachment to the record of proceedings a
19 brief of such matters as he or she determines should be considered
20 in behalf of the accused on review (including any objection to the
21 contents of the record which he or she considers appropriate);

22 2. May assist the accused in the submission of any matter under
23 Section 860, 860A or 860B of this title (Article 60, 60A or 60B);
24 and

1 3. May take other action authorized by the Oklahoma Uniform
2 Code of Military Justice.

3 D. An assistant trial counsel of a general court-martial may,
4 under the direction of the trial counsel or when he or she is
5 qualified to be a trial counsel as required by Section 827 of this
6 title (Article 27), perform any duty imposed by law, regulation, or
7 the custom of the service upon the trial counsel of the court. An
8 assistant trial counsel of a special court-martial may perform any
9 duty of the trial counsel.

10 E. An assistant defense counsel of a general or special court-
11 martial may perform any duty imposed by law, regulation, or the
12 custom of the service upon counsel for the accused.

13 SECTION 46. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 839 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 39. Sessions.

17 A. At any time after the service of charges which have been
18 referred for trial to a court-martial composed of a military judge
19 and members, the military judge may, subject to Section 835 of this
20 title (Article 35), call the court into session without the presence
21 of the members for the purpose of:

22 1. Hearing and determining motions raising defenses or
23 objections which are capable of determination without trial of the
24 issues raised by a plea of not guilty;

1 2. Hearing and ruling upon any matter which may be ruled upon
2 by the military judge under the Oklahoma Uniform Code of Military
3 Justice, whether or not the matter is appropriate for later
4 consideration or decision by the members of the court;

5 3. Holding the arraignment and receiving the pleas of the
6 accused;

7 4. Conducting a sentencing proceeding and sentencing the
8 accused under paragraph 1 of subsection B of Section 853 of this
9 title (Article 53, subsection B, paragraph 1); and

10 5. Performing any other procedural function which may be
11 performed by the military judge under the Code or under rules
12 prescribed pursuant to Section 836 of this title (Article 36) and
13 which does not require the presence of the members of the court.

14 B. Proceedings under subsection A of this section shall be
15 conducted in the presence of the accused, the defense counsel, and
16 the trial counsel and shall be made a part of the record. These
17 proceedings may be conducted notwithstanding the number of members
18 of the court and without regard to Section 829 of this title
19 (Article 29). If authorized by regulations promulgated by the
20 Adjutant General, and if at least one defense counsel is physically
21 in the presence of the accused, the presence required by this
22 subsection may otherwise be established by audiovisual technology,
23 such as video-teleconferencing technology.

1 C. When the members of a court-martial deliberate or vote, only
2 the members may be present. All other proceedings, including any
3 other consultation of the members of the court with counsel or the
4 military judge, shall be made a part of the record and shall be in
5 the presence of the accused, the defense counsel, the trial counsel,
6 and the military judge.

7 D. The findings, holdings, interpretations, and other
8 precedents of military commissions under Chapter 47A of Title 10 of
9 the United States Code:

10 1. May not be introduced or considered in any hearing, trial,
11 or other proceeding of a court-martial under the Code; and

12 2. May not form the basis of any holding, decision, or other
13 determination of a court-martial.

14 SECTION 47. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 840 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 40. Continuances.

18 The military judge or a summary court-martial may, for
19 reasonable cause, grant a continuance to any party for such time,
20 and as often, as may appear to be just.

21 SECTION 48. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 841 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 41. Challenges.

1 A. 1. The military judge and members of a general or special
2 court-martial may be challenged by the accused or the trial counsel
3 for cause stated to the court. The military judge shall determine
4 the relevancy and validity of challenges for cause, and may not
5 receive a challenge to more than one person at a time. Challenges
6 by the trial counsel shall ordinarily be presented and decided
7 before those by the accused are offered.

8 2. If exercise of a challenge for cause reduces the court below
9 the number of members required by Section 816 of this title (Article
10 16), all parties shall, notwithstanding Section 829 of this title
11 (Article 29), either exercise or waive any challenge for cause then
12 apparent against the remaining members of the court before
13 additional members are detailed to the court. However, peremptory
14 challenges shall not be exercised at that time.

15 B. 1. Each accused and the trial counsel are entitled
16 initially to one peremptory challenge of the members of the court.
17 The military judge may not be challenged except for cause.

18 2. If exercise of a peremptory challenge reduces the court
19 below the number of members required by Section 816 of this title
20 (Article 16), the parties shall, notwithstanding Section 829 of this
21 title (Article 29), either exercise or waive any remaining
22 peremptory challenge (not previously waived) against the remaining
23 members of the court before additional members are detailed to the
24 court.

1 C. Whenever additional members are detailed to the court, and
2 after any challenges for cause against such additional members are
3 presented and decided, each accused and the trial counsel are
4 entitled to one peremptory challenge against members not previously
5 subject to peremptory challenge.

6 SECTION 49. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 842 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 42. Oaths.

10 A. Before performing their respective duties, military judges,
11 members of general and special courts-martial, trial counsel,
12 assistant trial counsel, defense counsel, assistant or associate
13 defense counsel, reporters, and interpreters shall take an oath to
14 perform their duties faithfully. The form of the oath, the time and
15 place of the taking thereof, the manner of recording the same, and
16 whether the oath shall be taken for all cases in which these duties
17 are to be performed or for a particular case, shall be as prescribed
18 in regulations promulgated by the Adjutant General. These
19 regulations may provide that an oath to perform faithfully duties as
20 a military judge, trial counsel, assistant trial counsel, defense
21 counsel, or assistant or associate defense counsel may be taken at
22 any time by any judge advocate or other person certified to be
23 qualified or competent for the duty, and if such an oath is taken it
24

1 need not again be taken at the time the judge advocate, or other
2 person is detailed to that duty.

3 B. Each witness before a court-martial shall be examined on
4 oath.

5 SECTION 50. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 843 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 43. Statute of limitations.

9 A. Except as otherwise provided in this section, a person
10 charged with a military offense is not liable to be tried by court-
11 martial if the offense was committed more than three (3) years
12 before the receipt of sworn charges and specifications by an officer
13 exercising summary court-martial jurisdiction over the command.

14 B. A person accused of an offense is not liable to be punished
15 under Section 815 of this title (Article 15) if the offense was
16 committed more than two (2) years before the imposition of
17 punishment.

18 C. Periods in which the accused is absent without authority or
19 fleeing from justice shall be excluded in computing the period of
20 limitation prescribed in this section.

21 D. Periods in which the accused was absent from territory in
22 which the State of Oklahoma has the authority to apprehend him or
23 her, or in the custody of civil authorities, or on active duty
24 within the meaning of Title 10 of the United States Code, or in the

1 hands of the enemy, shall be excluded in computing the periods of
2 limitation prescribed in this section.

3 E. When the United States is at war, the running of any statute
4 of limitations applicable to any offense under the Oklahoma Uniform
5 Code of Military Justice:

6 1. Involving fraud or attempted fraud against the United
7 States, the State of Oklahoma, or any agency of the foregoing in any
8 manner, whether by conspiracy or not;

9 2. Committed in connection with the acquisition, care,
10 handling, custody, control, or disposition of any real or personal
11 property of the United States, or the State of Oklahoma; or

12 3. Committed in connection with the negotiation, procurement,
13 award, performance, payment, interim financing, cancellation, or
14 other termination or settlement, of any contract, subcontract, or
15 purchase order which is connected with or related to the prosecution
16 of the war, or with any disposition of termination inventory by any
17 war contractor or government agency,

18 is suspended until three (3) years after the termination of
19 hostilities as proclaimed by the President of the United States or
20 by a joint resolution of Congress.

21 F. Defective or insufficient charges.

22 1. If charges or specifications are dismissed as defective or
23 insufficient for any cause and the period prescribed by the
24 applicable statute of limitations:

1 a. has expired, or

2 b. will expire within one hundred eighty (180) days after
3 the date of dismissal of the charges and
4 specifications,

5 trial and punishment under new charges and specifications are not
6 barred by the statute of limitations if the conditions specified in
7 paragraph 2 of this subsection are met.

8 2. The conditions referred to in paragraph 1 of this subsection
9 are that the new charges and specifications shall:

10 a. be received by an officer exercising summary court-
11 martial jurisdiction over the command within one
12 hundred eighty (180) days after the dismissal of the
13 charges or specifications, and

14 b. allege the same acts or omissions that were alleged in
15 the dismissed charges or specifications (or allege
16 acts or omissions that were included in the dismissed
17 charges or specifications).

18 G. A person charged with fraudulent enlistment or fraudulent
19 appointment under Section 904A of this title (Article 104A) may be
20 tried by court-martial if the sworn charges and specifications are
21 received by an officer exercising summary court-martial jurisdiction
22 with respect to that person, as follows:

1 1. In the case of an enlisted member, during the period of the
2 enlistment or five (5) years, whichever provides a longer period;
3 and

4 2. In the case of an officer, during the period of the
5 appointment or five (5) years, whichever provides a longer period.

6 H. If deoxyribonucleic acid (DNA) testing implicates an
7 identified person in the commission of an offense punishable by
8 confinement for more than one (1) year, no statute of limitations
9 that would otherwise preclude prosecution of the offense shall
10 preclude such prosecution until a period of time following the
11 implication of the person by DNA testing has elapsed that is equal
12 to the otherwise applicable limitation period.

13 SECTION 51. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 844 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 44. Former jeopardy.

17 A. No person may, without his or her consent, be tried a second
18 time for the same offense.

19 B. No proceeding in which an accused has been found guilty by
20 court-martial upon any charge or specification is a trial in the
21 sense of this section until the finding of guilty has become final
22 after review of the case has been fully completed.

23 C. 1. A court-martial with a military judge alone is a trial
24 for the purposes of this section if, without fault of the accused:

1 a. after introduction of evidence, and
2 b. before announcement of findings under Section 853 of this
3 title (Article 53),
4 the case is dismissed or terminated by the convening authority
5 or on motion of the prosecution for failure of available evidence or
6 witnesses.

7 2. A court-martial with a military judge and members is a trial
8 in the sense of this section if, without fault of the accused:

9 a. after the members, having taken an oath as members
10 under Section 842 of this title (Article 42) and after
11 completion of challenges under Section 841 of this
12 title (Article 41), are impaneled, and

13 b. before announcement of findings under Section 853 of
14 this title (Article 53),
15 the case is dismissed or terminated by the convening authority or on
16 motion of the prosecution for failure of available evidence or
17 witnesses.

18 SECTION 52. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 845 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 45. Pleas of the accused.

22 A. Irregular and similar pleas. If an accused after
23 arraignment makes an irregular pleading, or after a plea of guilty
24 sets up matter inconsistent with the plea, or if it appears that he

1 or she has entered the plea of guilty improvidently or through lack
2 of understanding of its meaning and effect, or if he or she fails or
3 refuses to plead, a plea of not guilty shall be entered in the
4 record, and the court shall proceed as though he or she had pleaded
5 not guilty.

6 B. Pleas of guilty. With respect to any charge or
7 specification to which a plea of guilty has been made by the accused
8 and accepted by the military judge, a finding of guilty of the
9 charge or specification may be entered immediately without vote.
10 This finding shall constitute the finding of the court unless the
11 plea of guilty is withdrawn prior to announcement of the sentence,
12 in which event the proceedings shall continue as though the accused
13 had pleaded not guilty.

14 C. Harmless error. A variance from the requirements of this
15 section is harmless error if the variance does not materially
16 prejudice the substantial rights of the accused.

17 SECTION 53. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 846 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 46. Opportunity to obtain witnesses and other evidence
21 in trials by court-martial.

22 A. Opportunity to obtain witnesses and other evidence. In a
23 case referred for trial by court-martial, the trial counsel, the
24 defense counsel, and the court-martial shall have equal opportunity

1 to obtain witnesses and other evidence in accordance with such
2 regulations as may be promulgated by the Adjutant General.

3 B. Subpoena and other process generally. Any subpoena or other
4 process issued under this section:

5 1. Shall be similar to that which courts of the State of
6 Oklahoma having criminal jurisdiction may issue pursuant to Title 22
7 of the Oklahoma Statutes;

8 2. Shall be executed in accordance with regulations promulgated
9 by the Adjutant General; and

10 3. Shall run to any part of the State of Oklahoma.

11 C. Subpoena and other process for witnesses. A subpoena or
12 other process may be issued to compel a witness to appear and
13 testify:

14 1. Before a court-martial or court of inquiry;

15 2. At a deposition under Section 849 of this title (Article
16 49); or

17 3. As otherwise authorized under the Oklahoma Uniform Code Of
18 Military Justice.

19 D. Subpoena and other process for evidence.

20 1. In general. A subpoena or other process may be issued to
21 compel the production of evidence:

22 a. for a court-martial or court of inquiry,

23 b. for a deposition under Section 849 of this title
24 (Article 49),

- c. for an investigation of an offense under the Code, or
- d. as otherwise authorized under the Code.

2. Investigative subpoena. An investigative subpoena under subparagraph c of paragraph 1 of this subsection may be issued before referral of charges to a court-martial only if a general court-martial convening authority has authorized counsel for the government to issue such a subpoena or a military judge issues such a subpoena pursuant to subsection A of Section 830 of this title (Article 30, subsection A).

3. Warrant or order for wire or electronic communications. With respect to an investigation of an offense under the Code, a military judge detailed in accordance with Section 826 or subsection A of Section 830 of this title (Article 26 or Article 30, subsection A) may issue warrants or court orders for the contents of, and records concerning, wire or electronic communications in the same manner as such warrants and orders may be issued by a district court of the State of Oklahoma under the provisions of Title 22 of the Oklahoma Statutes, subject to such limitations as may be prescribed by regulations promulgated by the Adjutant General.

E. Request for relief from subpoena or other process. If a person requests relief from a subpoena or other process under this section (article) on grounds that compliance is unreasonable or oppressive or is prohibited by law, a military judge detailed in accordance with Section 826 or subsection A of Section 830 of this

1 title (Article 26 or Article 30, subsection A) shall review the
2 request and shall:

3 1. Order that the subpoena or other process be modified or
4 withdrawn, as appropriate; or

5 2. Order the person to comply with the subpoena or other
6 process.

7 SECTION 54. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 847 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 47. Refusal to appear or testify.

11 A. In general.

12 1. Any person described in paragraph 2 of this subsection who:

13 a. willfully neglects or refuses to appear, or

14 b. willfully refuses to qualify as a witness or to
15 testify or to produce any evidence which that person
16 is required to produce,

17 shall be guilty of indirect contempt of the court-martial or court
18 of inquiry from which the subpoena issued.

19 2. The persons referred to in paragraph 1 of this subsection
20 are the following:

21 a. any person not subject to the Oklahoma Uniform Code of
22 Military Justice who:

23

24

1 (1) is issued a subpoena or other process described
2 in subsection C of Section 846 of this title
3 (Article 46, subsection C), and

4 (2) is provided a means for payment of fees and
5 mileage pursuant to subsection D of this section,
6 and

7 b. any person not subject to the Code who is issued a
8 subpoena or other process described in subsection D of
9 Section 846 of this title (Article 46, subsection D).

10 B. Any person who commits indirect contempt shall be punished
11 in accordance with Sections 566, 567 and 568 of Title 21 of the
12 Oklahoma Statutes.

13 C. The district attorney exercising jurisdiction in the county
14 where the court-martial or court of inquiry is convened, shall, upon
15 the certification of the facts to him or her by the military court,
16 court of inquiry or convening authority, file an information against
17 and prosecute any person violating this section.

18 D. The fees and mileage of witnesses shall be paid as follows:

19 1. Any civilian witness, who is not a federal employee,
20 appearing in obedience to an order, subpoena, or other lawful
21 compulsion at any stage of a general or special court-martial or
22 court of inquiry where the party seeking the attendance of the
23 witness is the trial counsel, the defense counsel or the defendant
24 appearing pro se, shall be paid from any monies available in the

1 Military Justice Fund established in Section 941 of Title 44 of the
2 Oklahoma Statutes, the fees and mileage at the rate prescribed by
3 Section 81 of Title 28 of the Oklahoma Statutes;

4 2. Any witness appearing in obedience to an order, subpoena, or
5 other lawful compulsion at any stage of a court-martial for which no
6 provision in this subsection is applicable, shall be paid at the
7 discretion of the military judge presiding over a general or special
8 court-martial proceeding from any monies available in the Military
9 Justice Fund established in Section 941 of Title 44 of the Oklahoma
10 Statutes, the fees and mileage at the rate prescribed by Section 81
11 of Title 28 of the Oklahoma Statutes;

12 3. The comptroller of the military department, or any other
13 person designated by the Adjutant General, shall, upon proof of
14 claim, issue to witnesses, summoned pursuant to this subsection,
15 certificates showing the names of witnesses, number of days'
16 attendance, distance traveled and the amount of such fees and
17 mileage; and

18 4. The Adjutant General may promulgate additional regulations
19 governing the method and process for payment of fees and mileage to
20 a civilian witness, who is not a federal employee, appearing in
21 obedience to an order, subpoena, or other lawful compulsion at any
22 stage of a general, special or summary court-martial or court of
23 inquiry.

24

1 SECTION 55. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 848 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 48. Contempt.

5 A. Authority to punish.

6 1. With respect to any proceeding under the Oklahoma Uniform
7 Code of Military Justice, a judicial officer specified in paragraph
8 2 of this subsection may punish for contempt any person who:

9 a. uses any menacing word, sign, or gesture in the
10 presence of the judicial officer during the
11 proceeding,

12 b. disturbs the proceeding by any riot or disorder, or

13 c. willfully disobeys a lawful writ, process, order,
14 rule, decree, or command issued with respect to the
15 proceeding.

16 2. A judicial officer referred to in paragraph 1 of this
17 subsection is either of the following:

18 a. any military judge detailed to a court-martial,

19 b. the chief judge of the Military Court of Appeals, or

20 c. the president of a court of inquiry.

21 B. Opportunity to be heard and warning. A judicial officer, as
22 specified in paragraph 2 of subsection A of this section, may punish
23 a person cited for contempt after an opportunity to be heard has
24

1 | been given. Censure shall be imposed by the judicial officer only
2 | if:

3 | 1. It is clear from the identity of the offender and the
4 | character of his or her acts that disruptive conduct is willfully
5 | contemptuous; or

6 | 2. The conduct warranting the sanction is preceded by a clear
7 | warning that the conduct is impermissible and that specified
8 | sanctions may be imposed for its repetition.

9 | C. Notification of contempt proceedings. The judicial officer,
10 | as specified in paragraph 2 of subsection A of this section, as soon
11 | as practicable after he or she is satisfied that courtroom
12 | misconduct requires contempt proceedings, should inform the alleged
13 | offender of his or her intention to institute said proceedings.

14 | D. Notice and opportunity to provide evidence or testimony.
15 | Before imposing any punishment for contempt, the judicial officer
16 | shall give the offender notice of the charges and an opportunity to
17 | adduce evidence or argument relevant to guilt or punishment.

18 | E. Imposition of sanctions. The judicial officer before whom
19 | the misconduct occurs may impose appropriate sanctions including
20 | punishment for contempt.

21 | F. Punishment. The punishment for contempt under subsection A
22 | of this section shall not exceed the punishments provided in
23 | subsection A of Section 566 of Title 21 of the Oklahoma Statutes.

24 | G. Review. A punishment under this section:

1 1. If imposed by a military judge, may be reviewed by the
2 Military Court of Appeals in accordance with the uniform rules of
3 procedure for the Military Court of Appeals under subsection L of
4 Section 866 of this title (Article 66, subsection L);

5 2. If imposed by the chief judge of the Military Court of
6 Appeals, shall constitute a judgment of the court, subject to review
7 under the applicable provisions of Section 867 of this title
8 (Article 67); and

9 3. If imposed by a court of inquiry, shall be subject to review
10 by the convening authority in accordance with regulations
11 promulgated by the Adjutant General.

12 SECTION 56. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 849 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 49. Depositions.

16 A. In general.

17 1. Subject to paragraph 2 of this subsection, a convening
18 authority or a military judge may order depositions at the request
19 of any party.

20 2. A deposition may be ordered under paragraph 1 of this
21 subsection only if the requesting party demonstrates that, due to
22 exceptional circumstances, it is in the interest of justice that the
23 testimony of a prospective witness be preserved for use at a court-
24 martial or court of inquiry.

1 3. A party who requests a deposition under this section shall
2 give to every other party reasonable written notice of the time and
3 place for the deposition.

4 4. A deposition under this section shall be taken before, and
5 authenticated by, an impartial officer, as follows:

6 a. whenever practicable, by an impartial judge advocate
7 certified under subsection B of Section 827 of this
8 title (Article 27, subsection B), and

9 b. in exceptional circumstances, by an impartial military
10 or civil officer authorized to administer oaths by:

11 (1) the laws of the United States, or

12 (2) the laws of the place where the deposition is
13 taken.

14 B. Representation by counsel. Representation of the parties
15 with respect to a deposition shall be by counsel detailed in the
16 same manner as trial counsel and defense counsel are detailed under
17 Section 827 of this title (Article 27). In addition, the accused
18 shall have the right to be represented by civilian or military
19 counsel in the same manner as such counsel is provided for in
20 subsection B of Section 838 of this title (Article 38, subsection
21 B).

22 C. Admissibility and use as evidence. A deposition order under
23 subsection A of this section does not control the admissibility of
24 the deposition in a court-martial or other proceeding under the

1 Oklahoma Uniform Code of Military Justice. A party may use all or
2 part of a deposition as provided by the federal Military Rules of
3 Evidence.

4 SECTION 57. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 850 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 50. Admissibility of sworn testimony from records of
8 courts of inquiry.

9 A. Use as evidence by any party. In any case not extending to
10 the dismissal of a commissioned officer, the sworn testimony,
11 contained in the duly authenticated record of proceedings of a court
12 of inquiry, of a person whose oral testimony cannot be obtained,
13 may, if otherwise admissible under the rules of evidence, be read in
14 evidence by any party before a court-martial if the accused was a
15 party before the court of inquiry and if the same issue was involved
16 or if the accused consents to the introduction of such evidence.

17 B. Use as evidence by defense. Such testimony may be read in
18 evidence only by the defense in cases extending to the dismissal of
19 a commissioned officer.

20 C. Use in courts of inquiry and military boards. Such
21 testimony may also be read in evidence before a court of inquiry or
22 an administrative board.

23 D. Audiotape or videotape. Sworn testimony that:

24 1. Is recorded by audiotape, videotape, or similar method; and

1 2. Is contained in the duly authenticated record of proceedings
2 of a court of inquiry,
3 shall be admissible before a court-martial, court of inquiry, or
4 military board, to the same extent as sworn testimony may be read in
5 evidence before any such body under this section.

6 SECTION 58. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 850A of Title 44, unless there
8 is created a duplication in numbering, reads as follows:

9 ARTICLE 50A. Defense of lack of mental responsibility.

10 A. It is an affirmative defense in a trial by court-martial
11 that, at the time of the commission of the acts constituting the
12 offense, the accused, as a result of a severe mental disease or
13 defect, was unable to appreciate the nature and quality or the
14 wrongfulness of the acts. Mental disease or defect does not
15 otherwise constitute a defense.

16 B. The accused has the burden of proving the defense of lack of
17 mental responsibility by clear and convincing evidence.

18 C. Whenever lack of mental responsibility of the accused with
19 respect to an offense is properly at issue, the military judge shall
20 instruct the members of the court as to the defense of lack of
21 mental responsibility under this section and shall charge them to
22 find the accused:

- 23 1. Guilty;
24 2. Not guilty; or

1 3. Not guilty only by reason of lack of mental responsibility.

2 D. Subsection C of this section does not apply to a court-
3 martial composed of a military judge only. In the case of a court-
4 martial composed of a military judge only, whenever lack of mental
5 responsibility of the accused with respect to an offense is properly
6 at issue, the military judge shall find the accused:

7 1. Guilty;

8 2. Not guilty; or

9 3. Not guilty only by reason of lack of mental responsibility.

10 E. Notwithstanding the provisions of Section 852 of this title
11 (Article 52), the accused shall be found not guilty only by reason
12 of lack of mental responsibility if:

13 1. A majority of the members of the court-martial present at
14 the time the vote is taken determines that the defense of lack of
15 mental responsibility has been established; or

16 2. In the case of a court-martial composed of a military judge
17 only, the military judge determines that the defense of lack of
18 mental responsibility has been established.

19 SECTION 59. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 851 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 51. Voting and rulings.

23 A. Voting by members of a general or special court-martial on
24 the findings and on the sentence shall be by secret written ballot.

1 The junior member of the court shall count the votes. The count
2 shall be checked by the president, who shall forthwith announce the
3 result of the ballot to the members of the court.

4 B. The military judge shall rule upon all questions of law and
5 all interlocutory questions arising during the proceedings. Any
6 such ruling made by the military judge upon any question of law or
7 any interlocutory question other than the factual issue of mental
8 responsibility of the accused is final and constitutes the ruling of
9 the court, except that the military judge may change a ruling at any
10 time during trial.

11 C. Before a vote is taken on the findings, the military judge
12 shall, in the presence of the accused and counsel, instruct the
13 members of the court as to the elements of the offense and charge
14 them:

15 1. That the accused shall be presumed to be innocent until his
16 or her guilt is established by legal and competent evidence beyond
17 reasonable doubt;

18 2. That in the case being considered, if there is a reasonable
19 doubt as to the guilt of the accused, the doubt shall be resolved in
20 favor of the accused and he or she shall be acquitted;

21 3. That, if there is reasonable doubt as to the degree of
22 guilt, the finding shall be in a lower degree as to which there is
23 no reasonable doubt; and

24

1 4. That the burden of proof to establish the guilt of the
2 accused beyond reasonable doubt is upon the government.

3 D. This section does not apply to a court-martial composed of a
4 military judge only. The military judge of such a court-martial
5 shall determine all questions of law and fact arising during the
6 proceedings and, if the accused is convicted, adjudge an appropriate
7 sentence. The military judge of such a court-martial shall make a
8 general finding and shall in addition on request find the facts
9 specially. If an opinion or memorandum of decision is filed, it
10 will be sufficient if the findings of fact appear therein.

11 SECTION 60. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 852 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 52. Votes required for conviction, sentencing and other
15 matters.

16 A. In general. No person may be convicted of an offense in a
17 general or special court-martial, other than:

18 1. After a plea of guilty under subsection B of Section 845 of
19 this title (Article 45, subsection B);

20 2. By a military judge in a court-martial with a military judge
21 alone, under Section 816 of this title (Article 16); or

22 3. In a court-martial with members under Section 816 of this
23 title (Article 16), by the concurrence of at least three-fourths
24 (3/4) of the members present when the vote is taken.

1 B. Level of concurrence required.

2 1. In general. Except as provided in paragraph 2 of subsection
3 A of this section, all matters to be decided by members of a general
4 or special court-martial shall be determined by a majority vote, but
5 a reconsideration of a finding of guilty or reconsideration of a
6 sentence, with a view toward decreasing the sentence, may be made by
7 any lesser vote which indicates that the reconsideration is not
8 opposed by the number of votes required for that finding or
9 sentence.

10 2. Sentencing. All sentences imposed by members under the
11 Oklahoma Uniform Code of Military Justice shall be determined by the
12 concurrence of at least three-fourths (3/4) of the members present
13 when the vote is taken.

14 SECTION 61. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 853 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 53. Findings and sentencing.

18 A. A court-martial shall announce its findings and sentence to
19 the parties as soon as determined.

20 B. Sentencing generally.

21 1. General and special courts-martial.

22 a. Sentencing by military judge. Except as provided in
23 subparagraph b of this paragraph, if the accused is
24 convicted of an offense in a trial by general or

1 special court-martial, the military judge shall
2 sentence the accused.

3 b. Sentencing by members. If the accused is convicted of
4 an offense by general or special court-martial
5 consisting of a military judge and members and the
6 accused elects sentencing by members under Section 825
7 of this title (Article 25), the members shall sentence
8 the accused.

9 c. Sentence of the accused. The sentence determined
10 pursuant to this paragraph constitutes the sentence of
11 the accused.

12 2. Summary courts-martial. If the accused is convicted of an
13 offense in a trial by summary court-martial, the court-martial shall
14 sentence the accused.

15 SECTION 62. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 853A of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 53A. Plea agreements.

19 A. In general.

20 1. At any time before the announcement of findings under
21 Section 853 of this title (Article 53), the convening authority and
22 the accused may enter into a plea agreement with respect to such
23 matters as:
24

- a. the manner in which the convening authority will dispose of one or more charges and specifications, and
- b. limitations on the sentence that may be adjudged for one or more charges and specifications.

2. The military judge of a general or special court-martial may not participate in discussions between the parties concerning prospective terms and conditions of a plea agreement.

B. Limitation on acceptance of plea agreements. The military judge of a general or special court-martial shall reject a plea agreement that:

1. Contains a provision that has not been accepted by both parties; or
2. Contains a provision that is not understood by the accused.

C. Binding effect of plea agreement. Upon acceptance by the military judge of a general or special court-martial, a plea agreement shall bind the parties and the court-martial.

SECTION 63. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 854 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 54. Record of trial.

A. General and special courts-martial. Each general or special court-martial shall keep a separate record of the proceedings in each case brought before it. The record shall be certified by a court reporter, except that in the case of death, disability, or

1 absence of a court reporter, the record shall be certified by an
2 official selected as the Adjutant General may prescribe by
3 regulation.

4 B. Summary courts-martial. Each summary court-martial shall
5 keep a separate record of the proceedings in each case, and the
6 record shall be certified in the manner required by such regulations
7 as the Adjutant General may prescribe.

8 C. Contents of record.

9 1. Except as provided in paragraph 2 of this subsection, the
10 record shall contain such matters as the Adjutant General may
11 prescribe by regulation.

12 2. In accordance with regulations prescribed by the Adjutant
13 General, a complete record of proceedings and testimony shall be
14 prepared in any case of a sentence of dismissal, discharge,
15 confinement for more than six (6) months, or forfeiture of pay for
16 more than six (6) months.

17 D. A copy to the accused. A copy of the record of the
18 proceedings of each general and special court-martial shall be given
19 to the accused as soon as it is certified.

20 E. Copy to victim. In the case of a general or special court-
21 martial upon request, a copy of all prepared records of the
22 proceedings of the court-martial shall be given to the victim of the
23 offense if the victim testified during the proceedings. The record
24 of the proceedings shall be provided without charge and as soon as

1 the records are certified. The victim shall be notified of the
2 opportunity to receive the records of the proceedings.

3 PART VIII.

4 SENTENCES

5 SECTION 64. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 855 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 55. Cruel and unusual punishments prohibited.

9 Punishment by flogging, or by branding, marking, or tattooing on
10 the body, or any other cruel or unusual punishment, may not be
11 adjudged by any court-martial or inflicted upon any person subject
12 to the Oklahoma Uniform Code of Military Justice. The use of irons,
13 single or double, except for the purpose of safe custody, is
14 prohibited.

15 SECTION 65. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 856 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 56. Sentencing.

19 A. Sentence maximums. The punishment which a court-martial may
20 direct for an offense may not exceed such limits as the Governor or
21 Adjutant General may prescribe for that offense.

22 B. Imposition of sentence.

23 1. In general. In sentencing an accused under Section 853 of
24 this title (Article 53), a court-martial shall impose punishment

1 that is sufficient, but not greater than necessary, to promote
2 justice and to maintain good order and discipline in the state
3 military forces, taking into consideration:

4 a. the nature and circumstances of the offense and the
5 history and characteristics of the accused,

6 b. the impact of the offense on:

7 (1) the financial, social, psychological, or medical
8 well-being of any victim of the offense, and

9 (2) the mission, discipline, or efficiency of the
10 command of the accused and any victim of the
11 offense,

12 c. the need for the sentence:

13 (1) to reflect the seriousness of the offense,

14 (2) to promote respect for the law,

15 (3) to provide just punishment for the offense,

16 (4) to promote adequate deterrence of misconduct,

17 (5) to protect others from further crimes by the
18 accused,

19 (6) to rehabilitate the accused, and

20 (7) to provide, in appropriate cases, the opportunity
21 for retraining and return to duty to meet the
22 needs of the service, and

23 d. the sentences available under this chapter.
24

1 2. Sentencing by military judge. In announcing the sentence in
2 a general or special court-martial in which the accused is sentenced
3 by a military judge alone under Section 853 of this title (Article
4 53), the military judge shall, with respect to each offense of which
5 the accused is found guilty, specify the term of confinement, if
6 any, and the amount of the fine, if any. If the accused is
7 sentenced to confinement for more than one offense, the military
8 judge shall specify whether the terms of confinement are to run
9 consecutively or concurrently.

10 3. Sentencing by members. In a general or special court-
11 martial in which the accused has elected sentencing by members, the
12 court-martial shall announce a single sentence for all of the
13 offenses of which the accused was found guilty.

14 C. Appeal of sentence by the State of Oklahoma.

15 1. With the approval of the State Judge Advocate and consistent
16 with standards and procedures set forth in regulations prescribed by
17 the Governor or the Adjutant General, the government may appeal a
18 sentence to the Military Court of Appeals, on the grounds that:

19 a. the sentence violates the law, or

20 b. the sentence is plainly unreasonable, as determined in
21 accordance with standards and procedures prescribed by
22 the Governor or the Adjutant General.

23 2. An appeal under this subsection shall be filed within sixty
24 (60) days after the date on which the judgment of a court-martial is

1 entered into the record under Section 860C of this title (Article
2 60C).

3 SECTION 66. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 857 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 57. Effective date of sentences.

7 A. Execution of sentences. A court-martial sentence shall be
8 executed and take effect as follows:

9 1. Forfeiture and reduction. A forfeiture of pay or allowances
10 shall be applicable to pay and allowances accruing on and after the
11 date on which the sentence takes effect. Any forfeiture of pay or
12 allowances or reduction in grade that is included in a sentence of a
13 court-martial takes effect on the earlier of:

- 14 a. the date that is fourteen (14) days after the date on
15 which the sentence is adjudged, or
- 16 b. in the case of a summary court-martial, the date on
17 which the sentence is approved by the convening
18 authority;

19 2. Confinement. Any period of confinement included in a
20 sentence of a court-martial begins to run from the date the sentence
21 is adjudged by the court-martial, but periods during which the
22 sentence to confinement is suspended or deferred shall be excluded
23 in computing the service of the term of confinement;

24

1 3. Approval of dismissal. If in the case of a commissioned
2 officer, or cadet, the sentence of a court-martial extends to
3 dismissal, that part of the sentence providing for dismissal may not
4 be executed until approved by the Adjutant General or by the Senior
5 Assistant Adjutant General of the same component as the accused if
6 such authority is so delegated by the Adjutant General. In such a
7 case, the Adjutant General, or Senior Assistant Adjutant General, as
8 the case may be, may commute, remit, or suspend the sentence, or any
9 part of the sentence, as the Adjutant General or Senior Assistant
10 Adjutant General sees fit. In time of war or national emergency he
11 or she may commute a sentence of dismissal to reduction to any
12 enlisted grade. A person so reduced may be required to serve for
13 the duration of the war or emergency and six (6) months thereafter;

14 4. Completion of appellate review. If a sentence extends to
15 dismissal, or a dishonorable or bad-conduct discharge, that part of
16 the sentence extending to dismissal or a dishonorable or bad-conduct
17 discharge may be executed, in accordance with applicable
18 regulations, after completion of appellate review and, with respect
19 to dismissal, approval under paragraph 3 of this subsection, as
20 appropriate; and

21 5. Other sentences. Except as otherwise provided in this
22 subsection, a general or special court-martial sentence is effective
23 upon entry of judgment and a summary court-martial sentence is
24 effective when the convening authority acts on the sentence.

1 B. Deferral of sentences.

2 1. In general. On application by an accused, the convening
3 authority or, if the accused is no longer under his or her
4 jurisdiction, the officer exercising general court-martial
5 jurisdiction over the command to which the accused is currently
6 assigned, may, in his or her sole discretion, defer the effective
7 date of a sentence of confinement, reduction, or forfeiture. The
8 deferment shall terminate upon entry of judgment or, in the case of
9 a summary court-martial, when the convening authority acts on the
10 sentence. The deferment may be rescinded at any time by the officer
11 who granted it or, if the accused is no longer under his or her
12 jurisdiction, by the officer exercising general court-martial
13 jurisdiction over the command to which the accused is currently
14 assigned.

15 2. Deferral of certain persons sentenced to confinement. In
16 any case in which a court-martial sentences a person referred to in
17 paragraph 3 of this subsection to confinement, the convening
18 authority may defer the service of the sentence to confinement,
19 without the consent of that person, until after the person has been
20 permanently released to the state military forces by a state or
21 foreign country referred to in that paragraph.

22 3. Covered persons. Paragraph 2 of this subsection applies to
23 a person subject to this chapter who:
24

1 a. while in the custody of a state or foreign country is
2 temporarily returned by that state or foreign country
3 to the state military forces for trial by court-
4 martial, and

5 b. after the court-martial, is returned to that state or
6 foreign country under the authority of a mutual
7 agreement or treaty, as the case may be.

8 4. State defined. In this subsection, the term "state"
9 includes the District of Columbia and any commonwealth, territory,
10 or possession of the United States.

11 5. Deferral while review pending. In any case in which a
12 court-martial sentences a person to confinement, but in which review
13 of the case under subsection A of Section 867 of this title (Article
14 67, subsection A) is pending, the Adjutant General may defer further
15 service of the sentence to confinement while that review is pending.

16 C. Appellate review.

17 1. Completion of appellate review. Appellate review is
18 complete under this section when:

19 a. a review under Section 865 of this title (Article 65)
20 is completed, or

21 b. a review under Section 866 of this title (Article 66)
22 is completed by the Military Court of Appeals and:

23 (1) the time for the accused to file a Petition for
24 Review by the Court of Criminal Appeals has

1 expired and the accused has not filed a timely
2 petition for such review and the case is not
3 otherwise under review by that Court,

4 (2) such a petition is rejected by the Court of
5 Criminal Appeals, or

6 (3) review is completed in accordance with the
7 judgment of the Court of Criminal Appeals.

8 2. Completion as final judgment of legality of proceedings.

9 The completion of appellate review shall constitute a final judgment
10 as to the legality of the proceedings.

11 SECTION 67. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 858 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 58. Execution of confinement.

15 A. Under such regulations as the Governor or Adjutant General
16 may prescribe, a sentence of confinement adjudged by a court-
17 martial, whether or not the sentence includes discharge or
18 dismissal, and whether or not the discharge or dismissal has been
19 executed, may be carried into execution by confinement in any place
20 of confinement under the control of the state military forces or in
21 any penal or correctional institution used or under the control of
22 the Oklahoma Department of Corrections. Persons so confined in a
23 penal or correctional institution not under the control of the state

1 military forces are subject to the same discipline and treatment as
2 persons confined or committed by the courts of this state.

3 B. No confinement ordered by a court-martial shall include hard
4 labor.

5 SECTION 68. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 858A of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 ARTICLE 58A. Sentences: reduction in enlisted grade.

9 A. A court-martial sentence of an enlisted member in a pay
10 grade above E-1, as set forth in the judgment of the court-martial
11 entered into the record under Section 860C of this title (Article
12 60C), that includes:

13 1. A dishonorable or bad-conduct discharge; or

14 2. Confinement,

15 reduces that member to pay grade E-1, if such a reduction is
16 authorized by regulation prescribed by the Governor or Adjutant
17 General. The reduction in pay grade shall take effect on the date
18 on which the judgment is so entered.

19 B. If the sentence of a member who is reduced in pay grade
20 under subsection A of this section is set aside or reduced, or, as
21 finally affirmed, does not include any punishment named in
22 paragraphs 1 or 2 of subsection A of this section, the rights and
23 privileges of which he or she was deprived because of that reduction
24 shall be restored to him or her and he or she is entitled to the pay

1 and allowances to which he or she would have been entitled, for the
2 period the reduction was in effect, had he or she not been so
3 reduced.

4 SECTION 69. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 858B of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 58B. Sentences: forfeiture of pay and allowances during
8 confinement.

9 A. 1. A court-martial sentence described in paragraph 2 of
10 this subsection shall result in the forfeiture of pay, or of pay and
11 allowances, due that member during any period of confinement or
12 parole. The forfeiture pursuant to this section shall take effect
13 on the date determined under Section 857 of this title (Article 57)
14 and may be deferred as provided in that article. The pay and
15 allowances forfeited, in the case of a general court-martial, shall
16 be all pay and allowances due that member during such period and, in
17 the case of a special court-martial, shall be two-thirds (2/3) of
18 all pay due that member during such period.

19 2. A sentence covered by this section is any sentence that
20 includes:

- 21 a. confinement for more than six (6) months; or
- 22 b. confinement for six (6) months or less and a
23 dishonorable or bad-conduct discharge or dismissal.

24

1 B. In a case involving an accused who has dependents, the
2 convening authority or other person acting under Section 860A or
3 860B of this title (Article 60A or 60B) may waive any or all of the
4 forfeitures of pay and allowances required by subsection A of this
5 section for a period not to exceed six (6) months. Any amount of
6 pay or allowances that, except for a waiver under this subsection,
7 would be forfeited shall be paid, as the convening authority or
8 other person taking action directs, to the dependents of the
9 accused.

10 C. If the sentence of a member who forfeits pay and allowances
11 under subsection A of this section is set aside or disapproved or,
12 as finally approved, does not provide for a punishment referred to
13 in paragraph 2 of subsection A of this section, the member shall be
14 paid the pay and allowances which the member would have been paid,
15 except for the forfeiture, for the period which the forfeiture was
16 in effect.

17 SECTION 70. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 858C of Title 44, unless there
19 is created a duplication in numbering, reads as follows:

20 ARTICLE 58C. Enforcement of fines or adjudication of pecuniary
21 liability.

22 When a sentence, including a fine, or a finally approved
23 adjudication of pecuniary liability under a report of survey or
24 financial liability investigation of property loss (FLIPL) has been

1 ordered executed pursuant to regulations promulgated by the Adjutant
2 General, the collection of the fine or the adjudication of pecuniary
3 liability may be made executory and enforced by the Oklahoma
4 Attorney General, or his or her designee, in the judicial district
5 as described in Section 22 of Title 20 of the Oklahoma Statutes in
6 which the court martial was held or in the district court judicial
7 district, where nonjudicial punishment was decided or district court
8 judicial district of residence of the accused or person against whom
9 the pecuniary charge was raised in the same manner as a money
10 judgment in a civil case or by the withholding of any funds due the
11 accused from the state or any of its agencies in accordance with
12 regulations prescribed by the Adjutant General. To the extent not
13 prohibited by federal law or regulation, a fine may be enforced by
14 withholding federal funds due the accused.

15 PART IX.

16 POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

17 SECTION 71. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 859 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 59. Error of law; lesser included offense.

21 A. A finding or sentence of court-martial may not be held
22 incorrect on the ground of an error of law unless the error
23 materially prejudices the substantial rights of the accused.

24

1 B. Any reviewing authority with the power to approve or affirm
2 a finding of guilty may approve or affirm, instead, so much of the
3 finding as includes a lesser included offense.

4 SECTION 72. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 860 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 60. Posttrial processing in general and special courts-
8 martial.

9 A. Statement of trial results.

10 1. The military judge of a general or special court-martial
11 shall enter into the record of trial a document entitled "Statement
12 of Trial Results", which shall set forth:

- 13 a. each plea and finding,
- 14 b. the sentence, if any, and
- 15 c. such other information as the Adjutant General may
16 prescribe by regulation.

17 2. Copies of the Statement of Trial Results shall be provided
18 promptly to the convening authority, the accused, and any victim of
19 the offense.

20 B. Posttrial motions. In accordance with regulations
21 prescribed by the Adjutant General, the military judge in a general
22 or special court-martial shall address all posttrial motions and
23 other posttrial matters that:

24

1 1. May affect a plea, a finding, the sentence, the Statement of
2 Trial Results, the record of trial, or any posttrial action by the
3 convening authority; and

4 2. Are subject to resolution by the military judge before entry
5 of judgment.

6 SECTION 73. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 860A of Title 44, unless there
8 is created a duplication in numbering, reads as follows:

9 ARTICLE 60A. Limited authority to act on sentence in specified
10 posttrial circumstances.

11 A. In general.

12 1. The convening authority of a general or special court-
13 martial described in paragraph 2 of this subsection:

14 a. may act on the sentence of the court-martial only as
15 provided in subsection B, C or D of this section, and

16 b. may not act on the findings of the court-martial.

17 2. The courts-martial referred to in paragraph 1 of this
18 subsection are the following:

19 a. a general or special court-martial in which the
20 maximum sentence of confinement established under
21 subsection A of Section 856 of this title (Article 56,
22 subsection A) for any offense of which the accused is
23 found guilty is more than two (2) years,

24

- 1 b. a general or special court-martial in which the total
2 of the sentences of confinement imposed, running
3 consecutively, is more than six (6) months, and
4 c. a general or special court-martial in which the
5 sentence imposed includes a dismissal, dishonorable
6 discharge, or bad-conduct discharge.

7 3. Except as provided in subsection D of this section, the
8 convening authority may act under this section only before entry of
9 judgment.

10 4. Under regulations prescribed by the Adjutant General, a
11 commissioned officer commanding for the time being, a successor in
12 command, or any person exercising general court-martial jurisdiction
13 may act under this section in place of the convening authority.

14 B. Reduction, commutation, and suspension of sentences
15 generally.

- 16 1. Except as provided in subsection C or D of this
17 section, the convening authority may not reduce,
18 commute, or suspend any of the following sentences:
19 a. a sentence of confinement, if the total period of
20 confinement imposed for all offenses involved, running
21 consecutively, is greater than six (6) months, and
22 b. a sentence of dismissal, dishonorable discharge, or
23 bad-conduct discharge.

1 2. The convening authority may reduce, commute, or suspend any
2 sentence not specified in paragraph 1 of this subsection.

3 C. Suspension of certain sentences upon recommendation of
4 military judge.

5 1. Upon recommendation of the military judge, as included in
6 the Statement of Trial Results, together with an explanation of the
7 facts supporting the recommendation, the convening authority may
8 suspend:

9 a. a sentence of confinement, in whole or in part, or

10 b. a sentence of dismissal, dishonorable discharge, or
11 bad-conduct discharge.

12 2. The convening authority may not, under paragraph 1 of this
13 subsection:

14 a. suspend a mandatory minimum sentence, or

15 b. suspend a sentence to an extent in excess of the
16 suspension recommended by the military judge.

17 D. Reduction of sentence for substantial assistance by accused.

18 1. Upon a recommendation by the trial counsel, if the accused,
19 after sentencing and before entry of judgment, provides substantial
20 assistance in the investigation or prosecution of another person,
21 the convening authority may reduce, commute, or suspend a sentence,
22 in whole or in part, including any mandatory minimum sentence.

23 2. Upon a recommendation by a trial counsel, designated in
24 accordance with regulations prescribed by the Adjutant General, if

1 the accused, after entry of judgment, provides substantial
2 assistance in the investigation or prosecution of another person, a
3 convening authority, designated under such regulations, may reduce,
4 commute, or suspend a sentence, in whole or in part, including any
5 mandatory minimum sentence.

6 3. In evaluating whether the accused has provided substantial
7 assistance under this subsection, the convening authority may
8 consider the presentence assistance of the accused.

9 E. Submissions by accused and victim.

10 1. In accordance with regulations prescribed by the Adjutant
11 General, in determining whether to act under this section, the
12 convening authority shall consider matters submitted in writing by
13 the accused or any victim of an offense. Such rules shall include:

- 14 a. procedures for notice of the opportunity to make such
15 submissions,
- 16 b. the deadlines for such submissions, and
- 17 c. procedures for providing the accused and any victim of
18 an offense with a copy of the recording of any open
19 sessions of the court-martial and copies of, or access
20 to, any admitted, unsealed exhibits.

21 2. The convening authority shall not consider under this
22 section any submitted matters that relate to the character of a
23 victim unless such matters were presented as evidence at trial and
24 not excluded at trial.

1 F. Decision of convening authority.

2 1. The decision of the convening authority under this section
3 shall be forwarded to the military judge, with copies provided to
4 the accused and to any victim of the offense.

5 2. If, under this section, the convening authority reduces,
6 commutes, or suspends the sentence, the decision of the convening
7 authority shall include a written explanation of the reasons for
8 such action.

9 3. If, under paragraph 2 of subsection D of this section, the
10 convening authority reduces, commutes, or suspends the sentence, the
11 decision of the convening authority shall be forwarded to the
12 military judge for appropriate modification of the entry of
13 judgment, which shall be transmitted to the State Judge Advocate for
14 appropriate action.

15 SECTION 74. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 860B of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 60B. Posttrial actions in summary courts-martial and
19 certain general and special courts-martial.

20 A. In general.

21 1. In a court-martial not specified in paragraph 2 of
22 subsection A of Section 860A of this title (Article 60A, subsection
23 A, paragraph 2), the convening authority may:
24

- a. dismiss any charge or specification by setting aside the finding of guilty,
- b. change a finding of guilty to a charge or specification to a finding of guilty to a lesser included offense,
- c. disapprove the findings and the sentence and dismiss the charges and specifications,
- d. disapprove the findings and the sentence and order a rehearing as to the findings and the sentence,
- e. disapprove, commute, or suspend the sentence, in whole or in part, or
- f. disapprove the sentence and order a rehearing as to the sentence.

2. In a summary court-martial, the convening authority shall approve the sentence or take other action on the sentence under paragraph 1 of this subsection.

3. Except as provided in paragraph 4 of this subsection, the convening authority may act under this section only before entry of judgment.

4. The convening authority may act under this section after entry of judgment in a general or special court-martial in the same manner as the convening authority may act under paragraph 2 of subsection D of Section 860A of this title (Article 60A, subsection D, paragraph 2). Such action shall be forwarded to the military

1 judge, who shall ensure appropriate modification to the entry of
2 judgment and shall transmit the entry of judgment to the State Judge
3 Advocate for appropriate action.

4 5. Under regulations prescribed by the Adjutant General, a
5 commissioned officer commanding for the time being, a successor in
6 command, or any person exercising general court-martial jurisdiction
7 may act under this section in place of the convening authority.

8 B. Limitations on rehearings. The convening authority may not
9 order a rehearing under this section:

10 1. As to the findings, if there is insufficient evidence in the
11 record to support the findings;

12 2. To reconsider a finding of not guilty of any specification
13 or a ruling which amounts to a finding of not guilty; or

14 3. To reconsider a finding of not guilty of any charge, unless
15 there has been a finding of guilty under a specification laid under
16 that charge, which sufficiently alleges a violation of some section
17 of the Oklahoma Uniform Code of Military Justice.

18 C. Submissions by accused and victim. In accordance with
19 regulations prescribed by the Adjutant General, in determining
20 whether to act under this section, the convening authority shall
21 consider matters submitted in writing by the accused or any victim
22 of the offense. Such rules shall include the matter required by
23 subsection E of Section 860A of this title (Article 60A, subsection
24 E).

1 D. Decision of convening authority.

2 1. In a general or special court-martial, the decision of the
3 convening authority under this section shall be forwarded to the
4 military judge, with copies provided to the accused and to any
5 victim of the offense.

6 2. If the convening authority acts on the findings or the
7 sentence under paragraph 1 of subsection A of this section, the
8 decision of the convening authority shall include a written
9 explanation of the reasons for such action.

10 SECTION 75. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 860C of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

13 ARTICLE 60C. Entry of judgment.

14 A. Entry of judgment of general or special court-martial.

15 1. In accordance with regulations prescribed by the Adjutant
16 General, in a general or special court-martial, the military judge
17 shall enter into the record of trial the judgment of the court. The
18 judgment of the court shall consist of the following:

19 a. the Statement of Trial Results under Section 860 of
20 this title (Article 60),

21 b. any modifications of, or supplements to, the Statement
22 of Trial Results by reason of:

23 (1) any posttrial action by the convening authority,

24 or

1 (2) any ruling, order, or other determination of the
2 military judge that affects a plea, a finding, or
3 the sentence.

4 2. Under regulations prescribed by the Adjutant General, the
5 judgment under paragraph 1 of this subsection shall be:

- 6 a. provided to the accused and to any victim of the
7 offense, and
- 8 b. made available to the public.

9 B. Summary court-martial judgment. The findings and sentence
10 of a summary court-martial, as modified by any posttrial action by
11 the convening authority under Section 860B of this title (Article
12 60B), constitutes the judgment of the court-martial and shall be
13 recorded and distributed under regulations prescribed by the
14 Adjutant General.

15 SECTION 76. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 861 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 61. Waiver of right to appeal; withdrawal of appeal.

19 A. Waiver of right to appeal. After entry of judgment in a
20 general or special court-martial, under regulations promulgated by
21 the Adjutant General, the accused may waive the right to appellate
22 review in each case subject to such review under Section 866 of this
23 title (Article 66). Such a waiver shall be:

- 24 1. Signed by the accused and by defense counsel; and

1 2. Attached to the record of trial.

2 B. Withdrawal of appeal. In a general or special court-
3 martial, the accused may withdraw an appeal at any time.

4 C. Waiver or withdrawal as bar. A waiver or withdrawal under
5 this section bars review under Section 866 of this title (Article
6 66).

7 SECTION 77. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 862 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 62. Appeal by the State of Oklahoma.

11 A. 1. In a trial by general or special court-martial, or in a
12 pretrial proceeding under Section 830A of this title (Article 30A),
13 the State of Oklahoma may appeal the following:

- 14 a. an order or ruling of the military judge which
15 terminates the proceedings with respect to a charge or
16 specification,
- 17 b. an order or ruling which excludes evidence that is
18 substantial proof of a fact material in the
19 proceeding,
- 20 c. an order or ruling which directs the disclosure of
21 classified or confidential information,
- 22 d. an order or ruling which imposes sanctions for
23 nondisclosure of classified or confidential
24 information,

- 1 e. a refusal of the military judge to issue a protective
2 order sought by the State of Oklahoma to prevent the
3 disclosure of classified or confidential information,
4 f. a refusal by the military judge to enforce an order
5 described in subparagraph e of this paragraph that has
6 previously been issued by appropriate authority, and
7 g. an order or ruling of the military judge entering a
8 finding of not guilty with respect to a charge or
9 specification following the return of a finding of
10 guilty by the members.

11 2. a. An appeal of an order or ruling may not be taken
12 unless the trial counsel provides the military judge
13 with written notice of appeal from the order or ruling
14 within seventy-two (72) hours of the order or ruling.
15 Such notice shall include a certification by the trial
16 counsel that the appeal is not taken for the purpose
17 of delay and (if the order or ruling appealed is one
18 which excludes evidence) that the evidence excluded is
19 substantial proof of a fact material in the
20 proceeding.

21 b. An appeal of an order or ruling may not be taken when
22 prohibited by Section 844 of this title (Article 44).

23 3. An appeal under this section shall be diligently prosecuted
24 by appellate government counsel.

1 B. An appeal under this section shall be forwarded by a means
2 prescribed under regulations of the Adjutant General directly to the
3 Military Court of Appeals and shall, whenever practicable, have
4 priority over all other proceedings before that court. In ruling on
5 an appeal under this section, the Military Court of Appeals may act
6 only with respect to matters of law.

7 C. Any period of delay resulting from an appeal under this
8 section shall be excluded in deciding any issue regarding denial of
9 a speedy trial unless an appropriate authority determines that the
10 appeal was filed solely for the purpose of delay with the knowledge
11 that it was totally frivolous and without merit.

12 D. The provisions of this section shall be liberally construed
13 to effect its purposes.

14 SECTION 78. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 863 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 63. Rehearings.

18 A. Each rehearing under the Oklahoma Uniform Code of Military
19 Justice shall take place before a court-martial composed of members
20 who were not members of the court-martial which first heard the
21 case. Upon a rehearing the accused may not be tried for any offense
22 of which he or she was found not guilty by the first court-martial,
23 and no sentence in excess of or more severe than the original
24 sentence may be adjudged, unless the sentence is based upon a

1 finding of guilty of an offense not considered upon the merits in
2 the original proceedings, or unless the sentence prescribed for the
3 offense is mandatory.

4 B. If the sentence adjudged by the first court-martial was in
5 accordance with a plea agreement under Section 853A of this title
6 (Article 53A) and the accused at the rehearing does not comply with
7 the agreement, or if a plea of guilty was entered for an offense at
8 the first court-martial and a plea of not guilty was entered at the
9 rehearing, the sentence as to those charges or specifications may
10 include any punishment not in excess of that which could have been
11 adjudged at the first court-martial, subject to such limitations as
12 the Adjutant General may prescribe by regulation.

13 C. If, after appeal by the government under subsection C of
14 Section 856 of this title (Article 56, subsection C), the sentence
15 adjudged is set aside and a rehearing on sentence is ordered by the
16 Military Court of Appeals or Court of Criminal Appeals, the court-
17 martial may impose any sentence that is in accordance with the order
18 or ruling setting aside the adjudged sentence, subject to such
19 limitations as the Adjutant General may prescribe by regulation.

20 SECTION 79. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 864 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 64. Judge advocate review of finding of guilty in
24 summary court-martial.

1 A. In general. Under regulations prescribed by the Adjutant
2 General, each summary court-martial in which there is a finding of
3 guilty shall be reviewed by a judge advocate. A judge advocate may
4 not review a case under this subsection if the judge advocate has
5 acted in the same case as an accuser, preliminary hearing officer,
6 member of the court, military judge, or counsel or has otherwise
7 acted on behalf of the prosecution or defense. The judge advocate's
8 review shall be in writing and shall contain the following:

9 1. Conclusions as to whether:

10 a. the court had jurisdiction over the accused and the
11 offense,

12 b. the charge and specification stated an offense, and

13 c. the sentence was within the limits prescribed as a
14 matter of law;

15 2. A response to each allegation of error made in writing by
16 the accused; and

17 3. If the case is sent for action under subsection B of this
18 section, a recommendation as to the appropriate action to be taken
19 and an opinion as to whether corrective action is required as a
20 matter of law.

21 B. Record. The record of trial and related documents in each
22 case reviewed under subsection A of this section shall be sent for
23 action to the person exercising general court-martial jurisdiction
24

1 over the accused at the time the court was convened (or to that
2 person's successor in command) if:

3 1. The judge advocate who reviewed the case recommends
4 corrective action; or

5 2. Such action is otherwise required by regulations of the
6 Adjutant General.

7 C. 1. The person to whom the record of trial and related
8 documents are sent under subsection B of this section may:

9 a. disapprove or approve the findings or sentence, in
10 whole or in part,

11 b. remit, commute, or suspend the sentence in whole or in
12 part,

13 c. except where the evidence was insufficient at the
14 trial to support the findings, order a rehearing on
15 the findings, on the sentence, or on both, or

16 d. dismiss the charges.

17 2. If a rehearing is ordered but the convening authority finds
18 a rehearing impracticable, he or she shall dismiss the charges.

19 3. If the opinion of the judge advocate in the judge advocate's
20 review under subsection A of this section is that corrective action
21 is required as a matter of law and if the person required to take
22 action under subsection B does not take action that is at least as
23 favorable to the accused as that recommended by the judge advocate,
24 the record of trial and action thereon shall be sent to the State

1 Judge Advocate for review under Section 869 of this title (Article
2 69).

3 SECTION 80. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 865 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 65. Transmittal and review of records.

7 A. Transmittal of records.

8 1. Finding of guilty in general or special court-martial. If
9 the judgment of a general or special court-martial entered under
10 Section 860C of this title (Article 60C) includes a finding of
11 guilty, the record shall be transmitted to the State Judge Advocate.

12 2. Other cases. In all other cases, records of trial by court-
13 martial and related documents shall be transmitted and disposed of
14 as the Adjutant General may prescribe by regulation.

15 B. Cases for direct appeal.

16 1. Automatic review. If the judgment includes a sentence of
17 dismissal of a commissioned officer, or cadet, dishonorable
18 discharge or bad-conduct discharge, or confinement for two (2) years
19 or more, the State Judge Advocate shall forward the record of trial
20 to the Military Court of Appeals for review under paragraph 3 of
21 subsection F of Section 866 of this title (Article 66, subsection F,
22 paragraph 3).

23 2. Cases eligible for direct appeal review.
24

1 a. In general. If the case is eligible for direct review
2 under paragraph 1 of subsection F of Section 866 of
3 this title (Article 66, subsection F, paragraph 1),
4 the State Judge Advocate shall:

5 (1) forward a copy of the record of trial to an
6 appellate defense counsel who shall be detailed
7 to review the case and, upon request of the
8 accused, to represent the accused before the
9 Military Court of Appeals, and

10 (2) upon written request of the accused, forward a
11 copy of the record of trial to civilian counsel
12 provided by the accused.

13 b. Inapplicability. Subparagraph a of this paragraph
14 shall not apply if the accused:

15 (1) waives the right to appeal under Section 861 of
16 this title (Article 61), or

17 (2) declines in writing the detailing of appellate
18 defense counsel under division (1) of
19 subparagraph a of this paragraph.

20 c. Notice of right to appeal.

21 1. In general. The State Judge Advocate shall provide notice
22 to the accused of the right to file an appeal under paragraph 1 of
23 subsection F of Section 866 of this title (Article 66, subsection F,
24 paragraph 1) by means of depositing in the United States mail for

1 delivery by first-class certified mail to the accused at an address
2 provided by the accused or, if no such address has been provided by
3 the accused, at the latest address listed for the accused in the
4 official service record of the accused.

5 2. Inapplicability upon waiver of appeal. Paragraph 1 of this
6 subsection shall not apply if the accused waives the right to appeal
7 under Section 861 of this title (Article 61).

8 D. Review by State Judge Advocate.

9 1. By whom. A review conducted under this subsection may be
10 conducted by an attorney within the Office of the State Judge
11 Advocate or another attorney designated under regulations prescribed
12 by the Adjutant General.

13 2. Review of cases not eligible for direct appeal.

14 a. In general. A review under subparagraph b of this
15 paragraph shall be completed in each general and
16 special court-martial that is not eligible for direct
17 appeal under paragraph 1 or 3 of subsection F of
18 Section 866 of this title (Article 66, subsection F,
19 paragraph 1 or 3).

20 b. Scope of review. A review referred to in subparagraph
21 a of this paragraph shall include a written decision
22 providing each of the following:

23 (1) a conclusion as to whether the court had
24 jurisdiction over the accused and the offense,

- 1 (2) a conclusion as to whether the charge and
2 specification stated an offense,
3 (3) a conclusion as to whether the sentence was
4 within the limits prescribed as a matter of law,
5 and
6 (4) a response to each allegation of error made in
7 writing by the accused.

8 3. Review when direct appeal is waived, withdrawn, or not
9 filed.

10 a. In general. A review under subparagraph b of this
11 paragraph shall be completed in each general and
12 special court-martial if:

- 13 (1) the accused waives the right to appeal or
14 withdraws appeal under Section 861 of this title
15 (Article 61), or
16 (2) the accused does not file a timely appeal in a
17 case eligible for direct appeal under
18 subparagraph a, b or c of paragraph 1 of
19 subsection F of Section 866 of this title
20 (Article 66, subsection F, paragraph 1,
21 subparagraph a, b or c).

22 b. Scope of review. A review referred to in subparagraph
23 a of this paragraph shall include a written decision
24 limited to providing conclusions on the matters

1 specified in divisions (1), (2) and (3) of
2 subparagraph b of paragraph 2 of this subsection.

3 E. Remedy.

4 1. In general. If, after a review of a record under subsection
5 D of this section, the attorney conducting the review believes
6 corrective action may be required, the record shall be forwarded to
7 the State Judge Advocate, who may set aside the findings or
8 sentence, in whole or in part.

9 2. Rehearing. In setting aside findings or sentence, the State
10 Judge Advocate may order a rehearing, except that a rehearing may
11 not be ordered in violation of Section 844 of this title (Article
12 44).

13 3. Remedy without rehearing.

14 a. Dismissal when no rehearing ordered. If the State
15 Judge Advocate sets aside findings and sentence and
16 does not order a rehearing, the State Judge Advocate
17 shall dismiss the charges.

18 b. Dismissal when rehearing impractical. If the State
19 Judge Advocate sets aside findings and orders a
20 rehearing and the convening authority determines that
21 a rehearing would be impractical, the convening
22 authority shall dismiss the charges.

1 SECTION 81. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 866 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 66. Military Court of Appeals for state military
5 forces.

6 A. Military Court of Appeals. There is hereby established a
7 Military Court of Appeals for the state military forces of the State
8 of Oklahoma. The Military Court of Appeals shall be a court of
9 record and except as provided in Section 867 of this title (Article
10 67), the appellate jurisdiction of the Military Court of Appeals
11 shall be exclusive in all courts-martial cases convened by state
12 military forces regardless of whether a court-martial was conducted
13 within or without the physical boundaries of the State of Oklahoma.

14 B. Composition and method of appointment. The Military Court
15 of Appeals shall be composed of one panel of not less than three
16 appellate military judges. At the time the Military Court of
17 Appeals is initially constituted and each time thereafter when a
18 vacancy shall occur or is certain to occur on the Court, the State
19 Judge Advocate shall choose and submit to the Governor at least one
20 nominee for a vacant seat, certified by the State Judge Advocate as
21 qualified, by reason of education, training, experience, and
22 judicial temperament, for duty as an appellate military judge.
23 Prior to submission of a nominee to the Governor, the nominee shall
24 have previously notified the State Judge Advocate in writing that he

1 or she will serve as an appellate military judge if appointed. The
2 Governor shall appoint one nominee to fill the vacancy, but if the
3 Governor fails to do so within sixty (60) days after the State Judge
4 Advocate submits the nominee to the Governor or the Governor does
5 not affirmatively reject in writing the nominee so submitted, the
6 State Judge Advocate shall appoint one nominee, the appointment to
7 be certified by the Secretary of State. No person so nominated and
8 appointed by the Governor or by the State Judge Advocate shall take
9 his or her seat on the Military Court of Appeals without first
10 receiving the approbation of the Senate through advice and consent;
11 provided that, in the case of any vacancy that occurs while the
12 Legislature is not in regular session within the meaning of Section
13 26 of Article V of the Oklahoma Constitution, the Governor, or the
14 State Judge Advocate as provided in this subsection, shall appoint a
15 person who satisfies the requirements established in subsection C of
16 this section to serve as an appellate military judge. If the
17 interim nomination of the appellate military judge is not approved
18 by the Senate during the first regular session following its
19 submission, it shall be deemed rejected.

20 C. Qualifications. An appellate military judge who is
21 appointed to the Military Court of Appeals shall be a licensed
22 practicing attorney or judge of a court of record, or both, in
23 Oklahoma for one (1) year preceding his or her appointment and shall
24 continue to be a duly licensed attorney while in office to be

1 eligible to hold the office. No appellate military judge shall be
2 appointed to the Military Court of Appeals who did not previously
3 serve as a judge advocate in any department of the Armed Forces of
4 the United States, to include reserve components of the same. The
5 Military Court of Appeals shall include at least one appellate
6 military judge who previously served in the United States Army or a
7 reserve component of the same. The Military Court of Appeals shall
8 include at least one appellate military judge who previously served
9 in the United States Air Force or a reserve component of the same.

10 D. Term of office and causes for removal or retirement. Each
11 appellate military judge appointed pursuant to this section shall,
12 unless removed for cause, serve out the term for which he or she is
13 appointed. Appellate military judges appointed pursuant to this
14 section shall serve for fixed terms of office of appropriate minimum
15 periods which shall be prescribed by regulations promulgated by the
16 Adjutant General. The appellate military judges of the Military
17 Court of Appeals, exercising judicial power under the provisions of
18 the Oklahoma Uniform Code of Military Justice, shall be subject to
19 removal from office, or to compulsory retirement from office, by
20 proceedings in the Court on the Judiciary, for:

21 1. Gross neglect of duty, corruption in office, habitual
22 drunkenness, commission while in office of any offense involving
23 moral turpitude, gross partiality in office, oppression in office,
24 mental or physical disability preventing the proper performance of

1 official duty or incompetence to perform the duties of the office;
2 or

3 2. Other reasons arising from military customs and practices
4 defined in regulations promulgated by the Adjutant General.

5 E. Compensation. Appellate military judges shall receive
6 compensation calculated on the basis of the current basic pay
7 received by a member in active federal service at the grade of O-6
8 with twenty (20) years of time in service. The Adjutant General
9 shall promulgate regulations establishing the method of calculating
10 compensation for less than full-time service by members of the
11 Military Court of Appeals. Appellate military judges may be paid
12 such actual and necessary expenses as may be provided for in
13 regulations promulgated by the Adjutant General.

14 F. Review.

15 1. Appeals by accused. The Military Court of Appeals shall
16 have jurisdiction over a timely appeal from the judgment of a court-
17 martial, entered into the record under Section 860C of this title
18 (Article 60C), as follows:

19 a. on appeal by the accused in a case in which the
20 sentence extends to confinement for more than six (6)
21 months and the case is not subject to automatic review
22 under paragraph 3 of this subsection,
23
24

1 b. on appeal by the accused in a case in which the
2 government previously filed an appeal under Section
3 862 of this title (Article 62),

4 c. on appeal by the accused in a case that the State
5 Judge Advocate has sent to the Military Court of
6 Appeals for review of the sentence under subsection C
7 of Section 856 of this title (Article 56, subsection
8 C),

9 d. in a case in which the accused filed an application
10 for review with the Court under subparagraph b of
11 paragraph 1 of subsection D of Section 869 of this
12 title (Article 69, subsection D, paragraph 1,
13 subparagraph b) and the application has been granted
14 by the Court.

15 2. Review of certain sentences. The Military Court of Appeals
16 shall have jurisdiction over all cases that the State Judge Advocate
17 orders sent to the Court for review under subsection C of Section
18 856 of this title (Article 56, subsection C).

19 3. Automatic review. The Military Court of Appeals shall have
20 jurisdiction over a court-martial in which the judgment entered into
21 the record under Section 860C of this title (Article 60C) includes a
22 sentence of dismissal of a commissioned officer, cadet, dishonorable
23 discharge or bad-conduct discharge, or confinement for two (2) years
24 or more.

1 G. Timeliness. An appeal under paragraph 1 of subsection F of
2 this section is timely if it is filed as follows:

3 1. In the case of an appeal by the accused under subparagraph a
4 or b of paragraph 1 of subsection F of this section, if filed before
5 the later of:

6 a. the end of the ninety-day period beginning on the date
7 the accused is provided notice of appellate rights
8 under subsection C of Section 865 of this title
9 (Article 65, subsection C), or

10 b. the date set by the Military Court of Appeals by rule
11 or order; and

12 2. In the case of an appeal by the accused under paragraph 1 of
13 subsection C of Section 865 of this title (Article 65, subsection C,
14 paragraph 1), if filed before the later of:

15 a. the end of the ninety-day period beginning on the date
16 the accused is notified that the application for
17 review has been granted by letter placed in the United
18 States mail for delivery by first-class certified mail
19 to the accused at an address provided by the accused
20 or, if no such address has been provided by the
21 accused, at the latest address listed for the accused
22 in his or her official service record, or

23 b. the date set by the Military Court of Appeals by rule
24 or order.

1 H. Duties.

2 1. Cases appealed by accused. In any case before the Military
3 Court of Appeals under subsection F of this section, the Court may
4 act only with respect to the findings and sentence as entered into
5 the record under Section 860C of this title (Article 60C). The
6 Court may affirm only such findings of guilty, and the sentence or
7 such part or amount of the sentence, as the Court finds correct on
8 the basis of applicable law.

9 2. Error or excessive delay. In any case before the Military
10 Court of Appeals under subsection F of this section, the Court may
11 provide appropriate relief if the accused demonstrates error or
12 excessive delay in the processing of the court-martial after the
13 judgment was entered into the record under Section 860C of this
14 title (Article 60C).

15 I. Consideration of appeal of sentence by the State of
16 Oklahoma.

17 1. In general. In considering a sentence on appeal or review
18 as provided in subsection C of Section 856 of this title (Article
19 56, subsection C), the Military Court of Appeals may consider:

- 20 a. whether the sentence violates the law, and
- 21 b. whether the sentence is plainly unreasonable.

22 2. Record on appeal or review. In an appeal or review under
23 this subsection or subsection C of Section 856 of this title
24

1 (Article 56, subsection C), the record on appeal or review shall
2 consist of:

- 3 a. any portion of the record in the case that is
4 designated as pertinent by either of the parties,
- 5 b. the information submitted during the sentencing
6 proceeding, and
- 7 c. any information required by regulations promulgated by
8 the Adjutant General or by rule or order of the
9 Military Court of Appeals.

10 J. Limits of authority.

11 1. Set aside of findings.

12 a. In general. If the Military Court of Appeals sets
13 aside the findings, the Court:

- 14 (1) may affirm any lesser included offense, and
- 15 (2) may, except when prohibited by Section 844 of
16 this title (Article 44), order a rehearing.

17 b. Dismissal when no rehearing ordered. If the Military
18 Court of Appeals sets aside the findings and does not
19 order a rehearing, the Court shall order that the
20 charges be dismissed.

21 c. Dismissal when rehearing impracticable. If the
22 Military Court of Appeals orders a rehearing on a
23 charge and the convening authority finds a rehearing
24

1 impracticable, the convening authority may dismiss the
2 charge.

3 2. Set aside of sentence. If the Military Court of Appeals
4 sets aside the sentence, the Court may:

5 a. modify the sentence to a lesser sentence, or

6 b. order a rehearing.

7 3. Additional proceedings. If the Military Court of Appeals
8 determines that additional proceedings are warranted, the Court may
9 order a hearing as may be necessary to address a substantial issue,
10 subject to such limitations as the Court may direct and under such
11 regulations as the Adjutant General may prescribe.

12 K. Action in accordance with decisions of courts. The State
13 Judge Advocate shall, unless there is to be further action by the
14 Governor, the Adjutant General, or the Oklahoma Court of Criminal
15 Appeals, instruct the appropriate authority to take action in
16 accordance with the decision of the Military Court of Appeals.

17 L. Rules of procedure and designation of chief judge. The
18 State Judge Advocate shall prescribe uniform rules of procedure for
19 the Military Court of Appeals which shall be published as a military
20 publication and shall meet periodically to formulate policies and
21 procedure in regard to review of court-martial cases in the office
22 of the State Judge Advocate and by the Military Court of Appeals.
23 The State Judge Advocate shall designate as chief judge one of the
24 appellate military judges of the Military Court of Appeals.

1 M. Prohibition on evaluation of other members of courts. No
2 member of the Military Court of Appeals shall be required, or on his
3 or her own initiative be permitted, to prepare, approve, disapprove,
4 review, or submit, with respect to any other member of the Military
5 Court of Appeals, an effectiveness, fitness, or efficiency report,
6 or any other report or document used in whole or in part for the
7 purpose of determining whether a member of the state military forces
8 is qualified to be advanced in grade, or in determining the
9 assignment or transfer of a member of the state military forces, or
10 in determining whether a member of the state military forces should
11 be retained as a member of the state military forces.

12 N. Ineligibility of members of courts to review records of
13 cases involving certain prior member service. No member of the
14 Military Court of Appeals shall be eligible to review the record of
15 any trial if such member served as investigating officer in the case
16 or served as a member of the court-martial before which such trial
17 was conducted, or served as military judge, trial or defense
18 counsel, or reviewing officer of such trial.

19 SECTION 82. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 867 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 67. Review by the Oklahoma Court of Criminal Appeals.

23 A. Powers as court of last resort. The Oklahoma Court of
24 Criminal Appeals shall be the court of last resort for all general

1 and special courts-martial convened by the state military forces.
2 In reviewing petitions or appeals granted pursuant to this section,
3 the Oklahoma Court of Criminal Appeals shall have and shall exercise
4 all powers granted to the Court under the Oklahoma Statutes and the
5 Oklahoma Constitution.

6 B. Petition for Review. Except as provided in subsection C of
7 this section for appeals arising from a guilty plea, a decision of
8 the Military Court of Appeals may be reviewed by the Oklahoma Court
9 of Criminal Appeals upon the filing of an appeal in the form of a
10 Petition for Review if a majority of judges on the Oklahoma Court of
11 Criminal Appeals directs that such Petition for Review shall be
12 granted. Decisions of the Military Court of Appeals shall be final
13 unless a Petition for Review is granted by the Oklahoma Court of
14 Criminal Appeals or a writ of certiorari is granted pursuant to
15 subsection C of this section.

16 C. Appeals arising from guilty plea. All appeals taken from
17 any conviction on a plea of guilty shall first be decided by the
18 Military Court of Appeals. In the event the conviction arising from
19 a plea of guilty is upheld by the Court of Military Appeals, an
20 appeal may be taken by petition for writ of certiorari to the
21 Oklahoma Court of Criminal Appeals, as provided in subsection D of
22 this section; provided, such petition must be filed within ninety
23 (90) days from the date of said conviction. The Oklahoma Court of
24 Criminal Appeals may take jurisdiction of any case for the purpose

1 of correcting the appeal records when the same do not disclose
2 judgment and sentence; such jurisdiction shall be for the sole
3 purpose of correcting such defect or defects.

4 D. Procedures established by court rules. The procedures for
5 filing a Petition for Review or appeal made pursuant to subsection B
6 or C of this section shall be as provided in the Rules of the Court
7 of Criminal Appeals; and the Oklahoma Court of Criminal Appeals
8 shall provide by court rules, which shall have the force of statute:

9 1. The procedure to be followed by the courts-martial in the
10 preparation and authentication of transcripts and records in cases
11 appealed under the Oklahoma Uniform Code of Military Justice;

12 2. The procedure to be followed by the Court of Military
13 Appeals in the preparation of the record in cases brought up on
14 appeal to the Oklahoma Court of Criminal Appeals under the Code;

15 3. The procedure to be followed for the completion and
16 submission of the Petition for Review or such other appeals lodged
17 pursuant to the Code; and

18 4. The procedure to be followed for filing a petition for and
19 the issuance of a writ of certiorari.

20 E. Scope of review on certiorari. The scope of review to be
21 afforded on certiorari shall be prescribed by the Oklahoma Court of
22 Criminal Appeals.

23 F. Additional proceedings. If the Oklahoma Court of Criminal
24 Appeals determines that additional proceedings are warranted, the

1 Oklahoma Court of Criminal Appeals may order a hearing, rehearing or
2 other proceedings in accordance with the Rules of the Court of
3 Criminal Appeals.

4 G. Action in accordance with decisions of the Oklahoma Court of
5 Criminal Appeals. The State Judge Advocate shall instruct the
6 appropriate authority to take action in accordance with the decision
7 of the Oklahoma Court of Criminal Appeals.

8 SECTION 83. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 867A of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 84. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 868 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 RESERVED

16 SECTION 85. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 869 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 69. Review by State Judge Advocate.

20 A. In general. Upon application by the accused and subject to
21 subsections B, C and D of this section, the State Judge Advocate may
22 modify or set aside, in whole or in part, the findings and sentence
23 in a court-martial that is not reviewed under Section 866 of this
24 title (Article 66).

1 B. Timing. To qualify for consideration, an application under
2 subsection A of this section shall be submitted to the State Judge
3 Advocate not later than one (1) year after the date of completion of
4 review under Section 864 or 865 of this title (Article 64 or 65), as
5 the case may be. The State Judge Advocate may, for good cause
6 shown, extend the period for submission of an application, but may
7 not consider an application submitted more than three (3) years
8 after such completion date.

9 C. Scope.

10 1. a. In a case reviewed under Section 864 or subsection B
11 of Section 865 of this title (Article 64 or Article
12 65, subsection B), the State Judge Advocate may set
13 aside the findings or sentence, in whole or in part,
14 on the grounds of newly discovered evidence, fraud on
15 the court, lack of jurisdiction over the accused or
16 the offense, error prejudicial to the substantial
17 rights of the accused, or the appropriateness of the
18 sentence.

19 b. In setting aside findings or sentence, the State Judge
20 Advocate may order a rehearing, except that a
21 rehearing may not be ordered in violation of Section
22 844 of this title (Article 44).

23
24

1 c. If the State Judge Advocate sets aside findings and
2 sentence and does not order a rehearing, the State
3 Judge Advocate shall dismiss the charges.

4 d. If the State Judge Advocate sets aside findings and
5 orders a rehearing and the convening authority
6 determines that a rehearing would be impractical, the
7 convening authority shall dismiss the charges.

8 2. In a case reviewed under subsection B of Section 865 of this
9 title (Article 65, subsection B), review under this section is
10 limited to the issue of whether the waiver or withdrawal of an
11 appeal was invalid under the law. If the State Judge Advocate
12 determines that the waiver or withdrawal of an appeal was invalid,
13 the State Judge Advocate shall order appropriate corrective action
14 under regulations promulgated by the Adjutant General.

15 D. Military Court of Appeals.

16 1. The Military Court of Appeals may review the action taken by
17 the State Judge Advocate under subsection C of this section:

18 a. in a case sent to the Military Court of Appeals by
19 order of the State Judge Advocate, or

20 b. in a case submitted to the Military Court of Appeals
21 by the accused in an application for review.

22 2. The Military Court of Appeals may grant an application under
23 subparagraph b of paragraph 1 of this subsection only if:

- 1 a. the application demonstrates a substantial basis for
2 concluding that the action on review under subsection
3 C of this section constituted prejudicial error, and
4 b. the application is filed not later than the earlier
5 of:

6 (1) sixty (60) days after the date on which the
7 accused is notified of the decision of the State
8 Judge Advocate, or

9 (2) sixty (60) days after the date on which a copy of
10 the decision of the State Judge Advocate is
11 deposited in the United States mail for delivery
12 by first-class certified mail to the accused at
13 an address provided by the accused or, if no such
14 address has been provided by the accused, at the
15 latest address listed for the accused in his or
16 her official service record.

17 3. The submission of an application for review under this
18 subsection does not constitute a proceeding before the Military
19 Court of Appeals for purposes of paragraph 1 of subsection C of
20 Section 870 of this title (Article 70, subsection C, paragraph 1).

21 E. Action only on matters of law. Notwithstanding Section 866
22 of this title (Article 66), in any case reviewed by the Military
23 Court of Appeals under subsection D of this section, the Court may
24 take action only with respect to matters of law.

1 SECTION 86. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 870 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 70. Appellate counsel.

5 A. The State Judge Advocate shall detail in his or her office
6 one or more commissioned officers as appellate government counsel,
7 and one or more commissioned officers as appellate defense counsel,
8 who are qualified under paragraph 1 of subsection B of Section 827
9 of this title (Article 27, subsection B, paragraph 1).

10 B. Appellate government counsel shall represent the State of
11 Oklahoma before the Military Court of Appeals or the Court of
12 Criminal Appeals when directed to do so by the State Judge Advocate.

13 C. Appellate defense counsel shall represent the accused before
14 the Military Court of Appeals, or the Court of Criminal Appeals:

- 15 1. When requested by the accused;
- 16 2. When the State of Oklahoma is represented by counsel; or
- 17 3. When the State Judge Advocate has sent the case to the
18 Military Court of Appeals.

19 D. The accused has the right to be represented before the
20 Military Court of Appeals, or the Court of Criminal Appeals by
21 civilian counsel if provided by him or her.

22 E. Military appellate counsel shall also perform such other
23 functions in connection with the review of court-martial cases as
24 the State Judge Advocate directs.

1 F. As provided in regulations promulgated by the Adjutant
2 General, if needed, the State Judge Advocate may employ civilian
3 appellate counsel for the government and for the defense.

4 SECTION 87. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 871 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 RESERVED.

8 SECTION 88. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 872 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 72. Vacation of suspension.

12 A. Before the vacation of the suspension of a special court-
13 martial sentence which as approved includes a bad-conduct discharge,
14 or of any general court-martial sentence, the officer having special
15 court-martial jurisdiction over the probationer shall hold a hearing
16 on the alleged violation of probation. The State Judge Advocate
17 shall detail a judge advocate, who is certified under subsection B
18 of Section 827 of this title (Article 27, subsection B), to conduct
19 the hearing. The probationer shall be represented at the hearing by
20 counsel if the probationer so desires.

21 B. The record of the hearing and the recommendation of the
22 officer having special court-martial jurisdiction shall be sent for
23 action to the Adjutant General. If the Adjutant General vacates the
24 suspension, any unexecuted part of the sentence shall be executed,

1 subject to applicable restrictions in Section 857 of this title
2 (Article 57).

3 C. The suspension of any other sentence may be vacated by any
4 authority competent to convene, for the command in which the accused
5 is serving or assigned, a court of the kind that imposed the
6 sentence.

7 SECTION 89. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 873 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 73. Petition for a new trial.

11 At any time within three (3) years after the date of the entry
12 of judgment under Section 860C of this title (Article 60C), the
13 accused may petition the State Judge Advocate for a new trial on the
14 grounds of newly discovered evidence or fraud on the court. If the
15 accused's case is pending before the Military Court of Appeals or
16 before the Court of Criminal Appeals, the State Judge Advocate shall
17 refer the petition to the appropriate court for action. Otherwise,
18 the State Judge Advocate shall act upon the petition.

19 SECTION 90. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 874 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 74. Remission and suspension.

23 A. The Adjutant General and, when designated by him or her, a
24 Senior Assistant Adjutant General, the State Judge Advocate, or

1 commanding officer may remit or suspend any part or amount of the
2 unexecuted part of any sentence, including all uncollected
3 forfeitures other than a sentence approved by the Governor.

4 B. The Adjutant General may, for good cause, substitute an
5 administrative form of discharge for a discharge or dismissal
6 executed in accordance with the sentence of a court-martial.

7 SECTION 91. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 875 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 75. Restoration.

11 A. Under such regulations as the Adjutant General may
12 promulgate, all rights, privileges, and property affected by an
13 executed part of a court-martial sentence which has been set aside
14 or disapproved, except an executed dismissal or discharge, shall be
15 restored unless a new trial or rehearing is ordered and such
16 executed part is included in a sentence imposed upon the new trial
17 or rehearing.

18 B. If a previously executed sentence of dishonorable or bad-
19 conduct discharge is not imposed on a new trial, the Adjutant
20 General shall substitute therefor a form of discharge authorized for
21 administrative issuance unless the accused is to serve out the
22 remainder of his or her enlistment.

23 C. If a previously executed sentence of dismissal is not
24 imposed on a new trial, the Adjutant General shall substitute

1 therefor a form of discharge authorized for administrative issue,
2 and the commissioned officer dismissed by that sentence may be
3 reappointed pursuant to Sections 875 and 12203 of Title 10 of the
4 United States Code and any applicable regulations prescribed
5 thereunder by the President of the United States or the Secretary
6 concerned.

7 SECTION 92. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 876 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 76. Finality of proceedings, findings, and sentences.

11 The appellate review of records of trial provided by the
12 Oklahoma Uniform Code of Military Justice, the proceedings,
13 findings, and sentences of courts-martial as approved, reviewed, or
14 affirmed as required by the Code, and all dismissals and discharges
15 carried into execution under sentences by courts-martial following
16 approval, review, or affirmation as required by the Code, are final
17 and conclusive. Orders publishing the proceedings of courts-martial
18 and all action taken pursuant to those proceedings are binding upon
19 all departments, courts, agencies, and officers of the State of
20 Oklahoma, subject only to action upon a petition for a new trial as
21 provided in Section 873 of this title (Article 73) and to action by
22 the Adjutant General as provided in Section 874 of this title
23 (Article 74) and the authority of the Governor.

24

1 SECTION 93. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 876A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE 76A. Leave required to be taken pending review of
5 certain court-martial convictions.

6 Under regulations promulgated by the Adjutant General, an
7 accused who has been sentenced by a court-martial may be required to
8 take leave pending completion of action under this part if the
9 sentence includes an unsuspended dismissal or an unsuspended
10 dishonorable or bad-conduct discharge. The accused may be required
11 to begin such leave on the date of the entry of judgment under
12 Section 860C of this title (Article 60C) or at any time after such
13 date, and such leave may be continued until the date on which action
14 under this part is completed or may be terminated at any earlier
15 time.

16 SECTION 94. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 876B of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 76B. Lack of mental capacity or mental responsibility.

20 A. No person accused of violating a punitive section under the
21 Oklahoma Uniform Code of Military Justice shall be brought to trial
22 by a general or special court-martial if that person is presently
23 suffering from a mental disease or defect rendering him or her
24 mentally incompetent to the extent that he or she is unable to

1 understand the nature of the proceedings against him or her or to
2 conduct or cooperate intelligently in the defense of the case.

3 B. A person is presumed to have the capacity to stand trial
4 unless the contrary is established.

5 C. The procedure for determining mental competence shall be
6 established in regulations promulgated by the Adjutant General.

7 PART X.

8 PUNITIVE ARTICLES

9 SECTION 95. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 877 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 77. Principals.

13 Any person punishable under the Oklahoma Uniform Code of
14 Military Justice who:

15 1. Commits an offense punishable by the Oklahoma Uniform Code
16 of Military Justice, or aids, abets, counsels, commands, or procures
17 its commission; or

18 2. Causes an act to be done which if directly performed by him
19 or her would be punishable by this chapter,
20 shall be a principal.

21 SECTION 96. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 878 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 78. Accessory after the fact.

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who, knowing that an offense punishable by the Code has been
3 committed, receives, comforts, or assists the offender in order to
4 hinder or prevent his or her apprehension, trial, or punishment
5 shall be punished as a court-martial may direct.

6 SECTION 97. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 879 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 79. Conviction of offense charged, lesser included
10 offenses.

11 A. In general. An accused may be found guilty of any of the
12 following:

- 13 1. The offense charged;
- 14 2. A lesser included offense;
- 15 3. An attempt to commit the offense charged; and
- 16 4. An attempt to commit a lesser included offense, if the
17 attempt is an offense in its own right.

18 B. Lesser included offense defined. In this section, the term
19 "lesser included offense" means:

- 20 1. An offense that is necessarily included in the offense
21 charged; and
- 22 2. Any lesser included offense so designated by regulation
23 prescribed by the Adjutant General.

24

1 C. Regulatory authority. Any designation of a lesser-included
2 offense in a regulation referred to in subsection B of this section
3 shall be reasonably included in the greater offense.

4 SECTION 98. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 880 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 80. Attempts.

8 A. An act, done with specific intent to commit an offense under
9 the Oklahoma Uniform Code of Military Justice, amounting to more
10 than mere preparation and tending, even though failing, to effect
11 its commission, shall be an attempt to commit that offense.

12 B. Any person subject to the Code who attempts to commit any
13 offense punishable by the Code shall be punished as a court-martial
14 may direct, unless otherwise specifically prescribed.

15 C. Any person subject to the Code may be convicted of an
16 attempt to commit an offense although it appears on the trial that
17 the offense was consummated.

18 SECTION 99. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 881 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 81. Conspiracy.

22 Any person subject to the Oklahoma Uniform Code of Military
23 Justice who conspires with any other person to commit an offense
24 under the Code shall, if one or more of the conspirators does an act

1 to effect the object of the conspiracy, be punished as a court-
2 martial may direct.

3 SECTION 100. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 882 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 82. Soliciting commission of offenses.

7 A. Soliciting commission of offenses generally. Any person
8 subject to the Oklahoma Uniform Code of Military Justice who
9 solicits or advises another to commit an offense under the Code,
10 other than an offense specified in subsection B of this section,
11 shall be punished as a court-martial may direct.

12 B. Soliciting desertion, mutiny, sedition, or misbehavior
13 before the enemy. Any person subject to the Code who solicits or
14 advises another to violate Section 885 of this title (Article 85),
15 Section 894 of this title (Article 94), or Section 899 of this title
16 (Article 99):

17 1. If the offense solicited or advised is attempted or is
18 committed, shall be punished with the punishment provided for the
19 commission of the offense; and

20 2. If the offense solicited or advised is not attempted or
21 committed, shall be punished as a court-martial may direct.

22 SECTION 101. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 883 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 83. Malingering.

2 Any person subject to the Oklahoma Uniform Code of Military
3 Justice who, with the intent to avoid work, duty, or service:

4 1. Feigns illness, physical disablement, mental lapse, or
5 mental derangement; or

6 2. Intentionally inflicts self-injury,
7 shall be punished as a court-martial may direct.

8 SECTION 102. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 884 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 84. Breach of medical quarantine.

12 Any person subject to the Oklahoma Uniform Code of Military
13 Justice:

14 1. Who is ordered into medical quarantine by a person
15 authorized to issue such order; and

16 2. Who, with knowledge of the quarantine and the limits of the
17 quarantine, goes beyond those limits before being released from the
18 quarantine by proper authority,

19 shall be punished as a court-martial may direct.

20 SECTION 103. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 885 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 85. Desertion.

24 A. Any member of the state military forces who:

1 1. Without authority goes or remains absent from his or her
2 unit, organization, or place of duty with intent to remain away
3 therefrom permanently;

4 2. Quits his or her unit, organization, or place of duty with
5 intent to avoid hazardous duty or to shirk important service; or

6 3. Without being regularly separated from one of the force
7 components of state military forces enlists or accepts an
8 appointment in the same or another one of the armed forces without
9 fully disclosing the fact that he or she has not been regularly
10 separated, or enters any foreign armed service except when
11 authorized by the United States,
12 is guilty of desertion.

13 B. Any commissioned officer of the state military forces who,
14 after tender of his or her resignation and before notice of its
15 acceptance, quits his or her post or proper duties without leave and
16 with intent to remain away therefrom permanently is guilty of
17 desertion.

18 C. Any person found guilty of desertion or attempt to desert
19 shall be punished, if the offense is committed in time of war, by
20 confinement of not more than ten (10) years or such other punishment
21 as a court-martial may direct, but if the desertion or attempt to
22 desert occurs at any other time, by such punishment as a court-
23 martial may direct.

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1 SECTION 104. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 886 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 86. Absence without leave.

5 Any member of the state military forces who, without authority:

6 1. Fails to go to his or her appointed place of duty at the
7 time prescribed;

8 2. Goes from that place; or

9 3. Absents himself or herself or remains absent from his or her
10 unit, organization, or place of duty at which he or she is required
11 to be at the time prescribed,
12 shall be punished as a court-martial may direct.

13 SECTION 105. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 887 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 87. Missing movement; jumping from vessel.

17 A. Missing movement. Any person subject to the Oklahoma
18 Uniform Code of Military Justice who, through neglect or design,
19 misses the movement of a ship, aircraft, or unit with which the
20 person is required in the course of duty to move shall be punished
21 as a court-martial may direct.

22 B. Jumping from vessel into the water. Any person subject to
23 the Code who wrongfully and intentionally jumps into the water from
24

1 a vessel in use by the armed forces shall be punished as a court-
2 martial may direct.

3 SECTION 106. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 887A of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 87A. Resistance, flight, breach of arrest, and escape.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who:

- 9 1. Resists apprehension;
 - 10 2. Flees from apprehension;
 - 11 3. Breaks arrest; or
 - 12 4. Escapes from custody or confinement,
- 13 shall be punished as a court-martial may direct.

14 SECTION 107. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 887B of Title 44, unless there
16 is created a duplication in numbering, reads as follows:

17 RESERVED.

18 SECTION 108. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 888 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 88. Contempt toward officials.

22 Any commissioned officer who uses contemptuous words against the
23 President, the Vice President, Congress, the Secretary of Defense,
24 the Secretary of a military department, the Secretary of Homeland

1 Security, the Governor of the State of Oklahoma, or the Oklahoma
2 Legislature shall be punished as a court-martial may direct.

3 SECTION 109. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 889 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 89. Disrespect toward superior commissioned officer;
7 assault of superior commissioned officer.

8 A. Disrespect. Any person subject to the Oklahoma Uniform Code
9 of Military Justice who behaves with disrespect toward that person's
10 superior commissioned officer shall be punished as a court-martial
11 may direct.

12 B. Assault. Any person subject to the Code who strikes that
13 person's superior commissioned officer or draws or lifts up any
14 weapon or offers any violence against that officer while the officer
15 is in the execution of the officer's office shall be punished, if
16 the offense is committed in time of declared war, by confinement of
17 not more than ten (10) years or such other punishment as a court-
18 martial may direct, and if the offense is committed at any other
19 time, by such punishment as a court-martial may direct.

20 SECTION 110. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 890 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 90. Willfully disobeying superior commissioned officer.
24

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who willfully disobeys a lawful command of that person's
3 superior commissioned officer shall be punished, if the offense is
4 committed in time of declared war, by confinement of not more than
5 ten (10) years or such other punishment as a court-martial may
6 direct, and if the offense is committed at any other time, by such
7 punishment as a court-martial may direct.

8 SECTION 111. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 891 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 91. Insubordinate conduct toward warrant officer, or
12 noncommissioned officer.

13 Any warrant officer or enlisted member who:

14 1. Strikes or assaults a warrant officer, or noncommissioned
15 officer, while that officer is in the execution of his or her
16 office;

17 2. Willfully disobeys the lawful order of a warrant officer, or
18 noncommissioned officer; or

19 3. Treats with contempt or is disrespectful in language or
20 deportment toward a warrant officer, or noncommissioned officer,
21 while that officer is in the execution of his or her office,
22 shall be punished as a court-martial may direct.

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1 SECTION 112. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 892 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 92. Failure to obey order or regulation.

5 Any person subject to the Oklahoma Uniform Code of Military
6 Justice who:

7 1. Violates or fails to obey any lawful general order or
8 regulation;

9 2. Having knowledge of any other lawful order issued by a
10 member of the state military forces, which it is his or her duty to
11 obey, fails to obey the order; or

12 3. Is derelict in the performance of his or her duties,
13 shall be punished as a court-martial may direct.

14 SECTION 113. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 893 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 93. Cruelty and maltreatment.

18 Any person subject to the Oklahoma Uniform Code of Military
19 Justice who is guilty of cruelty toward, or oppression or
20 maltreatment of, any person subject to his or her orders shall be
21 punished as a court-martial may direct.

22 SECTION 114. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 893A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 93A. Prohibited activities with military recruit or
2 trainee by person in position of special trust.

3 A. Abuse of training leadership position. Any person subject
4 to the Oklahoma Uniform Code of Military Justice:

5 1. Who is an officer, or a noncommissioned officer;

6 2. Who is in a training leadership position with respect to a
7 specially protected junior member of the state military forces; and

8 3. Who engages in prohibited sexual activity with such
9 specially protected junior member of the state military forces,
10 shall be punished as a court-martial may direct.

11 B. Abuse of position as military recruiter. Any person subject
12 to the Code:

13 1. Who is a military recruiter and engages in prohibited sexual
14 activity with an applicant for military service; or

15 2. Who is a military recruiter and engages in prohibited sexual
16 activity with a specially protected junior member of the state
17 military forces who is enlisted under a delayed entry program,
18 shall be punished as a court-martial may direct.

19 C. Consent. Consent is not a defense for any conduct at issue
20 in a prosecution under this section (article).

21 D. Definitions. In this section (article):

22 1. Specially protected junior member of the state military
23 forces. The term "specially protected junior member of the state
24 military forces" means:

- 1 a. a member of the state military forces who is assigned
2 to, or is awaiting assignment to, basic training or
3 other initial active duty for training, including a
4 member who is enlisted under a delayed entry program,
- 5 b. a member of the state military forces who is a cadet,
6 an officer candidate, or a student in any other
7 officer qualification program, and
- 8 c. a member of the state military forces in any program
9 that, by regulation prescribed by the Secretary of the
10 Army or the Secretary of the Air Force or the Adjutant
11 General, is identified as a training program for
12 initial career qualification;

13 2. Training leadership position. The term "training leadership
14 position" means, with respect to a specially protected junior member
15 of the state military forces, any of the following:

- 16 a. any drill instructor position or other leadership
17 position in a basic training program, an officer
18 candidate school, a reserve officers' training corps
19 unit, a training program for entry into the state
20 military forces, or any program that, by regulation
21 prescribed by the Secretary of the Army or the
22 Secretary of the Air Force or the Adjutant General,
23 and
24

1 b. faculty and staff of any officer candidate school
2 organized under the authority of the Adjutant General;

3 3. Applicant for military service. The term "applicant for
4 military service" means a person who, under regulations prescribed
5 by the Secretary of the Army or the Secretary of the Air Force or
6 the Adjutant General, is an applicant for original enlistment or
7 appointment in the state military forces;

8 4. Military recruiter. The term "military recruiter" means a
9 person who, under regulations prescribed by the Secretary of the
10 Army or the Secretary of the Air Force or the Adjutant General, has
11 the primary duty to recruit persons for service in the state
12 military forces; and

13 5. Prohibited sexual activity. The term "prohibited sexual
14 activity" means, as specified in regulations prescribed by the
15 Secretary of the Army or the Secretary of the Air Force or the
16 Adjutant General, inappropriate physical intimacy under
17 circumstances described in such regulations.

18 SECTION 115. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 894 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 94. Mutiny or sedition.

22 A. Any person subject to the Oklahoma Uniform Code of Military
23 Justice who:

1 1. With intent to usurp or override lawful military authority,
2 refuses, in concert with any other person, to obey orders or
3 otherwise do his or her duty or creates any violence or disturbance
4 is guilty of mutiny;

5 2. With intent to cause the overthrow or destruction of lawful
6 civil authority, creates, in concert with any other person, revolt,
7 violence, or other disturbance against that authority is guilty of
8 sedition;

9 3. Fails to do his or her utmost to prevent and suppress a
10 mutiny or sedition being committed in his or her presence, or fails
11 to take all reasonable means to inform his or her superior
12 commissioned officer or commanding officer of a mutiny or sedition
13 which he or she knows or has reason to believe is taking place, is
14 guilty of a failure to suppress or report a mutiny or sedition.

15 B. A person who is found guilty of attempted mutiny, mutiny,
16 sedition, or failure to suppress or report a mutiny or sedition
17 shall be punished as a court-martial may direct.

18 SECTION 116. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 895 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 95. Offenses by sentinel or lookout.

22 A. Drunk or sleeping on post, or leaving post before being
23 relieved. Any sentinel or lookout who is drunk on post, who sleeps
24 on post, or who leaves post before being regularly relieved, shall

1 be punished, if the offense is committed in time of war, by
2 confinement of not more than ten (10) years or other punishment as a
3 court-martial may direct, but if the offense is committed at any
4 other time, by such punishment as a court-martial may direct.

5 B. Loitering or wrongfully sitting on post. Any sentinel or
6 lookout who loiters or wrongfully sits down on post shall be
7 punished as a court-martial may direct.

8 SECTION 117. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 895A of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 ARTICLE 95A. Disrespect toward sentinel or lookout.

12 A. Disrespectful language toward sentinel or lookout. Any
13 person subject to the Oklahoma Uniform Code of Military Justice who,
14 knowing that another person is a sentinel or lookout, uses wrongful
15 and disrespectful language that is directed toward and within the
16 hearing of the sentinel or lookout, who is in the execution of
17 duties as a sentinel or lookout, shall be punished as a court-
18 martial may direct.

19 B. Disrespectful behavior toward sentinel or lookout. Any
20 person subject to the Code who, knowing that another person is a
21 sentinel or lookout, behaves in a wrongful and disrespectful manner
22 that is directed toward and within the sight of the sentinel or
23 lookout, who is in the execution of duties as a sentinel or lookout,
24 shall be punished as a court-martial may direct.

1 SECTION 118. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 896 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 96. Release of prisoner without authority; drinking
5 with prisoner.

6 A. Release of prisoner without authority. Any person subject
7 to the Oklahoma Uniform Code of Military Justice:

8 1. Who, without authority to do so, releases a prisoner; or

9 2. Who, through neglect or design, allows a prisoner to escape,
10 shall be punished as a court-martial may direct, whether or not
11 the prisoner was committed in strict compliance with the law.

12 B. Drinking with prisoner. Any person subject to the Code who
13 unlawfully drinks any alcoholic beverage with a prisoner shall be
14 punished as a court-martial may direct.

15 SECTION 119. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 897 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 97. Unlawful detention.

19 Any person subject to the Oklahoma Uniform Code of Military
20 Justice who, except as provided by law, apprehends, arrests, or
21 confines any person shall be punished as a court-martial may direct.

22 SECTION 120. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 898 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 98. Misconduct as prisoner.

2 Any person subject to the Oklahoma Uniform Code of Military
3 Justice who, while in the hands of the enemy in time of war:

4 1. For the purpose of securing favorable treatment by his or
5 her captors acts without proper authority in a manner contrary to
6 law, custom, or regulation, to the detriment of others of whatever
7 nationality held by the enemy as civilian or military prisoners; or

8 2. While in a position of authority over such persons maltreats
9 them without justifiable cause,
10 shall be punished as a court-martial may direct.

11 SECTION 121. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 899 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 99. Misbehavior before the enemy.

15 Any person subject to the Oklahoma Uniform Code of Military
16 Justice who before or in the presence of the enemy:

17 1. Runs away;

18 2. Shamefully abandons, surrenders, or delivers up any command,
19 unit, place, or military property which it is his or her duty to
20 defend;

21 3. Through disobedience, neglect, or intentional misconduct
22 endangers the safety of any such command, unit, place, or military
23 property;

24 4. Casts away his or her arms or ammunition;

1 5. Is guilty of cowardly conduct;
2 6. Quits his or her place of duty to plunder or pillage;
3 7. Causes false alarms in any command, unit, or place under
4 control of the armed forces of the United States or the state
5 military forces;

6 8. Willfully fails to do his or her utmost to encounter,
7 engage, capture, or destroy any enemy troops, combatants, vessels,
8 aircraft, or any other thing, which it is his or her duty so to
9 encounter, engage, capture, or destroy; or

10 9. Does not afford all practicable relief and assistance to any
11 troops, combatants, vessels, or aircraft of the armed forces
12 belonging to the United States or their allies, to the State of
13 Oklahoma, or to any other state, when engaged in battle,
14 shall be punished as a court-martial may direct.

15 SECTION 122. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 900 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 100. Subordinate compelling surrender.

19 Any person subject to the Oklahoma Uniform Code of Military
20 Justice who compels or attempts to compel the commander of any
21 place, vessel, aircraft, or other military property, or of any body
22 of members of the state military forces, to give it up to an enemy
23 or to abandon it, or who strikes the colors or flag to an enemy

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1 without proper authority, shall be punished as a court-martial may
2 direct.

3 SECTION 123. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 901 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 101. Improper use of countersign.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who in time of war discloses the parole or countersign to
9 any person not entitled to receive it or who gives to another who is
10 entitled to receive and use the parole or countersign a different
11 parole or countersign from that which, to his or her knowledge, he
12 or she was authorized and required to give, shall be punished as a
13 court-martial may direct.

14 SECTION 124. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 902 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 102. Forcing a safeguard.

18 Any person subject to the Oklahoma Uniform Code of Military
19 Justice who forces a safeguard shall be punished as a court-martial
20 may direct.

21 SECTION 125. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 903 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 RESERVED.

1 SECTION 126. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 903A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:
4 RESERVED.

5 SECTION 127. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 903B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 ARTICLE 103B. Aiding the enemy.

9 Any person who:

10 1. Aids, or attempts to aid, the enemy with arms, ammunition,
11 supplies, money, or other things; or

12 2. Without proper authority, knowingly harbors or protects or
13 gives intelligence to, or communicates or corresponds with or holds
14 any intercourse with the enemy, either directly or indirectly,
15 shall be punished as a court-martial may direct.

16 SECTION 128. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 903C of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 103C. Unlawful disclosure of confidential information.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who, with intent or reason to believe that it is to be used
22 in the commission of a crime or act of terrorism under Oklahoma law,
23 communicates, delivers or transmits, or attempts to communicate,
24 deliver or transmit confidential information, directly or

1 indirectly, to any other person shall be punished as a court-martial
2 may direct.

3 SECTION 129. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 904 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 104. Public records offenses.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who willfully and unlawfully alters, conceals, removes,
9 mutilates, obliterates, destroys, or takes with the intent to alter,
10 conceal, remove, mutilate, obliterate, or destroy, a certain public
11 record, and whose conduct, under the circumstances, was to the
12 prejudice of good order and discipline in the armed forces or was of
13 a nature to bring discredit upon the armed forces, shall be punished
14 as a court-martial may direct.

15 SECTION 130. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 904A of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 104A. Fraudulent enlistment, appointment, or
19 separation.

20 Any person who:

21 1. Procures his or her own enlistment or appointment in the
22 state military forces by knowingly false representation or
23 deliberate concealment as to his or her qualifications for that
24

1 enlistment or appointment and receives pay or allowances thereunder;
2 or

3 2. Procures his or her own separation from the state military
4 forces by knowingly false representation or deliberate concealment
5 as to his or her eligibility for that separation,
6 shall be punished as a court-martial may direct.

7 SECTION 131. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 904B of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 104B. Unlawful enlistment, appointment, or separation.

11 Any person subject to the Oklahoma Uniform Code of Military
12 Justice who effects an enlistment or appointment in or a separation
13 from the state military forces of any person who is known to him or
14 her to be ineligible for that enlistment, appointment, or separation
15 because it is prohibited by law, regulation, or order shall be
16 punished as a court-martial may direct.

17 SECTION 132. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 905 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 RESERVED.

21 SECTION 133. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 905A of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 ARTICLE 105A. False or unauthorized pass offenses.

1 A. Wrongful making, altering, etc. Any person subject to the
2 Oklahoma Uniform Code of Military Justice who, wrongfully and
3 falsely, makes, alters, counterfeits, or tampers with a military or
4 official pass, permit, discharge certificate, or identification card
5 shall be punished as a court-martial may direct.

6 B. Wrongful sale, etc. Any person subject to the Code who
7 wrongfully sells, gives, lends, or disposes of a false or
8 unauthorized military or official pass, permit, discharge
9 certificate, or identification card, knowing that the pass, permit,
10 discharge certificate, or identification card is false or
11 unauthorized, shall be punished as a court-martial may direct.

12 C. Wrongful use or possession. Any person subject to the Code
13 who wrongfully uses or possesses a false or unauthorized military or
14 official pass, permit, discharge certificate, or identification
15 card, knowing that the pass, permit, discharge certificate, or
16 identification card is false or unauthorized, shall be punished as a
17 court-martial may direct.

18 SECTION 134. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 906 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 RESERVED.

22 SECTION 135. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 906A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 106A. Wearing unauthorized insignia, decoration, badge,
2 ribbon, device, or lapel button.

3 Any person subject to the Oklahoma Uniform Code of Military
4 Justice:

5 1. Who is not authorized to wear an insignia, decoration,
6 badge, ribbon, device, or lapel button; and

7 2. Who wrongfully wears such insignia, decoration, badge,
8 ribbon, device, or lapel button upon the person's uniform or
9 civilian clothing,

10 shall be punished as a court-martial may direct.

11 SECTION 136. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 907 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 107. False official statements; false swearing.

15 A. False official statements. Any person subject to the
16 Oklahoma Uniform Code of Military Justice who, with intent to
17 deceive:

18 1. Signs any false record, return, regulation, order, or other
19 official document, knowing it to be false; or

20 2. Makes any other false official statement knowing it to be
21 false,

22 shall be punished as a court-martial may direct.

23 B. False swearing. Any person subject to the Code:

24 1. Who takes an oath that:

- a. is administered in a matter in which such oath is required or authorized by law, and
- b. is administered by a person with authority to do so; and

2. Who, upon such oath, makes or subscribes to a statement, if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.

SECTION 137. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 907A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 138. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 908 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 108. Military property-loss, damage, destruction, or wrongful disposition.

Any person subject to the Oklahoma Uniform Code of Military Justice who, without proper authority:

1. Sells or otherwise disposes of;
2. Willfully or through neglect damages, destroys, or loses; or
3. Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of,

1 any military property of the United States, the State of
2 Oklahoma, or any other state, shall be punished as a court-martial
3 may direct.

4 SECTION 139. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 908A of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 108A. Captured or abandoned property.

8 A. All persons subject to the Oklahoma Uniform Code of Military
9 Justice shall secure all public property taken for the service of
10 the United States, or the State of Oklahoma, or another state, and
11 shall give notice and turn over to the proper authority without
12 delay all captured or abandoned property in their possession,
13 custody, or control.

14 B. Any person subject to the Code who:

15 1. Fails to carry out the duties prescribed in subsection A of
16 this section;

17 2. Buys, sells, trades, or in any way deals in or disposes of
18 captured or abandoned property, whereby he or she receives or
19 expects any profit, benefit, or advantage to himself or herself or
20 another directly or indirectly connected with himself or herself; or

21 3. Engages in looting or pillaging,
22 shall be punished as a court-martial may direct.
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1 SECTION 140. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 909 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 109. Property other than military property-waste,
5 spoilage, or destruction.

6 Any person subject to the Oklahoma Uniform Code of Military
7 Justice who willfully or recklessly wastes, spoils, or otherwise
8 willfully and wrongfully destroys or damages any property other than
9 military property of the United States or of the State of Oklahoma
10 or of any other state shall be punished as a court-martial may
11 direct.

12 SECTION 141. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 909A of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 RESERVED.

16 SECTION 142. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 910 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 110. Improper hazarding of vessel or aircraft.

20 A. Willful and wrongful hazarding. Any person subject to the
21 Oklahoma Uniform Code of Military Justice who, willfully and
22 wrongfully, hazards or suffers to be hazarded any vessel or aircraft
23 of the armed forces of the United States, the state military forces,
24

1 or of the military forces of any other state shall be punished as a
2 court-martial may direct.

3 B. Negligent hazarding. Any person subject to the Code who
4 negligently hazards or suffers to be hazarded any vessel or aircraft
5 of the armed forces of the United States, the state military forces,
6 or of the military forces of any other state shall be punished as a
7 court-martial may direct.

8 SECTION 143. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 911 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 144. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 912 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 112. Drunkenness and other incapacitation offenses.

16 A. Drunk on duty. Any person subject to the Oklahoma Uniform
17 Code of Military Justice, other than a sentinel or lookout, who is
18 drunk on duty shall be punished as a court-martial may direct.

19 B. Incapacitation for duty from drunkenness or drug use. Any
20 person subject to the Code who, as a result of indulgence in any
21 alcoholic beverage or any drug, is incapacitated for the proper
22 performance of duty shall be punished as a court-martial may direct.

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1 C. Drunk prisoner. Any person subject to the Code who is a
2 prisoner and, while in such status, is drunk shall be punished as a
3 court-martial may direct.

4 SECTION 145. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 912A of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 112A. Wrongful use, possession, etc., of controlled
8 substances.

9 A. Any person subject to the Oklahoma Uniform Code of Military
10 Justice who wrongfully uses, possesses, manufactures, distributes,
11 imports into the customs territory of the United States, exports
12 from the United States, or introduces into an installation, vessel,
13 vehicle, or aircraft used by or under the control of the armed
14 forces of the United States or of the state military forces a
15 substance described in subsection B of this section shall be
16 punished as a court-martial may direct.

17 B. The substances referred to in subsection A of this section
18 are the following:

19 1. Opium, heroin, cocaine, amphetamine, lysergic acid
20 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
21 marijuana and any compound or derivative of any such substance;

22 2. Any substance not specified in paragraph 1 of this
23 subsection that is listed on a schedule of controlled substances
24 prescribed by the President for the purposes of the Uniform Code of

1 Military Justice, Title 10 of the United States Code, Section 801,
2 et seq.; and

3 3. Any other substance not specified in paragraph 1 of this
4 subsection or contained on a list prescribed by the President under
5 paragraph 2 of this subsection that is listed in schedules I through
6 V of article 202 of the Controlled Substances Act, Title 21 of the
7 United States Code, Section 812.

8 SECTION 146. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 913 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 147. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 914 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 114. Endangerment offenses.

16 A. Reckless endangerment. Any person subject to the Oklahoma
17 Uniform Code of Military Justice who engages in conduct that:

18 1. Is wrongful and reckless or is wanton; and

19 2. Is likely to produce death or grievous bodily harm to
20 another person,

21 shall be punished as a court-martial may direct.

22 B. Dueling. Any person subject to the Code:

23 1. Who fights or promotes, or is concerned in or connives at
24 fighting, a duel; or

1 2. Who, having knowledge of a challenge sent or about to be
2 sent, fails to report the facts promptly to the proper authority,
3 shall be punished as a court-martial may direct.

4 C. Firearm discharge, endangering human life. Any person
5 subject to the Code who, willfully and wrongly, discharges a
6 firearm, under circumstances such as to endanger human life shall be
7 punished as a court-martial may direct.

8 D. State active duty, personal firearms. Any person subject to
9 the Code and in a state active duty status who carries a personal
10 firearm openly or concealed on or about his or her person without
11 the authorization of the Adjutant General or pursuant to the state
12 rules for the use of force then in effect shall be punished as a
13 court-martial may direct.

14 E. Carrying concealed weapon. Any person subject to the Code
15 who unlawfully carries a dangerous weapon concealed on or about his
16 or her person shall be punished as a court-martial may direct.

17 SECTION 148. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 915 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 RESERVED.

21 SECTION 149. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 916 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 116. Riot or breach of peace.

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who causes or participates in any riot or breach of the
3 peace shall be punished as a court-martial may direct.

4 SECTION 150. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 917 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 117. Provoking speeches or gestures.

8 Any person subject to the Oklahoma Uniform Code of Military
9 Justice who uses provoking or reproachful words or gestures towards
10 any other person subject to the Code shall be punished as a court-
11 martial may direct.

12 SECTION 151. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 917A of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 ARTICLE 117A. Wrongful broadcast or distribution of intimate
16 visual images.

17 A. Prohibition. Any person subject to the Oklahoma Uniform
18 Code of Military Justice:

19 1. Who knowingly and wrongfully broadcasts or distributes an
20 intimate visual image of another person or a visual image of
21 sexually explicit conduct involving a person who:

22 a. is at least eighteen (18) years of age at the time the
23 intimate visual image or visual image of sexually
24 explicit conduct was created,

1 b. is identifiable from the intimate visual image or
2 visual image of sexually explicit conduct itself, or
3 from information displayed in connection with the
4 intimate visual image or visual image of sexually
5 explicit conduct, and

6 c. does not explicitly consent to the broadcast or
7 distribution of the intimate visual image or visual
8 image of sexually explicit conduct;

9 2. Who knows or reasonably should have known that the intimate
10 visual image or visual image of sexually explicit conduct was made
11 under circumstances in which the person depicted in the intimate
12 visual image or visual image of sexually explicit conduct retained a
13 reasonable expectation of privacy regarding any broadcast or
14 distribution of the intimate visual image or visual image of
15 sexually explicit conduct;

16 3. Who knows or reasonably should have known that the broadcast
17 or distribution of the intimate visual image or visual image of
18 sexually explicit conduct is likely:

19 a. to cause harm, harassment, intimidation, emotional
20 distress, or financial loss for the person depicted in
21 the intimate visual image or visual image of sexually
22 explicit conduct, or

23 b. to harm substantially the depicted person with respect
24 to that person's health, safety, business, calling,

1 career, financial condition, reputation, or personal
2 relationships; and

3 4. Whose conduct, under the circumstances, had a reasonably
4 direct and palpable connection to a military mission or military
5 environment,

6 is guilty of wrongful distribution of intimate visual images or
7 visual images of sexually explicit conduct and shall be punished as
8 a court-martial may direct.

9 B. Definitions. In this section:

10 1. Broadcast. The term "broadcast" means to electronically
11 transmit a visual image with the intent that it be viewed by a
12 person or persons;

13 2. Distribute. The term "distribute" means to deliver to the
14 actual or constructive possession of another person, including
15 transmission by mail or electronic means;

16 3. Intimate visual image. The term "intimate visual image"
17 means a visual image that depicts a private area of a person;

18 4. Private area. The term "private area" means the naked or
19 underwear-clad genitalia, anus, buttocks, or female areola or
20 nipple;

21 5. Reasonable expectation of privacy. The term "reasonable
22 expectation of privacy" means circumstances in which a reasonable
23 person would believe that a private area of the person, or sexually
24

1 explicit conduct involving the person, would not be visible to the
2 public;

3 6. Sexually explicit conduct. The term "sexually explicit
4 conduct" means actual or simulated genital-genital contact, oral-
5 genital contact, anal-genital contact, or oral-anal contact, whether
6 between persons of the same or opposite sex, bestiality,
7 masturbation, or sadistic or masochistic abuse; and

8 7. Visual image. The term "visual image" means the following:

- 9 a. any developed or undeveloped photograph, picture,
10 film, or video,
11 b. any digital or computer image, picture, film, or video
12 made by any means, including those transmitted by any
13 means, including streaming media, even if not stored
14 in a permanent format,
15 c. any digital or electronic data capable of conversion
16 into a visual image.

17 SECTION 152. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 918 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 RESERVED.

21 SECTION 153. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 919 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 RESERVED.

1 SECTION 154. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 919A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 155. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 919B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 156. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 920 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 120. Sexual assault generally.

13 A. Sexual assault. Any person subject to the Oklahoma Uniform
14 Code of Military Justice who:

15 1. Commits a sexual act upon another person by:

16 a. threatening or placing that other person in fear,

17 b. making a fraudulent representation that the sexual act
18 serves a professional purpose, or

19 c. inducing a belief by any artifice, pretense, or
20 concealment that the person is another person;

21 2. Commits a sexual act upon another person:

22 a. without the consent of the other person, or
23
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1 b. when the person knows or reasonably should know that
2 the other person is asleep, unconscious, or otherwise
3 unaware that the sexual act is occurring; or

4 3. Commits a sexual act upon another person when the other
5 person is incapable of consenting to the sexual act due to:

6 a. impairment by any drug, intoxicant, or other similar
7 substance, and that condition is known or reasonably
8 should be known by the person, or

9 b. a mental disease or defect, or physical disability,
10 and that condition is known or reasonably should be
11 known by the person,

12 is guilty of sexual assault and shall be punished as a court-
13 martial may direct.

14 B. Aggravated sexual contact. Any person subject to the
15 Oklahoma Uniform Code of Military Justice who commits or causes
16 sexual contact upon or by another person, if to do so would violate
17 Section 1111 of Title 21 of the Oklahoma Statutes, had the sexual
18 contact been a sexual act as defined in subsection F of this
19 section, is guilty of aggravated sexual contact and shall be
20 punished as a court-martial may direct.

21 C. Abusive sexual contact. Any person subject to the Code who
22 commits or causes sexual contact upon or by another person, if to do
23 so would violate subsection A of this section had the sexual contact
24

1 been a sexual act, is guilty of abusive sexual contact and shall be
2 punished as a court-martial may direct.

3 D. Proof of threat. In a prosecution under this section, in
4 proving that a person made a threat, it need not be proven that the
5 person actually intended to carry out the threat or had the ability
6 to carry out the threat.

7 E. Defenses. An accused may raise any applicable defenses
8 available under the Code or the Rules for Court-Martial contained in
9 the most recent edition of the Manual for Courts-Martial, United
10 States, including all amendments thereto adopted from time to time,
11 except when such rules are contrary to or inconsistent with the
12 Code. Marriage is not a defense for any conduct in issue in any
13 prosecution under this section.

14 F. Definitions. In this section:

15 1. Sexual act. The term "sexual act" means:

- 16 a. the penetration, however slight, of the penis into the
17 vulva or anus or mouth,
18 b. contact between the mouth and the penis, vulva,
19 scrotum, or anus, or
20 c. the penetration, however slight, of the vulva or penis
21 or anus of another by any part of the body or any
22 object, with an intent to abuse, humiliate, harass, or
23 degrade any person or to arouse or gratify the sexual
24 desire of any person;

1 2. Sexual contact. The term "sexual contact" means touching,
2 or causing another person to touch, either directly or through the
3 clothing, the vulva, penis, scrotum, anus, groin, breast, inner
4 thigh, or buttocks of any person, with an intent to abuse,
5 humiliate, harass, or degrade any person or to arouse or gratify the
6 sexual desire of any person. Touching may be accomplished by any
7 part of the body or an object;

8 3. Grievous bodily harm. The term "grievous bodily harm" means
9 serious bodily injury. It includes fractured or dislocated bones,
10 deep cuts, torn members of the body, serious damage to internal
11 organs, and other severe bodily injuries. It does not include minor
12 injuries such as a black eye or a bloody nose;

13 4. Force. The term "force" means:

- 14 a. the use of a weapon,
- 15 b. the use of such physical strength or violence as is
16 sufficient to overcome, restrain, or injure a person,
17 or
- 18 c. inflicting physical harm sufficient to coerce or
19 compel submission by the victim;

20 5. Unlawful force. The term "unlawful force" means an act of
21 force done without legal justification or excuse;

22 6. Threatening or placing that other person in fear. The term
23 "threatening or placing that other person in fear" means a
24 communication or action that is of sufficient consequence to cause a

1 reasonable fear that noncompliance will result in the victim or
2 another person being subjected to the wrongful action contemplated
3 by the communication or action;

4 7. Consent.

- 5 a. the term "consent" means a freely given agreement to
6 the conduct at issue by a competent person. An
7 expression of lack of consent through words or conduct
8 means there is no consent. Lack of verbal or physical
9 resistance does not constitute consent. Submission
10 resulting from the use of force, threat of force, or
11 placing another person in fear also does not
12 constitute consent. A current or previous dating or
13 social or sexual relationship by itself or the manner
14 of dress of the person involved with the accused in
15 the conduct at issue does not constitute consent,
- 16 b. a sleeping, unconscious, or incompetent person cannot
17 consent. A person cannot consent to force causing or
18 likely to cause death or grievous bodily harm or to
19 being rendered unconscious. A person cannot consent
20 while under threat or in fear or under the
21 circumstances described in subparagraph b or c of
22 paragraph 1 of subsection A of this section,
- 23 c. all the surrounding circumstances are to be considered
24 in determining whether a person gave consent; and

1 8. Incapable of consenting. The term "incapable of consenting"
2 means the person is:

3 a. incapable of appraising the nature of the conduct at
4 issue, or

5 b. physically incapable of declining participation in, or
6 communicating unwillingness to engage in, the sexual
7 act at issue.

8 SECTION 157. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 920A of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 158. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 920B of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 RESERVED.

16 SECTION 159. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 920C of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 120C. Other sexual misconduct.

20 A. Indecent viewing, visual recording, or broadcasting. Any
21 person subject to the Oklahoma Uniform Code of Military Justice who,
22 without legal justification or lawful authorization:

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1 1. Knowingly and wrongfully views the private area of another
2 person, without that other person's consent and under circumstances
3 in which that other person has a reasonable expectation of privacy;

4 2. Knowingly photographs, videotapes, films, or records by any
5 means the private area of another person, without that other
6 person's consent and under circumstances in which that other person
7 has a reasonable expectation of privacy; or

8 3. Knowingly broadcasts or distributes any such recording that
9 the person knew or reasonably should have known was made under the
10 circumstances proscribed in paragraphs 1 and 2 of this subsection,
11 is guilty of an offense under this section and shall be punished
12 as a court-martial may direct.

13 B. Forcible pandering. Any person subject to the Code who
14 compels another person to engage in an act of prostitution with any
15 person is guilty of forcible pandering and shall be punished as a
16 court-martial may direct.

17 C. Indecent exposure. Any person subject to the Code who
18 intentionally exposes, in an indecent manner, the genitalia, anus,
19 buttocks, or female areola or nipple is guilty of indecent exposure
20 and shall by punished as a court-martial may direct.

21 D. Definitions. In this section:

22 1. Act of prostitution. The term "act of prostitution" means a
23 sexual act or sexual contact, as defined in subsection F of Section
24

1 920 of this title (Article 120, subsection F), on account of which
2 anything of value is given to, or received by, any person;

3 2. Private area. The term "private area" means the naked or
4 underwear-clad genitalia, anus, buttocks, or female areola or
5 nipple;

6 3. Reasonable expectation of privacy. The term "under
7 circumstances in which that other person has a reasonable
8 expectation of privacy" means:

9 a. circumstances in which a reasonable person would
10 believe that he or she could disrobe in privacy,
11 without being concerned that an image of a private
12 area of the person was being captured, or

13 b. circumstances in which a reasonable person would
14 believe that a private area of the person would not be
15 visible to the public;

16 4. Broadcast. The term "broadcast" means to electronically
17 transmit a visual image with the intent that it be viewed by a
18 person or persons;

19 5. Distribute. The term "distribute" means delivering to the
20 actual or constructive possession of another, including transmission
21 by electronic means;

22 6. Indecent manner. The term "indecent manner" means conduct
23 that amounts to a form of immorality relating to sexual impurity
24 which is grossly vulgar, obscene, and repugnant to common propriety,

1 and tends to excite sexual desire or deprave morals with respect to
2 sexual relations.

3 SECTION 160. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 920D of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 120D. Fraternalization.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who is a commissioned officer, warrant officer or
9 noncommissioned officer and:

10 1. Who fraternizes on terms of military equality with one or
11 more certain enlisted members in a certain manner;

12 2. Who then knows the person or persons to be an enlisted
13 person or persons;

14 3. Who, through such fraternization, knowingly violates the
15 customs of the United States Army, if a member of the army component
16 of the state military forces, or the customs of the United States
17 Air Force, if a member of the air force component of the state
18 military forces, that officers shall not fraternize with enlisted
19 members on terms of equality; and

20 4. Under the circumstances, the conduct of the accused was to
21 the prejudice of good order and discipline in the state military
22 forces or was of a nature to bring discredit upon the state military
23 forces,
24 shall be punished as a court-martial may direct.

1 SECTION 161. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 921 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 121. Larceny and wrongful appropriation.

5 A. Any person subject to the Oklahoma Uniform Code of Military
6 Justice who wrongfully takes, obtains, or withholds, by any means,
7 from the possession of the owner or of any other person any money,
8 personal property, or article of value of any kind:

9 1. With intent permanently to deprive or defraud another person
10 of the use and benefit of property or to appropriate it to his or
11 her own use or the use of any person other than the owner, steals
12 that property and is guilty of larceny; or

13 2. With intent temporarily to deprive or defraud another person
14 of the use and benefit of property or to appropriate it to his or
15 her own use or the use of any person other than the owner, is guilty
16 of wrongful appropriation.

17 B. Any person found guilty of larceny or wrongful appropriation
18 shall be punished as a court-martial may direct.

19 SECTION 162. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 921A of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 RESERVED.

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1 SECTION 163. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 921B of Title 44, unless there
3 is created a duplication in numbering, reads as follows:
4 RESERVED.

5 SECTION 164. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 922 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:
8 RESERVED.

9 SECTION 165. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 922A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:
12 RESERVED.

13 SECTION 166. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 923 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:
16 RESERVED.

17 SECTION 167. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 923A of Title 44, unless there
19 is created a duplication in numbering, reads as follows:
20 RESERVED.

21 SECTION 168. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 924 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 124. Frauds against the government.

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice:

3 1. Who, knowing it to be false or fraudulent:

4 a. makes any claim against the United States, the State
5 of Oklahoma, or any officer thereof, or

6 b. presents to any person in the civil or military
7 service thereof, for approval or payment, any claim
8 against the United States, the State of Oklahoma, or
9 any officer thereof;

10 2. Who, for the purpose of obtaining the approval, allowance,
11 or payment of any claim against the United States, the State of
12 Oklahoma, or any officer thereof:

13 a. makes or uses any writing or other paper knowing it to
14 contain any false or fraudulent statements,

15 b. makes any oath, affirmation or certification to any
16 fact or to any writing or other paper knowing the
17 oath, affirmation or certification to be false, or

18 c. forges or counterfeits any signature upon any writing
19 or other paper, or uses any such signature knowing it
20 to be forged or counterfeited;

21 3. Who, having charge, possession, custody, or control of any
22 money, or other property of the United States or the State of
23 Oklahoma, furnished or intended for the armed forces of the United
24 States or the state military forces, knowingly delivers to any

1 person having authority to receive it, any amount thereof less than
2 that for which he or she receives a certificate or receipt; or

3 4. Who, being authorized to make or deliver any paper
4 certifying the receipt of any property of the United States or the
5 State of Oklahoma, furnished or intended for the armed forces of the
6 United States or the state military forces, makes or delivers to any
7 person such writing without having full knowledge of the truth of
8 the statements therein contained and with intent to defraud the
9 United States or the State of Oklahoma,
10 shall be punished as a court-martial may direct.

11 SECTION 169. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 924A of Title 44, unless there
13 is created a duplication in numbering, reads as follows:
14 RESERVED.

15 SECTION 170. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 924B of Title 44, unless there
17 is created a duplication in numbering, reads as follows:
18 RESERVED.

19 SECTION 171. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 925 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:
22 RESERVED.

23
24

1 SECTION 172. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 926 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 173. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 927 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 174. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 928 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 128. Assault.

13 A. Any person subject to the Oklahoma Uniform Code of Military
14 Justice who attempts or offers with unlawful force or violence to do
15 bodily harm to another person, whether or not the attempt or offer
16 is consummated, is guilty of assault and shall be punished as a
17 court-martial may direct.

18 B. Any person subject to the Code who:

19 1. Commits an assault with a dangerous weapon or other means or
20 force likely to produce death or grievous bodily harm; or

21 2. Commits an assault and intentionally inflicts grievous
22 bodily harm with or without a weapon,

23 is guilty of aggravated assault and shall be punished as a
24 court-martial may direct.

1 SECTION 175. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 928A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:
4 RESERVED.

5 SECTION 176. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 928B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:
8 RESERVED.

9 SECTION 177. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 929 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:
12 RESERVED.

13 SECTION 178. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 929A of Title 44, unless there
15 is created a duplication in numbering, reads as follows:
16 RESERVED.

17 SECTION 179. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 930 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 130. Stalking.

21 A. In general. Any person subject to the Oklahoma Uniform Code
22 of Military Justice:

23 1. Who wrongfully engages in a course of conduct directed at a
24 specific person that would cause a reasonable person to fear death

1 or bodily harm, including sexual assault, to himself or herself, to
2 a member of his or her immediate family, or to his or her intimate
3 partner;

4 2. Who has knowledge, or should have knowledge, that the
5 specific person will be placed in reasonable fear of death or bodily
6 harm, including sexual assault, to himself or herself, to a member
7 of his or her immediate family, or to his or her intimate partner;
8 and

9 3. Whose conduct induces reasonable fear in the specific person
10 of death or bodily harm, including sexual assault, to himself or
11 herself, to a member of his or her immediate family, or to his or
12 her intimate partner,

13 is guilty of stalking and shall be punished as a court-martial
14 may direct.

15 B. Definitions. In this section:

16 1. The term "conduct" means conduct of any kind, including use
17 of surveillance, the mails, an interactive computer service, an
18 electronic communication service, or an electronic communication
19 system;

20 2. The term "course of conduct" means:

21 a. a repeated maintenance of visual or physical proximity
22 to a specific person,
23 b. a repeated conveyance of verbal threats, written
24 threats, or threats implied by conduct, or a

1 combination of such threats, directed at or toward a
2 specific person, or

3 c. a pattern of conduct composed of repeated acts
4 evidencing a continuity of purpose;

5 3. The term "repeated", with respect to conduct, means two or
6 more occasions of such conduct;

7 4. The term "immediate family", in the case of a specific
8 person, means:

9 a. that person's spouse, parent, brother or sister,
10 child, or other person to whom he or she stands in
11 loco parentis, or

12 b. any other person living in his or her household and
13 related to him or her by blood or marriage; and

14 5. The term "intimate partner", in the case of a specific
15 person, means:

16 a. a former spouse of the specific person, a person who
17 shares a child in common with the specific person, or
18 a person who cohabits with or has cohabited as a
19 spouse with the specific person, or

20 b. a person who has been in a social relationship of a
21 romantic or intimate nature with the specific person,
22 as determined by the length of the relationship, the
23 type of relationship, and the frequency of interaction
24 between the persons involved in the relationship.

1 SECTION 180. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 931 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 131. Perjury.

5 Any person subject to the Oklahoma Uniform Code of Military
6 Justice who in a judicial proceeding or court of inquiry or in a
7 course of justice willfully and corruptly:

8 1. Upon a lawful oath or in any form allowed by law to be
9 substituted for an oath, gives any false testimony material to the
10 issue or matter of inquiry; or

11 2. In any declaration, certificate, verification, or statement
12 under penalty of perjury subscribes any false statement material to
13 the issue or matter of inquiry,
14 is guilty of perjury and shall be punished as a court-martial may
15 direct.

16 SECTION 181. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 931A of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 131A. Subornation of perjury.

20 A. In general. Any person subject to the Oklahoma Uniform Code
21 of Military Justice who induces and procures another person:

22 1. To take an oath; and

23 2. To falsely testify, depose, or state upon such oath,
24

1 shall, if the conditions specified in subsection B are
2 satisfied, be punished as a court-martial may direct.

3 B. Conditions. The conditions referred to in subsection A are
4 the following:

5 1. The oath is administered with respect to a matter for which
6 such oath is required or authorized by law;

7 2. The oath is administered by a person having authority to do
8 so;

9 3. Upon the oath, the other person willfully makes or
10 subscribes a statement;

11 4. The statement is material;

12 5. The statement is false; and

13 6. When the statement is made or subscribed, the person subject
14 to the Code and the other person do not believe that the statement
15 is true.

16 SECTION 182. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 931B of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 131B. Obstructing justice.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who engages in conduct in the case of a certain person
22 against whom the accused had reason to believe there were or would
23 be criminal or disciplinary proceedings pending, with intent to
24

1 influence, impede, or otherwise obstruct the due administration of
2 justice, shall be punished as a court-martial may direct.

3 SECTION 183. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 931C of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 131C. Misprision of serious offense.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice:

9 1. Who knows that another person has committed a serious
10 offense; and

11 2. Wrongfully conceals the commission of the offense and fails
12 to make the commission of the offense known to civilian or military
13 authorities as soon as possible,
14 shall be punished as a court-martial may direct.

15 SECTION 184. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 931D of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 131D. Wrongful refusal to testify.

19 Any person subject to the Oklahoma Uniform Code of Military
20 Justice who, in the presence of a court-martial, a board of
21 officers, a court of inquiry, a preliminary hearing, or an officer
22 taking a deposition, of or for the State of Oklahoma, wrongfully
23 refuses to qualify as a witness or to answer a question after having
24

1 | been directed to do so by the person presiding shall be punished as
2 | a court-martial may direct.

3 | SECTION 185. NEW LAW A new section of law to be codified
4 | in the Oklahoma Statutes as Section 931E of Title 44, unless there
5 | is created a duplication in numbering, reads as follows:

6 | RESERVED.

7 | SECTION 186. NEW LAW A new section of law to be codified
8 | in the Oklahoma Statutes as Section 931F of Title 44, unless there
9 | is created a duplication in numbering, reads as follows:

10 | ARTICLE 131F. Noncompliance with procedural rules.

11 | Any person subject to the Oklahoma Uniform Code of Military
12 | Justice who:

13 | 1. Is responsible for unnecessary delay in the disposition of
14 | any case of a person accused of an offense under the Code; or

15 | 2. Knowingly and intentionally fails to enforce or comply with
16 | any provision of the Code regulating the proceedings before, during,
17 | or after trial of an accused,

18 | shall be punished as a court-martial may direct.

19 | SECTION 187. NEW LAW A new section of law to be codified
20 | in the Oklahoma Statutes as Section 931G of Title 44, unless there
21 | is created a duplication in numbering, reads as follows:

22 | ARTICLE 131G. Wrongful interference with adverse administrative
23 | proceeding.

24 |

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who, having reason to believe that an adverse administrative
3 proceeding is pending against any person subject to the Code,
4 wrongfully acts with the intent:

5 1. To influence, impede, or obstruct the conduct of the
6 proceeding; or

7 2. Otherwise to obstruct the due administration of justice,
8 shall be punished as a court-martial may direct.

9 SECTION 188. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 932 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 132. Retaliation.

13 A. In general. Any person subject to the Oklahoma Uniform Code
14 of Military Justice who, with the intent to retaliate against any
15 person for reporting or planning to report a criminal offense, or
16 making or planning to make a protected communication, or with the
17 intent to discourage any person from reporting a criminal offense or
18 making or planning to make a protected communication:

19 1. Wrongfully takes or threatens to take an adverse personnel
20 action against any person; or

21 2. Wrongfully withholds or threatens to withhold a favorable
22 personnel action with respect to any person,

23 shall be punished as a court-martial may direct.

24 B. Definitions. In this section:

1 1. The term "protected communication" means the following:

2 a. a lawful communication to a Member of Congress or a
3 Member of the Oklahoma Legislature or an Inspector
4 General, and

5 b. a communication to a covered individual or
6 organization in which a member of the state military
7 forces complains of, or discloses information that the
8 member reasonably believes constitutes evidence of,
9 any of the following:

10 (1) a violation of law or regulation, including a law
11 or regulation prohibiting sexual harassment or
12 unlawful discrimination, or

13 (2) gross mismanagement, a gross waste of funds, an
14 abuse of authority, or a substantial and specific
15 danger to public health or safety;

16 2. The term "Inspector General" has the meaning given that term
17 in Section 1034(j) of Title 10 of the United States Code;

18 3. The term "covered individual or organization" means any
19 recipient of a communication specified in clauses (i) through (v) of
20 Section 1034(b) (1) (B) of Title 10 of the United States Code; and

21 4. The term "unlawful discrimination" means discrimination on
22 the basis of race, color, religion, sex, or national origin.
23
24

1 SECTION 189. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 933 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 133. Conduct unbecoming an officer and a gentleman.

5 Any commissioned officer, cadet, or officer candidate who is
6 convicted of conduct unbecoming an officer and a gentleman shall be
7 punished as a court-martial may direct.

8 SECTION 190. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 934 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 134. General article.

12 Though not specifically mentioned in the Oklahoma Uniform Code
13 of Military Justice, all disorders and neglects to the prejudice of
14 good order and discipline in the state military forces, all conduct
15 of a nature to bring discredit upon the state military forces, and
16 crimes and offenses not capital, of which persons subject to the
17 Code may be guilty, shall be taken cognizance of by a general,
18 special, or summary court-martial, according to the nature and
19 degree of the offense, and shall be punished at the discretion of
20 that court. However, where a crime constitutes an offense that
21 violates both the Code and the criminal laws of the State of
22 Oklahoma, jurisdiction over the offense shall be determined in
23 accordance with Section 802 of this title (Article 2).

24 PART XI.

1 MISCELLANEOUS PROVISIONS

2 SECTION 191. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 935 of Title 44, unless there is
4 created a duplication in numbering, reads as follows:

5 ARTICLE 135. Courts of inquiry.

6 A. Courts of inquiry to investigate any matter of concern to
7 the state military forces may be convened by any person authorized
8 to convene a general court-martial or by any other person designated
9 by the Adjutant General for that purpose, whether or not the persons
10 involved have requested such an inquiry.

11 B. A court of inquiry consists of three or more commissioned
12 officers. For each court of inquiry, the convening authority shall
13 also appoint counsel for the court.

14 C. 1. Any person subject to the Oklahoma Uniform Code of
15 Military Justice whose conduct is subject to inquiry shall be
16 designated as a party.

17 2. Any person subject to the Code and employed by the Oklahoma
18 Military Department, and who has a direct interest in the subject of
19 inquiry, has the right to be designated as a party upon request to
20 the court.

21 3. Any person designated as a party shall be given due notice
22 and has the right to be present, to be represented by counsel, to
23 cross-examine witnesses, and to introduce evidence.

1 D. Members of a court of inquiry may be challenged by a party,
2 but only for cause stated to the court.

3 E. The members, counsel, the reporter, and interpreters of
4 courts of inquiry shall take an oath to faithfully perform their
5 duties.

6 F. Witnesses may be summoned to appear and testify and be
7 examined before courts of inquiry, as provided for courts-martial.

8 G. Courts of inquiry shall make findings of fact but may not
9 express opinions or make recommendations unless required to do so by
10 the convening authority.

11 H. Each court of inquiry shall keep a record of its
12 proceedings, which shall be authenticated by the signatures of the
13 president and counsel for the court and forwarded to the convening
14 authority. If the record cannot be authenticated by the president,
15 it shall be signed by a member in lieu of the president. If the
16 record cannot be authenticated by the counsel for the court, it
17 shall be signed by a member in lieu of the counsel.

18 SECTION 192. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 936 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 136. Authority to administer oaths.

22 A. The following persons may administer oaths for the purposes
23 of military administration, including military justice:

24 1. All judge advocates;

- 1 2. All summary courts-martial;
- 2 3. All adjutants, assistant adjutants, acting adjutants, and
- 3 personnel adjutants;
- 4 4. All commanding officers of the state military forces;
- 5 5. All staff judge advocates, and acting or assistant staff
- 6 judge advocates; or
- 7 6. All other persons designated by regulations of the armed
- 8 forces of the United States or by statute.

9 B. The following persons on active duty or performing inactive-
10 duty training may administer oaths necessary in the performance of
11 their duties:

- 12 1. The military judge, trial counsel, and assistant trial
- 13 counsel for all general and special courts-martial;
- 14 2. The president and the counsel for the court of any court of
- 15 inquiry;
- 16 3. All officers designated to take a deposition;
- 17 4. All persons detailed to conduct an investigation;
- 18 5. All recruiting officers;
- 19 6. All other persons designated by regulations of the armed
- 20 forces of the United States or by statute.

21 C. Each judge and the senior judge of the Military Court of
22 Appeals shall have the powers relating to oaths, affirmations, and
23 acknowledgments provided to justices and judges of the State of
24 Oklahoma.

1 D. The signature without seal of any such person, together with
2 the title of his or her office, is prima facie evidence of the
3 authority of that person.

4 SECTION 193. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 937 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 137. Articles to be explained.

8 A. 1. The sections of the Oklahoma Uniform Code of Military
9 Justice specified in paragraph 3 of this subsection shall be
10 carefully explained to each enlisted member at the time of, or
11 within thirty (30) days after, the member's initial entrance into a
12 duty status with the state military forces.

13 2. Such articles shall be explained again:

14 a. after the member has completed basic or recruit
15 training, and

16 b. at the time when the member reenlists.

17 3. This subsection applies with respect to Sections 802, 803,
18 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this
19 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-
20 139).

21 B. The text of the code and of the regulations prescribed under
22 such code shall be made available to a member of the state military
23 forces, upon request by the member, for the member's personal
24 examination.

1 SECTION 194. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 938 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 138. Complaints of wrongs.

5 Any member of the state military forces who believes himself or
6 herself wronged by a commanding officer, and who, upon due
7 application to that commanding officer, is refused redress, may
8 complain to any superior commissioned officer, who shall forward the
9 complaint to the officer exercising special court-martial
10 jurisdiction over the officer against whom it is made. The officer
11 exercising special court-martial jurisdiction shall examine into the
12 complaint and take proper measures for redressing the wrong
13 complained of; and shall, as soon as possible, send to the Adjutant
14 General a true statement of that complaint, with the proceedings had
15 thereon.

16 SECTION 195. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 939 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 139. Redress of injuries to property.

20 A. Whenever a complaint is made to any commanding officer that
21 willful damage has been done to the property of any person or that
22 the person's property has been wrongfully taken by members of the
23 state military forces, the commanding officer, under such
24 regulations promulgated by the Adjutant General, shall convene a

1 board to investigate the complaint. The board shall consist of from
2 one to three commissioned officers and, for the purpose of that
3 investigation, it has power to summon witnesses and examine them
4 upon oath, to receive depositions or other documentary evidence, and
5 to assess the damages sustained against the responsible parties.
6 The assessment of damages made by the board is subject to the
7 approval of the commanding officer, and in the amount approved by
8 that officer shall be charged against the pay of the offenders. The
9 order of the commanding officer directing charges herein authorized
10 is conclusive on any disbursing officer for payment to the injured
11 parties of the damages so assessed and approved.

12 B. If the offenders cannot be ascertained, but the organization
13 or detachment to which they belong is known, charges totaling the
14 amount of damages assessed and approved may be made in such
15 proportion as may be considered just upon the individual members
16 thereof who are shown to have been present at the scene at the time
17 the damages complained of were inflicted, as determined by the
18 approved findings of the board.

19 SECTION 196. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 940 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 140. Delegation by the Governor.

23 The Governor may delegate any authority vested in the Governor
24 under the Oklahoma Uniform Code of Military Justice, and provide for

1 the subdelegation of any such authority, except the powers given the
2 Governor by Section 822 and subsection K of Section 815 of this
3 title (Article 22 and Article 15, subsection K). Any delegations of
4 authority carried out pursuant to this section shall be published as
5 an executive order which the Adjutant General shall also cause to be
6 published as a military publication.

7 SECTION 197. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 940A of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 140A. Precedence of regulations.

11 When both the Governor and Adjutant General are authorized under
12 the Oklahoma Uniform Code of Military Justice to promulgate
13 regulations governing the same matter, if such regulations conflict,
14 the regulations promulgated by the Governor shall take precedence.

15 SECTION 198. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 940B of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 140B. Publication by Secretary of State.

19 Military publications promulgated or published by or under the
20 authority of the Adjutant General shall be provided to the Secretary
21 of State to be published and archived as official records of the
22 State of Oklahoma. In the event state or federal law restricts
23 access to a military publication, the requirements of this section
24 shall not be applicable. Military publications promulgated or

1 published by a previous Adjutant General shall remain in effect
2 until otherwise modified or rescinded in writing by the next
3 Adjutant General.

4 SECTION 199. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 942 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 142. Payment and collection of fines.

8 A. Fines imposed by a military court or through imposition of
9 nonjudicial punishment shall be paid to the State of Oklahoma and
10 delivered to the convening authority or his or her designee or in
11 the case of nonjudicial punishment, the imposing officer. Fines may
12 be collected in the following manner:

13 1. By cash or money order;

14 2. By retention of any pay or allowances due or to become due
15 to the person fined from any state or the United States; or

16 3. By garnishment or levy, together with costs, on the wages,
17 goods, and chattels of a person delinquent in paying a fine, as
18 provided by law.

19 B. Any sum so received or retained shall be deposited in the
20 Military Justice Fund, except that the court may direct that the sum
21 so received or retained be provided to a victim or victims as
22 restitution.

23

24

1 SECTION 200. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 943 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 143. Uniformity of interpretation.

5 The Oklahoma Uniform Code of Military Justice shall be so
6 construed as to effectuate its general purpose to make it uniform,
7 so far as practical, with the Uniform Code of Military Justice,
8 Chapter 47 of Title 10 of the United States Code.

9 SECTION 201. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 944 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 144. Immunity for duties performed under Code.

13 Any person acting under the provisions of the Oklahoma Uniform
14 Code of Military Justice, whether as a member of the military or as
15 a civilian, shall be immune from personal liability for any of the
16 acts or omissions which he or she did or failed to do as part of his
17 or her duties under the Code.

18 SECTION 202. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 945 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 145. Jurisdiction not extended to certain crimes.

22 Though not specifically mentioned in the Oklahoma Uniform Code
23 of Military Justice, all disorders and neglects to the prejudice of
24 good order and discipline in the state military forces, of which

1 persons subject to the Code may be guilty, shall be taken cognizance
2 of by a general, special, or summary court-martial according to the
3 nature and degree of the offense and shall be punished at the
4 discretion of that court. However, cognizance may not be taken of,
5 and jurisdiction shall not be extended to, the crimes of murder,
6 manslaughter, rape, rape and sexual assault of a child, child
7 endangerment, death or injury of an unborn child, kidnapping,
8 domestic violence, arson, robbery, maiming, arson, extortion,
9 burglary, parole violations or housebreaking, jurisdiction of which
10 is reserved to civil courts.

11 SECTION 203. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 946 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 146. Continuances for military service.

15 A. It shall be the duty of any justice, judge, judicial
16 referee, corporation commissioner, administrative law judge or
17 hearing officer presiding over any civil, criminal or administrative
18 proceeding in this state to continue any trial, hearing or other
19 action pending before the court or an administrative forum when a
20 party to the pending action or the primary counsel representing a
21 party to the pending action is not present at the time the case or
22 matter in question is reached on the docket or schedule by reason of
23 participation in:

24

1 1. Active federal service, as defined in Title 10 of the United
2 States Code;

3 2. Title 32 active duty, as defined in Section 801 of this
4 title (Article 1);

5 3. Service in other reserve components of the Armed Forces of
6 the United States, as defined in Title 10 of the United States Code;
7 or

8 4. State active duty, as defined in Section 801 of this title
9 (Article 1).

10 B. The trial, hearing or other pending action may proceed if
11 the party, without the presence of his or her primary counsel, or
12 the primary counsel, without the presence of the party, declares
13 that the case or matter in question is nevertheless ready to proceed
14 at the scheduled time.

15 C. If the primary counsel of a party to the pending action is
16 not present due to military service pursuant to subsection A of this
17 section, the party so affected shall declare under oath that he or
18 she cannot properly proceed with the trial, hearing or other action
19 pending before the court or administrative forum without the
20 presence of the primary counsel.

21 D. If a party to the pending action is not present due to
22 military service pursuant to subsection A of this section, his or
23 her legal counsel shall appear and shall state in his or her place
24

1 that the case or matter in question cannot properly proceed without
2 the presence of the absent party.

3 E. Continuances granted pursuant to this section shall remain
4 in effect no longer than ninety (90) calendar days. The justice,
5 judge, judicial referee, corporation commissioner, administrative
6 law judge or hearing officer may, at his or her discretion, continue
7 the proceeding in question in order to carry out the administration
8 of justice. The protections provided to service members in this
9 section shall be available in addition to any protections afforded
10 to service members under Section 208.1 of this title.

11 SECTION 204. AMENDATORY 44 O.S. 2011, Section 208, is
12 amended to read as follows:

13 Section 208. No person shall discriminate against any officer
14 or enlisted member of the National Guard or Civil Air Patrol or a
15 judge carrying out his or her duties as a member of the Military
16 Court of Appeals because of his or her membership therein. No
17 person shall prohibit or refuse entrance to any officer or enlisted
18 member of the United States Armed Forces, or of the military forces
19 of this state, into any public entertainment or place of amusement
20 because such officer or enlisted member is wearing a uniform of the
21 organization to which he or she belongs. No employer, officer or
22 agent of any corporation, company, firm or other person, shall
23 discharge any person from employment because of being an officer,
24 warrant officer or enlisted member of the military forces of the

1 state, or hinder or prevent him or her from performing any military
2 service he or she may be called upon to perform by proper authority,
3 in respect to his or her employment, trade or business. Any person
4 violating any of the provisions of this section, shall be punished
5 by a fine of not to exceed One Hundred Dollars (\$100.00), or by
6 imprisonment in the county jail for a period of not to exceed thirty
7 (30) days, or by both such fine and imprisonment.

8 SECTION 205. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 231b of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Subject to the conditions and limitations established in
12 regulations promulgated by the Governor, the state military forces
13 may use all appropriate means necessary to protect assets vital to
14 national security classified as such pursuant to the rules,
15 regulations or instructions promulgated by the United States
16 Department of Defense or the military departments of the United
17 States Department of Defense or as otherwise ordered by the
18 Governor.

19 B. Any regulations promulgated by the Governor pursuant to this
20 section shall be considered a military publication as defined in
21 Section 801 of this title and shall be published and archived by the
22 Secretary of State.

23 SECTION 206. AMENDATORY 44 O.S. 2011, Section 241, is
24 amended to read as follows:

1 Section 241. The Governor, pursuant to the authority granted
2 the states by ~~the Act of Congress of October 21, 1940~~ Section 109 of
3 Title 32 of the United States Code or a successor provision, and
4 under such regulations as the Secretary of Defense may prescribe for
5 discipline in training, is hereby authorized to enlist, organize,
6 maintain, equip and discipline such military forces other than the
7 National Guard as he or she may deem necessary to defend the state.
8 Such forces shall be uniformed and subject to Sections 1 through
9 117, ~~192 through 195.8,~~ Sections 208 through 235.2 237, and ~~2101~~
10 ~~through 3113~~ Sections 800 through 946 of this title ~~unless in~~
11 ~~conflict with such sections,~~ insofar as such sections do not
12 conflict with Sections 241 through 250 of this title.

13 SECTION 207. AMENDATORY 44 O.S. 2011, Section 242, is
14 amended to read as follows:

15 Section 242. Such military forces shall be designated as the
16 "Oklahoma State Guard" and shall be composed of officers
17 commissioned or assigned, and such able-bodied male citizens of the
18 state as shall volunteer for service therein. They shall be
19 additional to and distinct from the National Guard ~~organized under~~
20 ~~existing law~~ of the State of Oklahoma, as defined in Title 32 of the
21 United States Code. They shall not be required to serve outside the
22 boundaries of ~~this state~~ the State of Oklahoma.

23 SECTION 208. AMENDATORY 44 O.S. 2011, Section 243, is
24 amended to read as follows:

1 Section 243. A. The Governor is hereby authorized to prescribe
2 rules and regulations governing the enlistment, organization,
3 administration, equipment, discipline and discharge of the personnel
4 of such military forces; to requisition from the Secretary of
5 Defense such arms and equipment as may be in the possession of and
6 can be spared by the Department of Defense and to extend thereto the
7 facilities of state armories, Armed Forces Reserve Centers,
8 readiness centers, logistics, aviation, and training facilities,
9 warehouses and their equipment and such other state premises and
10 property as may be available for the purpose of drill and
11 instruction. Insofar as applicable the procedure for the
12 enlistment, organization, pay, maintenance, equipment and
13 disciplining of such forces shall be in conformity with the law and
14 the rules and regulations governing and pertaining to the National
15 Guard; provided, that the officers and enlisted ~~men~~ personnel in the
16 Oklahoma State Guard shall not receive any compensation or monetary
17 allowances from the state except when ~~called into active service~~
18 activated for state active duty, as defined in Section 801 of this
19 title, by order of the Governor.

20 B. Members of the Oklahoma State Guard shall be considered part
21 of state military forces as defined in Section 801 of this title and
22 shall be subject to the Oklahoma Uniform Code of Military Justice.

23 C. When prescribing the rules and regulations governing
24 enlistment, organization, administration, equipment, discipline and

1 discharge of the personnel of the Oklahoma State Guard, the Governor
2 shall issue such rules and regulations in the form of an executive
3 order or in a series of such orders. An executive order or a series
4 of such orders prescribing the rules and regulations governing
5 enlistment, organization, administration, equipment, discipline and
6 discharge of the personnel of the Oklahoma State Guard shall also be
7 published by the Adjutant General as a military publication.

8 SECTION 209. AMENDATORY 44 O.S. 2011, Section 244, is
9 amended to read as follows:

10 Section 244. Nothing in ~~this act~~ the Oklahoma State Guard Act
11 shall be construed as authorizing such forces, or any part thereof
12 to be called, ordered or in any manner drafted, as such into the
13 military service of the United States, but no person shall by reason
14 of his or her enlistment or commission in any such forces be
15 exempted from military service under any law of the United States.

16 SECTION 210. AMENDATORY 44 O.S. 2011, Section 247, is
17 amended to read as follows:

18 Section 247. No person shall be enlisted for more than one (1)
19 year, but such enlistment may be renewed. The oath to be taken upon
20 enlistment in such forces shall be substantially in the form
21 prescribed for enlisted ~~men~~ members of the National Guard,
22 substituting the words "Oklahoma State Guard" where necessary.

23 SECTION 211. AMENDATORY 44 O.S. 2011, Section 248, is
24 amended to read as follows:

1 Section 248. ~~(a) Whenever such forces or any part thereof shall be~~
2 ~~ordered out for active service the Articles of War of the United~~
3 ~~States applicable to members of the National Guard of this state in~~
4 ~~relation to courts-martial, their jurisdiction and the limits of~~
5 ~~punishment and the rules and regulations prescribed thereunder shall~~
6 ~~be in full force and effect with respect to "the Oklahoma State~~
7 ~~Guard."~~

8 (b) No officer or enlisted ~~man~~ person of ~~such forces~~ the
9 Oklahoma State Guard shall be arrested on any warrant, except for
10 treason or felony, while going to, remaining at, or returning from a
11 place where he or she is ordered to attend for military duty. Every
12 officer and enlisted ~~man~~ member of such forces shall, during his or
13 her service therein, be exempt from service upon any posse comitatus
14 and from jury duty.

15 SECTION 212. AMENDATORY 44 O.S. 2011, Section 250, is
16 amended to read as follows:

17 Section 250. This act may be cited as the Oklahoma State Guard Act.

18 SECTION 213. AMENDATORY 21 O.S. 2011, Section 133, is
19 amended to read as follows:

20 Section 133. This chapter~~r~~ does not affect any power conferred
21 by law upon any court martial or other military authority or officer
22 to impose or inflict punishment upon offenders; nor any power
23 conferred by law upon any public body, tribunal, or officer, to
24 impose or inflict punishment for a contempt; nor any provisions of

1 the laws relating to apprentices, ~~bastards~~, disorderly persons,
2 ~~Indians and vagrants~~ behavior or vagrancy.

3 SECTION 214. AMENDATORY 75 O.S. 2011, Section 250.4, as
4 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.
5 2018, Section 250.4), is amended to read as follows:

6 Section 250.4 A. 1. Except as is otherwise specifically
7 provided in this subsection, each agency is required to comply with
8 Article I of the Administrative Procedures Act.

9 2. The Corporation Commission shall be required to comply with
10 the provisions of Article I of the Administrative Procedures Act
11 except for subsections A, B, C and E of Section 303 of this title
12 and Section 306 of this title. To the extent of any conflict or
13 inconsistency with Article I of the Administrative Procedures Act,
14 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
15 it is expressly declared that Article I of the Administrative
16 Procedures Act is an amendment to and alteration of Sections 18
17 through 34 of Article IX of the Oklahoma Constitution.

18 3. The Oklahoma Military Department shall be exempt from the
19 provisions of Article I of the Administrative Procedures Act to the
20 extent it exercises its responsibility for military affairs.

21 Military publications, as defined in Section 801 of Title 44 of the
22 Oklahoma Statutes, shall be exempt from the provisions of Article I
23 and Article II of the Administrative Procedures Act, except as
24 provided in Section 251 of this title.

1 4. The Oklahoma Ordnance Works Authority, the Northeast
2 Oklahoma Public Facilities Authority, the Oklahoma Office of
3 Homeland Security and the Board of Trustees of the Oklahoma College
4 Savings Plan shall be exempt from Article I of the Administrative
5 Procedures Act.

6 5. The Transportation Commission and the Department of
7 Transportation shall be exempt from Article I of the Administrative
8 Procedures Act to the extent they exercise their authority in
9 adopting standard specifications, special provisions, plans, design
10 standards, testing procedures, federally imposed requirements and
11 generally recognized standards, project planning and programming,
12 and the operation and control of the State Highway System.

13 6. The Oklahoma State Regents for Higher Education shall be
14 exempt from Article I of the Administrative Procedures Act with
15 respect to:

- 16 a. prescribing standards of higher education,
- 17 b. prescribing functions and courses of study in each
18 institution to conform to the standards,
- 19 c. granting of degrees and other forms of academic
20 recognition for completion of the prescribed courses,
- 21 d. allocation of state-appropriated funds, and
- 22 e. fees within the limits prescribed by the Legislature.

23
24

1 7. Institutional governing boards within The Oklahoma State
2 System of Higher Education shall be exempt from Article I of the
3 Administrative Procedures Act.

4 8. a. The Commissioner of Public Safety shall be
5 exempt from Sections 303.1, 304, 307.1, 308 and 308.1
6 of this title insofar as it is necessary to promulgate
7 rules pursuant to the Oklahoma Motor Carrier Safety
8 and Hazardous Materials Transportation Act, to
9 maintain a current incorporation of federal motor
10 carrier safety and hazardous material regulations, or
11 pursuant to Chapter 6 of Title 47 of the Oklahoma
12 Statutes, to maintain a current incorporation of
13 federal commercial driver license regulations, for
14 which the Commissioner has no discretion when the
15 state is mandated to promulgate rules identical to
16 federal rules and regulations.

17 b. Such rules may be adopted by the Commissioner and
18 shall be deemed promulgated twenty (20) days after
19 notice of adoption is published in "The Oklahoma
20 Register". Such publication need not set forth the
21 full text of the rule but may incorporate the federal
22 rules and regulations by reference.

1 c. Such copies of promulgated rules shall be filed with
2 the Secretary as required by Section 251 of this
3 title.

4 d. For any rules for which the Commissioner has
5 discretion to allow variances, tolerances or
6 modifications from the federal rules and regulations,
7 the Commissioner shall fully comply with Article I of
8 the Administrative Procedures Act.

9 9. The Council on Judicial Complaints shall be exempt from
10 Section 306 of Article I of the Administrative Procedures Act, with
11 respect to review of the validity or applicability of a rule by an
12 action for declaratory judgment, or any other relief based upon the
13 validity or applicability of a rule, in the district court or by an
14 appellate court. A party aggrieved by the validity or applicability
15 of a rule made by the Council on Judicial Complaints may petition
16 the Court on the Judiciary to review the rules and issue opinions
17 based upon them.

18 10. The Department of Corrections, State Board of Corrections,
19 county sheriffs and managers of city jails shall be exempt from
20 Article I of the Administrative Procedures Act with respect to:

21 a. prescribing internal management procedures for the
22 management of the state prisons, county jails and city
23 jails and for the management, supervision and control
24 of all incarcerated prisoners, and

1 b. prescribing internal management procedures for the
2 management of the probation and parole unit of the
3 Department of Corrections and for the supervision of
4 probationers and parolees.

5 11. The State Board of Education shall be exempt from Article I
6 of the Administrative Procedures Act with respect to prescribing
7 subject matter standards as provided for in Section 11-103.6a of
8 Title 70 of the Oklahoma Statutes.

9 B. As specified, the following agencies or classes of agency
10 activities are not required to comply with the provisions of Article
11 II of the Administrative Procedures Act:

- 12 1. The Oklahoma Tax Commission;
- 13 2. The Commission for Human Services;
- 14 3. The Oklahoma Ordnance Works Authority;
- 15 4. The Corporation Commission;
- 16 5. The Pardon and Parole Board;
- 17 6. The Midwestern Oklahoma Development Authority;
- 18 7. The Grand River Dam Authority;
- 19 8. The Northeast Oklahoma Public Facilities Authority;
- 20 9. The Council on Judicial Complaints;
- 21 10. The Board of Trustees of the Oklahoma College Savings Plan;
- 22 11. The supervisory or administrative agency of any penal,
23 mental, medical or eleemosynary institution, only with respect to
24 the institutional supervision, custody, control, care or treatment

1 of inmates, prisoners or patients therein; provided, that the
2 provisions of Article II shall apply to and govern all
3 administrative actions of the Oklahoma Alcohol Prevention, Training,
4 Treatment and Rehabilitation Authority;

5 12. The Board of Regents or employees of any university,
6 college, or other institution of higher learning;

7 13. The Oklahoma Horse Racing Commission, its employees or
8 agents only with respect to hearing and notice requirements on the
9 following classes of violations which are an imminent peril to the
10 public health, safety and welfare:

- 11 a. any rule regarding the running of a race,
- 12 b. any violation of medication laws and rules,
- 13 c. any suspension or revocation of an occupation license
14 by any racing jurisdiction recognized by the
15 Commission,
- 16 d. any assault or other destructive acts within
17 Commission-licensed premises,
- 18 e. any violation of prohibited devices, laws and rules,
19 or
- 20 f. any filing of false information;

21 14. The Commissioner of Public Safety only with respect to
22 driver license hearings and hearings conducted pursuant to the
23 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

24

1 15. The Administrator of the Department of Securities only with
2 respect to hearings conducted pursuant to provisions of the Oklahoma
3 Take-over Disclosure Act of 1985;

4 16. Hearings conducted by a public agency pursuant to Section
5 962 of Title 47 of the Oklahoma Statutes;

6 17. The Oklahoma Military Department;

7 18. The University Hospitals Authority, including all hospitals
8 or other institutions operated by the University Hospitals
9 Authority;

10 19. The Oklahoma Health Care Authority Board and the
11 Administrator of the Oklahoma Health Care Authority; and

12 20. The Oklahoma Office of Homeland Security.

13 SECTION 215. AMENDATORY 75 O.S. 2011, Section 251, as
14 amended by Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2018,
15 Section 251), is amended to read as follows:

16 Section 251. A. 1. Upon the request of the Secretary, each
17 agency shall furnish to the Office a complete set of its permanent
18 rules in such form as is required by the Secretary or as otherwise
19 provided by law.

20 2. The Secretary shall promulgate rules to ensure the effective
21 administration of the provisions of Article I of the Administrative
22 Procedures Act. The rules shall include, but are not limited to,
23 rules prescribing paper size, numbering system, and the format of
24 documents required to be filed pursuant to the provisions of the

1 Administrative Procedures Act or such other requirements as deemed
2 necessary by the Secretary to implement the provisions of the
3 Administrative Procedures Act.

4 B. 1. Each agency shall file the number of copies specified by
5 the Secretary of all new rules, and all amendments, revisions or
6 revocations of existing rules attested to by the agency, pursuant to
7 the provisions of Section 254 of this title, with the Office within
8 thirty (30) calendar days after they become finally adopted.

9 2. An agency filing rules pursuant to the provisions of this
10 subsection:

11 a. shall prepare the rules in plain language which can be
12 easily understood,

13 b. shall not unnecessarily repeat statutory language.
14 Whenever it is necessary to refer to statutory
15 language in order to effectively convey the meaning of
16 a rule interpreting that language, the reference shall
17 clearly indicate the portion of the language which is
18 statutory and the portion which is the agency's
19 amplification or interpretation of that language,

20 c. shall indicate whether a rule is new, amends an
21 existing permanent rule or repeals an existing
22 permanent rule. If a rule amends an existing rule,
23 the rule shall indicate the language to be deleted
24

- 1 typed with a line through the language and language to
2 be inserted typed with the new language underscored,
- 3 d. shall state if the rule supersedes an existing
4 emergency rule,
- 5 e. shall include a reference to any rule requiring a new
6 or revised form in a note to the rule. The Secretary
7 shall insert that reference in "The Oklahoma Register"
8 as a notation to the affected rule,
- 9 f. shall prepare, in plain language, a statement of the
10 gist of the rule and an analysis of new or amended
11 rules. The analysis shall include but not be limited
12 to a reference to any statute that the rule
13 interprets, any related statute or any related rule,
- 14 g. may include with its rules, brief notes,
15 illustrations, findings of facts, and references to
16 digests of Supreme Court cases, other court decisions,
17 or Attorney General's opinions, and other explanatory
18 material. Such material may be included if the
19 material is labeled or set forth in a manner which
20 clearly distinguishes it from the rules,
- 21 h. shall include other information, in such form and in
22 such manner as is required by the Secretary, and
- 23 i. may change the format of existing rules without any
24 rulemaking action by the agency in order to comply

1 with the standard provisions established by the
2 Secretary for "Code" and "The Oklahoma Register"
3 publication so long as there is no substantive change
4 to the rule.

5 C. The Secretary is authorized to determine a numbering system
6 and other standardized format for documents to be filed and may
7 refuse to accept for publication any document that does not
8 substantially conform to the promulgated rules of the Secretary.

9 D. In order to avoid unnecessary expense, an agency may use the
10 published standards established by organizations and technical
11 societies of recognized national standing, other state agencies, or
12 federal agencies by incorporating the standards or rules in its
13 rules or regulations by reference to the specific issue or issues of
14 publications in which the standards are published, without
15 reproducing the standards in full. The standards shall be readily
16 available to the public for examination at the administrative
17 offices of the agency. In addition, a copy of such standards shall
18 be kept and maintained by the agency pursuant to the provisions of
19 the Preservation of Essential Records Act.

20 E. The Secretary shall provide for the publication of all
21 Executive Orders received pursuant to the provisions of Section 664
22 of Title 74 of the Oklahoma Statutes.

23 F. The Secretary may authorize or require the filing of rules
24 or Executive Orders by or through electronic data or machine

1 readable equipment in such form and manner as is required by the
2 Secretary.

3 G. In consultation with the Adjutant General, the Secretary
4 shall establish a method for the publication and archiving of all
5 military publications received by the Secretary of State from the
6 Adjutant General pursuant to the Oklahoma Uniform Code of Military
7 Justice and the Oklahoma State Guard Act. Military publications
8 shall be defined in accordance with Section 801 of Title 44 of the
9 Oklahoma Statutes. The Secretary may also authorize or require the
10 filing of military publications by or through electronic means in
11 such form and manner as is required by the Secretary. This
12 subsection shall only apply to military publications promulgated
13 after October 1, 2019.

14 H. On or before October 1, 2021, the Secretary shall commence
15 publication of all military publications provided by the Adjutant
16 General. On a biennial basis thereafter, the Secretary shall cause
17 the military publications received in the course of the previous two
18 years to be published in a printed and bound format suitable for
19 physical archiving in sufficient numbers to satisfy the requirements
20 of the "Publications Clearinghouse" established in Section 3-113.3
21 of Title 65 of the Oklahoma Statutes.

22 SECTION 216. RECODIFICATION 44 O.S. 2011, Section 3398,
23 shall be recodified as Section 941 of Title 44 of the Oklahoma
24 Statutes, unless there is created a duplication in numbering.

1 SECTION 217. REPEALER 44 O.S. 2011, Sections 3200, 3201,
2 3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213, 3214, 3215,
3 3216, 3217, 3218, 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241,
4 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252, 3253,
5 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268,
6 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279,
7 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3301, 3302,
8 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313,
9 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331, 3332, 3333,
10 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344,
11 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355,
12 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366,
13 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377,
14 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388,
15 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399, 4000,
16 4001 and 4002, are hereby repealed.

17 SECTION 218. This act shall become effective October 1, 2019."
18
19
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21
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23
24

1 Passed the Senate the 25th day of April, 2019.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

7
8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2362

By: Kannady of the House

and

Simpson of the Senate

3
4
5
6
7 An Act relating to militia; authorizing the Adjutant
8 General to request certain confidential information;
9 directing the dissemination of certain confidential
10 information under certain circumstances; amending 44
11 O.S. 2011, Section 21, which relates to the Military
12 Department; providing Military Department
13 composition; establishing certain command and control
14 over state military forces under certain conditions;
15 amending 44 O.S. 2011, Section 212, which relates to
16 action against officer or enlisted person; updating
17 citations; updating military member references;
18 eliminating liability for certain acts of defense;
19 creating the Oklahoma Uniform Code of Military
20 Justice; establishing good order and discipline;
21 defining terms; providing persons subject to the
22 Oklahoma Uniform Code of Military Justice;
23 establishing subject matter jurisdiction;
24 establishing primary jurisdiction; authorizing the
promulgation of regulations; determining jurisdiction
over certain crimes; authorizing imposition of
nonjudicial punishment; establishing jurisdiction for
certain discharged personnel; subjecting certain
convicted persons to court-martial; prohibiting
relief from jurisdiction under certain conditions;
reserving certain statutory sections; providing
applicability at all times and places; authorizing
certain courts to convene under certain conditions;
requiring certain judge advocates make certain
inspections; requiring certain judge advocate
communications; prohibiting service as a judge
advocate for persons serving in certain other
capacities; providing for investigation and
disposition of matters pertaining to the fitness of
military judges; listing rights of victims of certain
offense; defining term; construing section;
authorizing victim petition for certain appeal or

1 relief; defining term; authorizing apprehension of
2 persons reasonably believed to have committed certain
3 offenses; authorizing issuance of warrant of arrest;
4 providing warrant of arrest content requirements;
5 directing warrant of arrest to certain peace
6 officers; defining terms; authorizing orders of
7 arrest and confinement; authorizing certain offenders
8 be ordered into arrest or confinement; providing
9 place of confinement; prohibiting refusal of
10 committed prisoners; requiring report of certain
11 prisoner information; prohibiting confinement in
12 immediate association with certain other prisoners;
13 prohibiting certain punishment before trial;
14 authorizing delivery of certain offenders to civil
15 authorities; directing return of certain offender
16 under certain conditions; authorizing nonjudicial
17 punishments; limiting or withholding certain
18 authority; delegating powers; listing nonjudicial
19 punishments authorized to be imposed by certain
20 authorities; limiting duration of nonjudicial
21 punishments; requiring notice and documentation of
22 nonjudicial punishments; providing right to certain
23 trial for certain nonjudicial punishments;
24 authorizing certain appeal; authorizing absence from
drill or certain training; prohibiting the barring of
certain trials; prohibiting duplicative nonjudicial
punishments; limiting time period to impose
nonjudicial punishments; applying forfeiture of pay
to certain period; authorizing promulgation of rules;
classifying courts-martial; defining types of courts-
martial; establishing courts-martial jurisdiction for
force components; establishing general courts-
martial; establishing special courts-martial
jurisdiction; establishing jurisdiction of summary
courts-martial; providing for summary courts-martial
appeal procedure; authorizing certain persons to
convene general courts-martial; authorizing certain
persons to convene special courts-martial;
authorizing certain persons to convene summary
courts-martial; authorizing certain persons to serve
on courts-martial; requiring military judge for
general and special courts-martial; providing for
military judge selection and qualifications;
providing certain counsel for general and special
courts-martial; providing selection, qualifications
and reimbursement for certain counsel; providing for
court reporters and interpreters for courts-martial;

1 assembling courts-martial with members; providing
2 certain membership requirements; providing for
3 certain alternate members; requiring certain amount
4 of members under certain circumstances; providing for
5 charges and specifications; providing certain writing
6 contents; requiring certain notice and determination;
7 prohibiting compulsory self-incrimination; requiring
8 disclosure of certain rights; prohibiting immaterial
9 or degrading statements or evidence; requiring
10 preliminary hearing before referral to general court-
11 martial; requiring preliminary hearing be conducted
12 by an impartial hearing officer; requiring submission
13 of certain written report; requiring disclosure of
14 certain rights; requiring preliminary hearing be
15 recorded; providing effect of evidence of uncharged
16 offense; providing effect of certain violation;
17 defining victim; requiring disposition of certain
18 guidance; requiring certain advice to convening
19 authority and consultations before referral for
20 trial; defining term; requiring service of charges;
21 determining commencement of trial; authorizing
22 continuances of certain hearings; establishing
23 procedure for courts-martial trials; prohibiting
24 unlawful influencing action of the court; providing
duties of trial counsel, defense counsel and
assistant counsel; authorizing military judge to call
court into session under certain conditions;
requiring certain proceeding be conducted in certain
manner; authorizing continuances for parties;
authorizing certain challenges; establishing
challenges procedures; requiring certain military
officials take an oath; establishing statute of
limitations for military offenses; prohibiting
certain second trials; providing effect of certain
pleas; requiring opportunity to obtain witnesses and
other evidence in trials by courts-martial; making
refusal to appear or testify an indirect contempt
offense; authorizing punishment for certain contempt
offenses; establishing contempt proceeding
requirements; authorizing depositions be ordered;
establishing deposition proceeding requirements;
admitting sworn testimony from records of courts of
inquiry into evidence; establishing affirmative
defense of lack of mental responsibility; requiring
certain voting and rulings on military proceedings;
requiring votes for conviction, sentencing and other
matters; requiring announcement of certain findings

1 and sentencing; authorizing certain plea agreements;
2 requiring separate record of certain proceedings;
3 dispersing copies of proceedings; prohibiting cruel
4 and unusual punishments; providing certain sentencing
5 guidelines; establishing effective dates of
6 sentences; providing for execution of confinement;
7 reducing member pay grade under certain
8 circumstances; forfeiting pay and allowances during
9 confinement; authorizing enforcement of fines or
10 adjudication of pecuniary liability; prohibiting
11 finding of sentence on the ground of error of law;
12 authorizing a finding of a lesser included offense;
13 providing posttrial processing requirements in
14 general and special courts-martial; limiting
15 authority to act on sentence in specified posttrial
16 circumstances; authorizing posttrial actions in
17 summary courts-martial and certain general and
18 special courts-martial; authorizing entry of judgment
19 and providing content requirements; authorizing
20 waiver to right of appeal; authorizing withdrawal of
21 appeal; authorizing the State of Oklahoma to make
22 certain appeals; providing rehearing proceeding
23 requirements; requiring judge advocate review of
24 finding of guilty in summary court-martial; requiring
transmittal and review of certain records;
establishing a Military Court of Appeals for the
State of Oklahoma; providing appointment of appellate
military judge; requiring review of certain decisions
by the Court of Criminal Appeals; authorizing review
of certain findings and sentence by State Judge
Advocate; appointing certain appellate counsel;
requiring hearing for vacation of the suspension of a
certain sentence; authorizing petition for a new
trial on certain grounds; authorizing the remittance
and suspension of the unexecuted part of any
sentence; restoring certain rights, privileges and
property; declaring certain proceeds, findings and
sentences to be final; requiring leave to be taken
pending review of certain courts-martial convictions;
prohibiting trial for persons lacking mental capacity
or mental responsibility; making certain actions
those of a principal; prohibiting persons acting as
accessory after the fact; authorizing conviction of
certain charged offenses; defining term; making an
attempt a punishable offense; making a conspiracy a
punishable offense; making soliciting others to
commit an offense a punishable offense; making

1 malingering a punishable offense; making a breach of
2 medical quarantine a punishable offense; making
3 desertion a punishable offense; making certain
4 absences a punishable offense; making missing the
5 movement of or jumping from certain vessels a
6 punishable offense; making certain actions of
7 resistance, flight, breach of arrest, and escape
8 punishable offenses; making use of contemptuous words
9 against officials a punishable offense; making
10 certain actions toward a superior commissioned
11 officer a punishable offense; making willful
12 disobedience of a superior commissioned officer a
13 punishable offense; making certain insubordinate
14 conduct a punishable offense; making failure to obey
15 an order or regulation a punishable offense; making
16 cruelty and maltreatment a punishable offense; making
17 certain activities with military recruit or trainee a
18 punishable offense; making mutiny or sedition a
19 punishable offense; making certain actions of a
20 sentinel or lookout a punishable offense; making
21 certain actions of disrespect toward a sentinel or
22 lookout a punishable offense; making release of
23 prisoner without authority and drinking with prisoner
24 a punishable offense; making unlawful detention a
punishable offense; making misconduct as a prisoner a
punishable offense; making misbehavior before the
enemy a punishable offense; making actions of
compelling surrender a punishable offense; making
improper use of countersign a punishable offense;
making forcing a safeguard a punishable offense;
making aiding the enemy a punishable offense; making
unlawful disclosure of confidential information a
punishable offense; making certain actions related to
public records a punishable offense; making certain
fraudulent actions a punishable offense; making
unlawful enlistment, appointment or separation a
punishable offense; making certain false or
unauthorized actions a punishable offense; making
wearing certain unauthorized apparel a punishable
offense; making certain false statements and swearing
a punishable offense; making certain actions related
to military property a punishable offense; making
certain actions related to captured or abandoned
property a punishable offense; making certain actions
related to nonmilitary property a punishable offense;
making improper hazarding of vessel or aircraft a
punishable offense; making drunkenness and

1 incapacitation a punishable offense; making certain
2 actions related to controlled substances a punishable
3 offense; making certain actions related to
4 endangerment a punishable offense; making riot and
5 breach of peace a punishable offense; making
6 provoking speeches or gestures a punishable offense;
7 making wrongful broadcast or distribution of intimate
8 images a punishable offense; making sexual assault a
9 punishable offense; providing certain defenses;
10 making other sexual misconduct a punishable offense;
11 making fraternization a punishable offense; making
12 larceny and wrongful appropriation a punishable
13 offense; making actions of fraud against the
14 government a punishable offense; making assault a
15 punishable offense; making stalking a punishable
16 offense; making perjury a punishable offense; making
17 subornation of perjury a punishable offense; making
18 obstructing justice a punishable offense; making
19 concealing a serious offense a punishable offense;
20 making wrongful refusal to testify a punishable
21 offense; making noncompliance with procedural rules a
22 punishable offense; making wrongful interference with
23 adverse administrative proceeding a punishable
24 offense; making retaliation a punishable offense;
making conduct unbecoming an officer and a gentleman
a punishable offense; making certain general conduct
a punishable offense; authorizing courts of inquiry
to convene under certain circumstances; providing
courts of inquiry proceeding requirements;
authorizing administration of oaths; requiring
certain sections of law be explained to enlisted
members; authorizing complaints of wrongdoing;
requiring certain redress of injuries to property;
authorizing the Governor to delegate certain
authorities; establishing precedence of regulations;
directing publication in the Oklahoma Administrative
Code; directing payment and collection of certain
fines be deposited in certain fund; construing the
Code; providing immunity for certain duties; limiting
jurisdiction for certain crimes; requiring certain
continuances for certain military service; amending
44 O.S. 2011, Section 208, which relates to
discrimination against officers or enlisted members;
expanding discrimination prohibition to cover members
of the Civil Air Patrol and certain judges;
authorizing all appropriate means necessary to
protect national security; amending 44 O.S. 2011,

1 Sections 241, 242, 243, 244, 247 and 248, which
2 relate to the State Guard Act; updating citations;
3 modifying rule-making authority; providing
4 applicability; requiring certain executive order;
5 updating gender-neutral references; eliminating
6 certain jurisdiction; renaming act; amending 21 O.S.
7 2011, Section 133, which relates to military
8 punishment; modifying applicability; amending 75 O.S.
9 2011, Sections 250.4, as last amended by Section 12,
10 Chapter 430, O.S.L. 2014, 251, as amended by Section
11 1, Chapter 252, O.S.L. 2016, 255 and 256 (75 O.S.
12 Supp. 2018, Sections 250.4 and 251), which relate to
13 the Administrative Procedures Act; exempting military
14 publications from certain provisions of the act;
15 directing the Secretary of State to publish military
16 publications; determining certain numberings;
17 modifying contents of Oklahoma Register; providing
18 for codification of military publications in the
19 Oklahoma Administrative Code; establishing deadline
20 for certain publications; repealing 44 O.S. 2011,
21 Sections 3200, 3201, 3202, 3203, 3204, 3205, 3206,
22 3207, 3211, 3212, 3213, 3214, 3215, 3216, 3217, 3218,
23 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241, 3242,
24 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252,
3253, 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265,
3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274,
3275, 3276, 3277, 3278, 3279, 3280, 3291, 3292, 3293,
3294, 3295, 3296, 3297, 3298, 3301, 3302, 3303, 3304,
3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313,
3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331,
3332, 3333, 3334, 3335, 3336, 3337, 3338, 3339, 3340,
3341, 3342, 3343, 3344, 3345, 3346, 3347, 3348, 3349,
3350, 3351, 3352, 3353, 3354, 3355, 3356, 3357, 3358,
3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366, 3367,
3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376,
3377, 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385,
3386, 3387, 3388, 3389, 3390, 3391, 3392, 3393, 3394,
3395, 3396, 3397, 3399, 4000, 4001 and 4002, which
relate to the Uniform State Code of Military Justice;
providing for codification; providing for
recodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 219. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 26.2 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 The Adjutant General or the Adjutant General's designee may
5 request from a district attorney or law enforcement agency
6 confidential criminal justice information relating to the member of
7 the National Guard for use in an administrative or court-martial
8 action. Unless the district attorney or law enforcement agency
9 determines that dissemination of the requested confidential criminal
10 justice information would jeopardize a pending investigation or
11 other pending criminal proceeding, the district attorney or the
12 investigating law enforcement agency shall disseminate the requested
13 information to the Adjutant General or the Adjutant General's
14 designee.

15 SECTION 220. AMENDATORY 44 O.S. 2011, Section 21, is
16 amended to read as follows:

17 Section 21. The Military Department of the State of Oklahoma is
18 hereby established and shall be ~~administered and controlled by~~ under
19 the command and control of the Governor as Commander in Chief, with
20 the Adjutant General as the executive and administrative head
21 thereof. The Military Department shall be constituted of the state
22 military forces, as defined by Section 801 of this title, and is
23 hereby organized into a joint headquarters ~~with separate branches~~
24 ~~for the~~ which shall be identified as the joint forces headquarters.

1 The joint forces headquarters shall be jointly staffed by Army
2 National Guard and ~~the~~ Air National Guard, and there personnel who,
3 under the authority and direction of the Adjutant General, shall
4 support and assist the Adjutant General in the exercise of command
5 and control over state military forces when not activated for
6 federal duty under Title 10 of the United States Code. There shall
7 be assigned to ~~each~~ the joint force headquarters, officers, enlisted
8 ~~men~~ personnel and civilian employees as may be considered necessary
9 by the Governor as Commander in Chief and as may be authorized by
10 law and Army National Guard regulations and Air National Guard
11 regulations.

12 SECTION 221. AMENDATORY 44 O.S. 2011, Section 212, is
13 amended to read as follows:

14 Section 212. A. If a suit or proceeding shall be commenced in
15 any court by any person against any ~~officer or enlisted person~~
16 member of the military forces for any act done by ~~such officer or~~
17 ~~enlisted person~~ the member in his or her official capacity in the
18 discharge of any duty under Sections 1 through 117, 208 through
19 ~~235.2~~ 237, or 241 through 250, or 800 through 946 of this title, or
20 against any ~~soldier~~ member of the state military forces as defined
21 in Section 801 of this title acting under the authority or order of
22 any such officer, or by virtue of any warrant issued by him or her
23 pursuant to law, it shall be the duty of the Attorney General or
24 Judge Advocate to defend such person.

1 Sections 800 through 946 of this title shall be known and may be
2 cited as the "Oklahoma Uniform Code of Military Justice". With the
3 Oklahoma Uniform Code of Military Justice, good order and discipline
4 shall be established and safeguarded within state military forces
5 pursuant to Section 40 of Article V of the Oklahoma Constitution.

6 SECTION 223. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 801 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 1. Definitions.

10 A. As used in the Oklahoma Uniform Code of Military Justice,
11 unless the context otherwise requires:

12 1. "Accuser" means a person who signs and swears to charges,
13 any person who directs that charges nominally be signed and sworn to
14 by another, and any other person who has an interest other than an
15 official interest in the prosecution of the accused;

16 2. "Adjutant General" means the commander and most senior
17 military officer of the Oklahoma National Guard appointed by the
18 Governor with the advice and consent of the Senate. The Adjutant
19 General exercises command and control over the Oklahoma National
20 Guard when it is not activated for federal duty under Title 10 of
21 the United States Code. The Adjutant General serves as the
22 executive and administrative head of the Military Department of the
23 State of Oklahoma as provided for in Section 21 of this title;

1 3. "Administrative control (ADCON)" means the control or
2 exercise of authority over subordinate units and other organizations
3 or units with respect to administration and support, including
4 control of resources and equipment, personnel management, unit
5 logistics, individual and unit training, readiness, mobilization,
6 demobilization and other matters not included in the operational
7 missions of the subordinate units or other organizations or units.
8 Lawfully issued orders implementing administrative control may
9 incorporate references to the Oklahoma Uniform Code of Military
10 Justice (OUCMJ) for disciplinary purposes;

11 4. "Allowance" means an amount of money provided to members of
12 the state military forces when adequate services or facilities are
13 not provided by the military. Allowances are usually provided tax-
14 free for basic housing, basic subsistence, cost of living, clothing
15 expenses and separation from family members;

16 5. "Arrest in quarters" means moral restraint, as opposed to
17 physical restraint, limiting the liberty of an officer. The limits
18 of arrest in quarters are set by the authority imposing nonjudicial
19 punishment and may extend beyond the physical quarters of an
20 officer;

21 6. "Assistant Adjutant General" means an officer appointed by
22 the Adjutant General to assist the Adjutant General in the discharge
23 and performance of his or her duties. An Assistant Adjutant General
24 shall meet the qualifications prescribed by law for the Adjutant

1 General. At least one Assistant Adjutant General for the Army
2 National Guard and one Assistant Adjutant General for the Air
3 National Guard are customarily appointed to establish lines of
4 command and administration into each component of the state military
5 forces. Additional assistant adjutants general may be appointed
6 pursuant to law, custom or National Guard regulations;

7 7. "Cadet" or "officer candidate" means a person who is
8 enrolled in or attending a state military academy, a regional
9 training institute, or any other formal education program for the
10 purpose of becoming a commissioned officer in the state military
11 forces;

12 8. "Classified information" means:

- 13 a. any information or material that has been determined
14 pursuant to federal law, by an Executive Order issued
15 by the President in execution of federal law, or a
16 lawfully promulgated federal regulation, to require
17 protection against unauthorized disclosure for reasons
18 of national security and that is so designated, and
19 b. any restricted data, as defined in Section 11(y) of
20 the Atomic Energy Act of 1954 (42 U.S.C., Section
21 2014(y));

22 9. "Code" means the Oklahoma Uniform Code of Military Justice
23 (OUCMJ);

24

1 10. "Command authority" means the authority that a commander
2 lawfully exercises over subordinates by virtue of rank or
3 assignment. Disciplinary authority under the OUCMJ is inherent to
4 command authority;

5 11. "Commander" means a designated commissioned officer vested
6 with command authority pursuant to law, regulation, assignment,
7 lawful order or custom;

8 12. "Commanding officer" includes only commissioned officers of
9 the state military forces and shall include officers in charge only
10 when administering nonjudicial punishment under Section 815 (Article
11 15) of this title. "Commander" has the same meaning as "commanding
12 officer" unless the context otherwise requires;

13 13. "Component" means one of two constituent parts that make up
14 the state military forces, namely the army force responsible for
15 land-based operations and the air force responsible for aerial
16 operations and related support activities;

17 14. "Confidential information" means any information or
18 material that shall be designated as confidential pursuant to
19 Section 24A.27 of Title 51 of the Oklahoma Statutes and any
20 information or material that may be kept confidential pursuant to
21 Section 24A.28 of Title 51 of the Oklahoma Statutes that has not
22 previously been released by an appropriate authority;

23
24

1 15. "Convening authority" includes, in addition to the person
2 who convened the court, a commissioned officer commanding for the
3 time being or a successor in command to the convening authority;

4 16. "Day" means calendar day and is not synonymous with the
5 term "unit training assembly". Any punishment authorized by this
6 act which is measured in terms of days shall, when served in a
7 status other than annual field training, be construed to mean
8 succeeding duty days;

9 17. "Court of Criminal Appeals" means the Oklahoma Court of
10 Criminal Appeals, the highest court in the State of Oklahoma with
11 appellate jurisdiction in criminal cases. It is the court of last
12 resort for courts-martial conducted under the Code;

13 18. "Duty status" means duty in the state military forces under
14 an order issued by authority of law, and includes travel to and from
15 such duty;

16 19. "Enlisted member" means a person in an enlisted grade;

17 20. "Fatigue duty" means general labor performed by members of
18 the state military forces when unarmed, including but not limited to
19 cleaning, digging, loading, organizing, etc.;

20 21. "Fine" means a type of punishment that makes a member
21 pecuniarily liable to the State of Oklahoma for the amounts
22 specified by nonjudicial punishment or adjudged by a court-martial.
23 A fine may be paid in cash by a member, collected by deduction from
24

1 the current pay of a member or collected by deduction on settlement
2 of the pay account of a member upon discharge;

3 22. "Forfeiture" means a loss of monetary compensation provided
4 to members of the Oklahoma National Guard or Oklahoma State Guard
5 for performance of military duties as a result of nonjudicial
6 punishment or as adjudged by a court-martial. A forfeiture is
7 applicable to basic pay and allowances if total forfeitures of pay
8 and allowances are specifically adjudged by a general court-martial;
9 provided, that forfeitures other than total forfeitures shall not
10 apply to special pay, other than hardship duty pay, or proficiency
11 or incentive pay;

12 23. "Grade" means a step or degree in a graduated scale of
13 office or military rank which is established and designated as a
14 grade by law or regulation;

15 24. "Installation commander" means a commissioned officer
16 responsible for the protection of assigned forces and assets,
17 lodging, dining and administrative reporting, regardless of the
18 command relations of the various types of forces present on the
19 installation. For purposes of this definition, an installation is
20 an Armed Forces Reserve Center, air base, armory, camp, post,
21 readiness center, office building, the joint forces headquarters or
22 other facility, location, structure or property so designated as an
23 "installation" by the Adjutant General;

24

1 25. "Joint forces headquarters" means the joint headquarters
2 provided for and established in Section 21 of this title;

3 26. "Judge advocate" means a commissioned officer of the
4 organized state military forces who is a member in good standing of
5 the bar of the highest court of a state, and is certified or
6 designated as a judge advocate in the Judge Advocate General's Corps
7 of the Army or the Air Force, or a reserve component of the same;

8 27. "May" is used in a permissive sense. The phrase "no person
9 may" means that no person is required, authorized, or permitted to
10 do the act prescribed;

11 28. "Military court" means a court-martial or a court of
12 inquiry;

13 29. "Military Court of Appeals" means the intermediate
14 appellate court of record established in Section 866 of this title
15 (Article 66) and charged with conducting an appellate review of
16 questions of law arising from general and special courts-martial
17 proceedings conducted by the state military forces and, when
18 necessary in furtherance of its jurisdiction, reviewing all
19 petitions for extraordinary relief properly brought before it;

20 30. "Military department" means the administrative agency
21 established in Section 21 of this title charged with coordinating
22 and supervising state military forces. The military department
23 consists of a joint forces headquarters, an army component and an
24 air force component under the command and control of the Adjutant

1 General when not activated for federal duty under Title 10 of the
2 United States Code;

3 31. "Military judge" means a judicial officer who presides over
4 a general or special court-martial and is detailed in accordance
5 with Section 826 of this title (Article 26);

6 32. "Military offenses" means those offenses designated as
7 punitive articles under Sections 877 (Article 77, Principals), 878
8 (Article 78, Accessory after the fact), 879 (Article 79, Conviction
9 of offense charged, lesser included offenses, and attempts), 880
10 (Article 80, Attempts), 881 (Article 81, Conspiracy), 882 (Article
11 82, Soliciting commission of offenses), 883 (Article 83,
12 Malingering), 884 (Article 84, Breach of medical quarantine), 885
13 (Article 85, Desertion), 886 (Article 86, Absence without leave),
14 887 (Article 87, Missing movement; jumping from vessel), 887A
15 (Article 87A, Resistance, flight, breach of arrest, and escape), 888
16 (Article 88, Contempt toward officials), 889 (Article 89, Disrespect
17 toward superior commissioned officer; assault of superior
18 commissioned officer), 890 (Article 90, Willfully disobeying
19 superior commissioned officer), 891 (Article 91, Insubordinate
20 conduct toward warrant officer, or noncommissioned officer), 892
21 (Article 92, Failure to obey order or regulation), 893 (Article 93,
22 Cruelty and maltreatment), 893A (Article 93A, Prohibited activities
23 with military recruit or trainee by person in position of special
24 trust), 894 (Article 94, Mutiny or sedition), 895 (Article 95,

1 Offenses by sentinel or lookout), 895A (Article 95A, Disrespect
2 toward sentinel or lookout), 896 (Article 96, Release of prisoner
3 without authority; drinking with prisoner), 897 (Article 97,
4 Unlawful detention), 898 (Article 98, Misconduct as prisoner), 899
5 (Article 99, Misbehavior before the enemy), 900 (Article 100,
6 Subordinate compelling surrender), 901 (Article 101, Improper use of
7 countersign), 902 (Article 102, Forcing a safeguard), 903B (Article
8 103B, Aiding the enemy), 903C (Article 103C, Unlawful disclosure of
9 confidential information), 904 (Article 104, Public records
10 offenses), 904A (Article 104A, Fraudulent enlistment, appointment,
11 or separation), 904B (Article 104B, Unlawful enlistment,
12 appointment, or separation), 905A (Article 105A, False or
13 unauthorized pass offenses), 906A (Article 106A, Wearing
14 unauthorized insignia, decoration, badge, ribbon, device, or lapel
15 button), 907 (Article 107, False official statements; false
16 swearing), 908 (Article 108, Military property-loss, damage,
17 destruction, or wrongful disposition), 908A (Article 108A, Captured
18 or abandoned property), 909 (Article 109, Property other than
19 military property-waste, spoilage, or destruction), 910 (Article
20 110, Improper hazarding of vessel or aircraft), 912 (Article 112,
21 Drunkenness and other incapacitation offenses), 912A (Article 112A,
22 Wrongful use, possession, etc., of controlled substances), 914
23 (Article 114, Endangerment offenses), 916 (Article 116, Riot or
24 breach of peace), 917 (Article 117, Provoking speeches or gestures),

1 917A (Article 117A, Wrongful broadcast or distribution of intimate
2 visual images), 920 (Article 120, Sexual assault generally), 920C
3 (Article 120C, Other sexual misconduct), 920D (Article 120D,
4 Fraternization), 921 (Article 121, Larceny and wrongful
5 appropriation), 924 (Article 124, Frauds against the government),
6 928 (Article 128, Assault), 930 (Article 130, Stalking), 931
7 (Article 131, Perjury), 931A (Article 131A, Subornation of perjury),
8 931B (Article 131B, Obstructing justice), 931C (Article 131C,
9 Misprision of serious offense), 931D (Article 131D, Wrongful refusal
10 to testify), 931F (Article 131F, Noncompliance with procedural
11 rules), 931G (Article 131G, Wrongful interference with adverse
12 administrative proceeding), 932 (Article 132, Retaliation), 933
13 (Article 133, Conduct unbecoming an officer and a gentleman) and 934
14 (Article 134, General article) of this title;

15 33. "Military publication" means a written publication of an
16 administrative nature such as a regulation, instruction, pamphlet,
17 circular, permanent or general order, numbered adjutant general
18 policy memorandum or blank form promulgated or published by or under
19 the authority of the Adjutant General. An order or directive issued
20 by the Adjutant General that is operational in nature or issued in
21 execution of a military mission shall not be included within the
22 meaning of military publication. Rules of procedure published by
23 the State Judge Advocate for the Military Court of Appeals are
24 included in the meaning of military publication;

1 34. "Month's pay" means the amount of basic pay that would be
2 paid to a member if that member were serving on active duty;

3 35. "National security" means the national defense and foreign
4 relations of the United States;

5 36. "Nexus" means the appearance of a connection between a
6 nonmilitary offense and the state military forces which brings
7 discredit or dishonor to the state military forces due to
8 representations of membership in the state military forces by a
9 member. Such representations may be made directly or indirectly,
10 including but not limited to publication on social media or other
11 electronic communication platforms;

12 37. "Noncommissioned officer" means an enlisted member above
13 the pay grade of E-4 or an enlisted member in the army component of
14 state military forces holding the rank of corporal;

15 38. "Nonjudicial punishment" means punishment imposed
16 administratively by a commander or officer in charge for minor
17 offenses in lieu of a court-martial;

18 39. "Officer" means a commissioned or warrant officer;

19 40. "Officer in charge" means a commissioned or warrant officer
20 designated as such by appropriate authority;

21 41. "Pay" means monetary compensation provided to members of
22 the state military forces in exchange for performance of military
23 duties carried out pursuant to a lawful order or otherwise under the
24 authority of law, including basic pay, special pay, proficiency pay

1 and incentive pay. "Pay" shall not mean allowances as defined in
2 this section;

3 42. "Rank" means the order of precedence among members of the
4 state military forces;

5 43. "Record", when used in connection with the proceedings of a
6 court-martial, means:

7 a. an official written transcript, written summary, or
8 other writing relating to the proceedings, or

9 b. an official audiotape, videotape, digital image or
10 file, or similar material from which sound, or sound
11 and visual images, depicting the proceedings may be
12 reproduced;

13 44. "Regulation" means a written, administrative expression of
14 executive authority issued by an executive branch officer which
15 carries with it the force and effect of law due to inherent command
16 authority or express delegation of authority by the legislative
17 branch; regulations provided for in the Code are published and
18 indexed in the Oklahoma Administrative Code;

19 45. "Rehearing" means a new trial on the findings, on the
20 sentence, or on both;

21 46. "Restriction" means moral restraint, as opposed to physical
22 restraint, limiting access to physical places or participation in
23 certain activities. In comparison to arrest in quarters,
24 "restriction" is a lesser punishment;

1 47. "Senior Assistant Adjutant General" means an Assistant
2 Adjutant General who either possesses the most time in grade or has
3 been designated in writing by the Adjutant General as the Senior
4 Assistant Adjutant General for his or her force component
5 irrespective of time in grade;

6 48. "Senior force component judge advocate" means the judge
7 advocate assigned as chief legal advisor to the Senior Assistant
8 Adjutant General of the same component of the state military forces
9 as the accused. Unless there is a conflict of interest, a senior
10 force component judge advocate may also serve as legal counsel to
11 the Adjutant General and may be designated as the State Judge
12 Advocate. The customary duty station of a senior force component
13 judge advocate is joint forces headquarters;

14 49. "Shall" is used in an imperative sense;

15 50. "State" means one of the several states, the District of
16 Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin
17 Islands;

18 51. "State active duty" means full-time duty in the state
19 military forces under an order of the Governor or otherwise issued
20 by authority of law, and paid by state funds, and includes travel to
21 and from such duty;

22 52. "State Judge Advocate" means a member of the Oklahoma
23 National Guard qualified as a judge advocate, as defined in this
24

1 section, and who is designated in writing by the Adjutant General as
2 the State Judge Advocate;

3 53. "State military forces" means the National Guard of the
4 State of Oklahoma, which includes an army component and an air force
5 component, as defined in Title 32, United States Code, and Section
6 41 of this title; the Oklahoma State Guard, organized pursuant to
7 Section 109 of Title 32, United States Code, and established
8 pursuant to the Oklahoma State Guard Act; and any other military
9 force organized under the Constitution and laws of the State of
10 Oklahoma when not in a status placing them under exclusive federal
11 jurisdiction pursuant to Chapter 47 of Title 10, United States Code.
12 Unless otherwise established by Oklahoma law, the unorganized
13 militia, as provided for in Section 41 of this title, or any other
14 state military force that does not meet this definition shall not be
15 considered part of the "state military forces" under the Code;

16 54. "Superior commissioned officer" means a commissioned
17 officer superior in rank or command;

18 55. "Supplies" means materiel, equipment and stores of all
19 types possessed or lawfully controlled by state military forces; and

20 56. "Title 32 active duty" means training or other duty, other
21 than inactive duty, performed by a member of the Army National Guard
22 of the United States or the Air National Guard of the United States
23 in the member's status as a member of the Oklahoma National Guard
24 pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of the

1 United States Code for which the member is entitled to pay from the
2 United States or for which the member has waived pay from the United
3 States.

4 B. Other terms not specifically defined herein shall be defined
5 by military rules or regulations and customs and usage of the
6 National Guard and the Armed Forces of the United States.

7 C. If a term is not defined in either subsection A of this
8 section nor defined as provided in subsection B of this section, it
9 shall receive the construction and usage customarily accorded by
10 reference to dictionaries of the English language in existence at
11 the time of adoption of this act.

12 SECTION 224. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 802 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 2. Persons subject to the Oklahoma Uniform Code of
16 Military Justice.

17 A. The Oklahoma Uniform Code of Military Justice applies to all
18 members of the state military forces at all times who are not in
19 active federal service, as defined by Title 10 of the United States
20 Code.

21 B. Subject matter jurisdiction is established if more likely
22 than not a nexus exists between an offense, either military or
23 nonmilitary, and the state military forces. Courts-martial shall
24

1 have primary jurisdiction over military offenses as defined in the
2 Code.

3 C. The civilian courts shall have primary jurisdiction over
4 nonmilitary offenses when an act or omission violates both the Code
5 and local criminal law. In such a case, a court-martial may be
6 initiated only after the civilian authority has declined to
7 prosecute or has dismissed the charge, provided jeopardy has not
8 attached. When a member is not in a duty status under Title 32 of
9 the United States Code or on state active duty orders, there shall
10 be a rebuttable presumption that subject matter jurisdiction does
11 not exist under the Code. The Governor or Adjutant General may
12 promulgate additional regulations prescribing how a convening
13 authority shall determine the existence of a nexus between a
14 nonmilitary offense and state military forces.

15 D. Jurisdiction over attempted crimes, conspiracy crimes,
16 solicitation and accessory crimes shall be determined by the
17 underlying offense.

18 E. If a commander or officer in charge determines that a nexus
19 exists between a nonmilitary offense and the state military forces,
20 for purposes of administrative action, the commander or officer in
21 charge may impose nonjudicial punishment regardless of whether
22 courts-martial jurisdiction is then possessed or later acquired by
23 the state military forces.

24

1 SECTION 225. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 803 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 3. Jurisdiction to try certain personnel.

5 A. Each person discharged from the state military forces who is
6 later charged with having fraudulently obtained a discharge is,
7 subject to Section 904A of this title, subject to trial by court-
8 martial on that charge and is, after apprehension, subject to the
9 Oklahoma Uniform Code of Military Justice while in custody under the
10 direction of the state military forces for that trial. Upon
11 conviction of the charge, the person shall be subject to trial by
12 court-martial for all offenses under the Oklahoma Uniform Code of
13 Military Justice committed before the fraudulent discharge.

14 B. No person who has deserted from the state military forces
15 shall be relieved from amenability to the jurisdiction of the
16 Oklahoma Uniform Code of Military Justice by virtue of a separation
17 from any later period of service.

18 SECTION 226. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 804 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 RESERVED.

22 SECTION 227. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 805 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 5. Territorial applicability of Oklahoma Uniform Code
2 of Military Justice.

3 The Oklahoma Uniform Code of Military Justice applies at all
4 times and in all places. Courts-martial and courts of inquiry may
5 be convened while state military forces are deployed outside the
6 state with the same jurisdiction and powers as if the proceedings
7 were held inside the state, and offenses committed outside the state
8 may be tried and punished either inside or outside of the state.

9 SECTION 228. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 806 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 6. Judge advocates.

13 A. The senior force component judge advocates in each of the
14 state's military force components or those judge advocates'
15 delegates shall make frequent inspections in the field in
16 supervision of the administration of military justice in that force
17 component.

18 B. Convening authorities shall at all times communicate
19 directly with their judge advocates in matters relating to the
20 administration of military justice. The judge advocate of any
21 command is entitled to communicate directly with the judge advocate
22 of a superior or subordinate command, or with the State Judge
23 Advocate.

24

1 C. No person who, with respect to a case, serves in a capacity
2 specified in subsection D of this section may later serve as a judge
3 advocate to any reviewing or convening authority upon the same case.

4 D. The capacities referred to in subsection C of this section
5 are, with respect to the case involved, any of the following:

6 1. Preliminary hearing officer, court member, military judge,
7 military magistrate, or appellate judge; or

8 2. Counsel who have acted in the same case or appeared in any
9 proceeding before a military judge, preliminary hearing officer, or
10 appellate court.

11 SECTION 229. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 806A of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

14 ARTICLE 6A. Investigation and disposition of matters pertaining
15 to the fitness of military judges.

16 The Adjutant General shall promulgate regulations prescribing
17 procedures for the investigation and disposition of charges,
18 allegations, or information pertaining to the fitness of a military
19 judge to perform the duties of the judge's position. To the extent
20 practicable, the procedures shall be uniform for both force
21 components.

22 SECTION 230. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 806B of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 6B. Rights of the victim of an offense under the
2 Oklahoma Uniform Code of Military Justice.

3 A. A victim of an offense under the Oklahoma Uniform Code of
4 Military Justice has the following rights:

5 1. The right to be reasonably protected from the accused;

6 2. The right to reasonable, accurate and timely notice of any
7 of the following:

8 a. a public hearing concerning the continuation of
9 confinement prior to trial of the accused,

10 b. a preliminary hearing under Section 832 of this title
11 (Article 32) relating to the offense,

12 c. a court-martial relating to the offense,

13 d. a public proceeding of the parole board relating to
14 the offense, and

15 e. the release or escape of the accused;

16 3. The right not to be excluded from any public hearing or
17 proceeding described in paragraph 2 of this subsection unless the
18 military judge or preliminary hearing officer, as applicable, after
19 receiving clear and convincing evidence, determines that testimony
20 by the victim of an offense under the Code would be materially
21 altered if the victim heard other testimony at that hearing or
22 proceeding;

23 4. The right to be reasonably heard at any of the following:
24

- a. a public hearing concerning the continuation of confinement prior to trial of the accused,
- b. a sentencing hearing relating to the offense, and
- c. a public proceeding of the parole board relating to the offense;

5. The reasonable right to confer with the counsel representing the government at any proceeding described in paragraph 2 of this subsection;

6. The right to receive restitution as provided in law;

7. The right to proceedings free from unreasonable delay; and

8. The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under the Code.

B. In this section, the term "victim of an offense under the Code" means an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under the Oklahoma Uniform Code of Military Justice.

C. Nothing in this section shall be construed:

1. To authorize a cause of action for damages; or

2. To create, to enlarge, or to imply any duty or obligation to any victim of an offense under the Code or other person for the breach of which the State of Oklahoma or any of its officers or employees could be held liable in damages.

D. Enforcement by Military Court of Appeals.

1 1. If the victim of an offense under the Code believes that a
2 preliminary hearing ruling under Section 832 of this title (Article
3 32) or a court-martial ruling violates the rights of the victim
4 afforded by paragraph 4 of subsection A of this section, the victim
5 may petition the Military Court of Appeals for a writ of mandamus to
6 require the preliminary hearing officer or the court-martial to
7 comply with the provisions of paragraph 4 of subsection A of this
8 section.

9 2. If the victim of an offense under the Code is subject to an
10 order to submit to a deposition, notwithstanding the availability of
11 the victim to testify at the court-martial trying the accused for
12 the offense, the victim may petition the Military Court of Appeals
13 for a writ of mandamus to quash such order.

14 3. A petition for a writ of mandamus described in this
15 subsection shall be forwarded directly to the Military Court of
16 Appeals, by such means as may be prescribed by regulations
17 promulgated by the Adjutant General, and, to the extent practicable,
18 shall have priority over all other proceedings before the court.

19 4. Paragraph 1 of this subsection applies with respect to the
20 protections afforded by the following:

- 21 a. this section,
- 22 b. Section 832 (Article 32) of the Code,

23
24

- 1 c. Military Rule of Evidence 412, relating to the
2 admission of evidence regarding a victim's sexual
3 background,
4 d. Military Rule of Evidence 513, relating to the
5 psychotherapist-patient privilege,
6 e. Military Rule of Evidence 514, relating to the victim
7 advocate-victim privilege,
8 f. Military Rule of Evidence 615, relating to the
9 exclusion of witnesses.

10 PART II.

11 APPREHENSION AND RESTRAINT

12 SECTION 231. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 807 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 7. Apprehension.

16 A. Apprehension is the taking of a person into custody.

17 B. Any person authorized by the Oklahoma Uniform Code of
18 Military Justice or by Chapter 47 of Title 10 of the United States
19 Code, or by regulations issued under either, to apprehend persons
20 subject to the Oklahoma Uniform Code of Military Justice, any
21 marshal of a court-martial appointed pursuant to the provisions of
22 the Code, and any civil officer or peace officer having authority to
23 apprehend offenders under the laws of the United States or of a
24

1 state, may do so upon reasonable belief that an offense has been
2 committed and that the person apprehended committed it.

3 C. Commissioned officers, warrant officers and noncommissioned
4 officers have authority to quell quarrels, frays, and disorders
5 among persons subject to the Code and to apprehend persons subject
6 to the Code who take part therein.

7 SECTION 232. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 808 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 8. Warrant of arrest, issuance, contents, service.

11 A. A warrant of arrest for the purposes of securing the
12 presence of an accused at any court-martial proceedings or in
13 execution of a sentence of confinement may be issued by a general or
14 special court-martial convening authority.

15 B. The warrant issued under this section shall:

16 1. Be in writing and in the name of the State of Oklahoma;

17 2. State the date when issued and the municipality or county
18 where issued;

19 3. State the name and rank of the person to be arrested;

20 4. State the offense charged against the person to be arrested;

21 5. Command that the person against whom the complaint was made
22 be arrested, conducted to a designated civil or military facility
23 under the control of the state or federal government, placed in
24 custody as directed, and booked;

1 6. Be signed by an authorized officer of the armed forces of
2 this state; and

3 7. Specify the amount of bail.

4 C. The warrant shall be directed to all peace officers in the
5 state or federal government and the provost marshal of the Oklahoma
6 National Guard. Such officers shall have the power and authority to
7 conduct the arrested person to the designated facility without
8 regard to territorial jurisdiction.

9 SECTION 233. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 809 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 9. Imposition of restraint.

13 A. Arrest is the restraint of a person by an order, not imposed
14 as a punishment for an offense, directing that person to remain
15 within certain specified limits. Confinement is the physical
16 restraint of a person.

17 B. An enlisted member may be ordered into arrest or confinement
18 by any commissioned officer by an order, oral or written, delivered
19 in person or through other persons subject to the Oklahoma Uniform
20 Code of Military Justice. A commanding officer may authorize
21 warrant officers or noncommissioned officers to order enlisted
22 members of his or her command or subject to his or her authority
23 into arrest or confinement.

24

1 C. A commissioned officer or a warrant officer may be ordered
2 into arrest or confinement only by a commanding officer to whose
3 authority he or she is subject, by an order, oral or written,
4 delivered in person, or by another commissioned officer. The
5 authority to order such persons into arrest or confinement shall not
6 be delegated.

7 D. No person may be ordered into arrest or confinement except
8 for probable cause.

9 E. Nothing in this section limits the authority of persons
10 authorized to apprehend offenders to secure the custody of an
11 alleged offender until proper authority may be notified.

12 SECTION 234. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 810 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 10. Restraint of persons charged.

16 A. 1. Unless otherwise provided in paragraph 2 of this
17 subsection, any person subject to the Oklahoma Uniform Code of
18 Military Justice who is charged with an offense under the Code may
19 be ordered into arrest or confinement, as the circumstances require.

20 2. When a person subject to the Code is charged only with an
21 offense that is normally tried by summary court-martial, the person
22 ordinarily shall not be ordered into confinement.

23 B. 1. When a person subject to the Code is ordered into arrest
24 or confinement before trial, immediate steps shall be taken:

- 1 a. to inform the person of the specific offense of which
2 the person is accused, and
3 b. to try the person or to dismiss the charges and
4 release the person.

5 2. To facilitate compliance with paragraph 1 of this
6 subsection, the Adjutant General shall promulgate regulations
7 setting forth procedures relating to referral for trial, including
8 procedures for prompt forwarding of the charges and specifications
9 and, if applicable, the preliminary hearing report submitted under
10 Section 832 of this title (Article 32).

11 SECTION 235. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 811 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 11. Place of confinement, reports and receiving of
15 prisoners.

16 A. Persons confined before or during trial by court-martial
17 shall be confined in any place of confinement under the control of
18 any of the armed forces, in any county jail or in any penal or
19 correctional facility under the control of the Oklahoma Department
20 of Corrections.

21 B. No provost marshal, commander of a guard, master at arms,
22 warden, keeper, or officer of a place of confinement designated in
23 subsection A of this section shall refuse to receive or keep any
24 prisoner committed to his or her charge, when the committing person

1 furnishes a statement, signed by him or her, of the offense charged
2 against the prisoner.

3 C. Every commander of a guard, master at arms, warden, keeper,
4 or officer of a place of confinement designated in subsection A of
5 this section, to whose charge a prisoner is committed shall, within
6 twenty-four (24) hours after that commitment or as soon as he or she
7 is relieved from guard, report to the commanding officer of the
8 prisoner the name of the prisoner, the offense charged against him
9 or her, and the name of the person who ordered or authorized the
10 commitment.

11 SECTION 236. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 812 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 12. Prohibition of confinement of members of the state
15 military forces with enemy prisoners and certain others.

16 No member of the state military forces shall be placed in
17 confinement in immediate association with:

- 18 1. Enemy prisoners; or
- 19 2. Other individuals:
 - 20 a. who are detained under the law of war and are foreign
 - 21 nationals, and
 - 22 b. who are not members of the armed forces.

1 SECTION 237. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 813 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 13. Punishment prohibited before trial.

5 No person, while being held for trial, shall be subjected to
6 punishment or penalty other than arrest or confinement upon the
7 charges pending against him or her, nor shall the arrest or
8 confinement imposed upon him or her be any more rigorous than the
9 circumstances required to insure his or her presence, but he or she
10 may be subjected to minor punishment during that period for
11 infractions of discipline.

12 SECTION 238. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 814 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 14. Delivery of offenders to civil authorities.

16 A. Under such regulations as the Adjutant General may
17 prescribe, a person subject to the Oklahoma Uniform Code of Military
18 Justice who is in a duty status and who is accused of an offense
19 against civil authority may be delivered, upon request, to the civil
20 authority for trial.

21 B. When delivery under this section is made to any civil
22 authority of a person undergoing sentence of a court-martial, the
23 delivery, if followed by conviction in a civil tribunal, interrupts
24 the execution of the sentence of the court-martial, and the

1 offender, after having answered to the civil authorities of his or
2 her offense shall, upon the request of competent military authority,
3 be returned to the place of original custody for the completion of
4 his or her sentence.

5 PART III.

6 NONJUDICIAL PUNISHMENT

7 SECTION 239. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 815 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 15. Commanding officer's nonjudicial punishment.

11 A. Except as provided in subsection B of this section, any
12 commanding officer and, for purposes of this section, any officer in
13 charge, may impose disciplinary punishments for minor offenses
14 arising under the punitive articles of the Oklahoma Uniform Code of
15 Military Justice without the intervention of a court-martial.

16 B. Any superior commander may limit or withhold the exercise of
17 nonjudicial punishment authority by subordinate commanders,
18 including limiting authority over certain categories of military
19 personnel or offenses. Likewise, individual cases may be reserved
20 by a superior commander. A superior authority may limit or withhold
21 any power that a subordinate might otherwise exercise under this
22 article.

23 C. Except as provided in subsection K of this section, the
24 Governor, the Adjutant General, or a general officer in command may

1 delegate the powers established under this section to a principal
2 assistant who is a member of the state military forces and is also a
3 member of the same force component as the accused.

4 D. Any commanding officer may impose upon enlisted members of
5 the officer's command:

6 1. An admonition;

7 2. A reprimand;

8 3. The withholding of privileges for not more than six (6)
9 months which need not be consecutive;

10 4. The forfeiture of pay of not more than seven (7) days' pay;

11 5. A fine of not more than seven (7) days' pay;

12 6. A reduction to the next inferior pay grade, if the grade
13 from which demoted is within the promotion authority of the officer
14 imposing the reduction or any officer subordinate to the one who
15 imposes the reduction;

16 7. Extra duties, including fatigue or other duties, for not
17 more than fourteen (14) days, which need not be consecutive; and

18 8. Restriction to certain specified limits, with or without
19 suspension from duty, for not more than fourteen (14) days, which
20 need not be consecutive.

21 E. Any commanding officer of the grade of major or above may
22 impose upon enlisted members of the officer's command:

23 1. An admonition;

24 2. A reprimand;

1 3. The withholding of privileges for not more than six (6)
2 months which need not be consecutive;

3 4. The forfeiture of not more than one-half (1/2) of one (1)
4 month's pay per month for two (2) months;

5 5. A fine of not more than one (1) month's pay;

6 6. A reduction to the lowest or any intermediate pay grade, if
7 the grade from which demoted is within the promotion authority of
8 the officer imposing the reduction or any officer subordinate to the
9 one who imposes the reduction, but an enlisted member in a pay grade
10 above E-4 shall not be reduced more than two pay grades;

11 7. Extra duties, including fatigue or other duties, for not
12 more than forty-five (45) days which need not be consecutive; and

13 8. Restriction to certain specified limits, with or without
14 suspension from duty, for not more than sixty (60) days which need
15 not be consecutive.

16 F. The Governor, the Adjutant General, an officer exercising
17 general or special court-martial convening authority, or a general
18 officer in command may impose:

19 1. Upon officers of the officer's command:

20 a. any punishment authorized in subsection E of this
21 section, except for the punishments provided in
22 paragraphs 6 and 7 of subsection E of this section,
23 and
24

1 b. arrest in quarters for not more than thirty (30) days
2 which need not be consecutive; and

3 2. Upon enlisted members of the officer's command, any
4 punishment authorized in subsection E of this section.

5 Admonitions or reprimands given as nonjudicial punishment to
6 commissioned officers and warrant officers shall be administered in
7 writing. In all other cases, unless otherwise prescribed by
8 regulations promulgated by the Adjutant General, such punishments
9 may be administered either orally or in writing.

10 G. Whenever any punishments are combined to run consecutively,
11 the total length of the combined punishment shall not exceed the
12 authorized duration of the longest punishment included in the
13 combination, and there shall be an apportionment of punishments so
14 that no single punishment in the combination exceeds its authorized
15 length under this section.

16 H. Once the commander has determined that nonjudicial
17 punishment is appropriate, the commander shall provide reasonable
18 notice to the member of his or her intent to impose nonjudicial
19 punishment. At the time the commander provides notification as
20 required in this subsection, the member shall be entitled to examine
21 all statements and other evidence that the commander has examined
22 and intends to rely upon as the basis for punishment. The member
23 shall be provided a copy of the documentary evidence unless it is
24 privileged, classified, or otherwise restricted by law, regulation,

1 or instruction. At the time the commander provides notification as
2 required in this subsection, the commander shall also inform the
3 member as to the quantum of punishment potentially to be imposed.
4 While a member undergoing nonjudicial punishment is not entitled to
5 representation by a duly appointed defense counsel, the member may
6 seek legal advice from any judge advocate available for this
7 purpose.

8 I. The right to demand trial by court-martial in lieu of
9 nonjudicial punishment shall arise only when arrest in quarters or
10 restriction will be considered as punishments. If the commanding
11 officer determines that arrest in quarters or restriction will be
12 considered as punishments, prior to the offer of nonjudicial
13 punishment the accused shall be notified in writing of the right to
14 demand trial by court-martial. Should the commanding officer
15 determine that the punishment options will not include arrest in
16 quarters or restriction, the accused shall be notified that there is
17 no right to trial by court-martial in lieu of nonjudicial
18 punishment. Upon notification by the commander or officer in charge
19 of his or her intent to impose nonjudicial punishment that includes
20 arrest in quarters or restriction, the accused shall be afforded a
21 reasonable amount of time to confer with legal counsel and to
22 prepare a response.

23 J. A person punished under this section who considers the
24 punishment unjust or disproportionate to the offense may, through

1 his or her chain of command, appeal to the Senior Assistant Adjutant
2 General of the same component of the state military forces as the
3 accused within fifteen (15) days after the punishment is announced
4 to the accused. The officer exercising appellate authority may, at
5 his or her discretion, extend the deadline for an appeal. The
6 appeal shall be promptly forwarded and decided, and the member shall
7 not be punished until the appeal is decided. The Senior Assistant
8 Adjutant General exercising appellate authority may exercise the
9 same powers with respect to the punishment imposed as may be
10 exercised under subsection I of this section by the officer who
11 imposed the punishment. Before acting on an appeal from a
12 punishment, the Senior Assistant Adjutant General shall refer the
13 case to a judge advocate for consideration and advice.

14 K. Except for nonjudicial punishment imposed by the Governor or
15 the Adjutant General, the final appellate authority for nonjudicial
16 punishment imposed within state military forces is the Adjutant
17 General. A person punished under this article whose appeal was
18 previously denied by a Senior Assistant Adjutant General may lodge
19 an additional appeal with the Adjutant General within five (5) days
20 after the appeal is denied. In the event the officer imposing
21 nonjudicial punishment is the Senior Assistant Adjutant General, an
22 appeal thereof shall be addressed directly to the Adjutant General.
23 In the event the officer imposing nonjudicial punishment is the
24 Adjutant General, an appeal thereof shall be addressed directly to

1 the Governor. An appeal offered pursuant to this subsection shall
2 be made only in writing. Neither the Governor nor the Adjutant
3 General shall delegate his or her duties as an appellate authority
4 under this subsection.

5 L. Whenever nonjudicial punishment is imposed under this
6 article:

7 1. After adjudication and while the punishment is being carried
8 out or while the adjudged punishment is pending before the appellate
9 authority, the commander or officer in charge who imposed the
10 nonjudicial punishment, upon the request of the accused, may:

- 11 a. excuse the accused from attendance at scheduled unit
12 training assemblies, or
- 13 b. arrange for the accused to drill on alternate dates
14 and in alternate locations; or

15 2. If necessary to maintain good order and discipline within
16 the unit, the commander or officer in charge who imposed the
17 nonjudicial punishment may order the accused to drill on alternate
18 dates and in alternate locations. The order shall be reduced to
19 writing and shall become part of the record of nonjudicial
20 punishment.

21 M. The imposition and enforcement of disciplinary punishment
22 under this section for any act or omission shall not be a bar to
23 trial by court-martial or a civilian court of competent jurisdiction
24 for a crime or offense arising out of the same act or omission; but

1 the fact that a disciplinary punishment has been enforced may be
2 demonstrated by the accused upon trial and, when so demonstrated, it
3 shall be considered in determining the measure of punishment to be
4 adjudged in the event of a finding or verdict of guilty.

5 Nonjudicial punishment shall not be imposed for an offense
6 previously tried by a civilian court unless so authorized by
7 regulations promulgated by the Adjutant General.

8 N. When nonjudicial punishment has been imposed for an offense,
9 punishment shall not again be imposed for the same offense under
10 this section. Once nonjudicial punishment has been imposed, it may
11 not be increased, upon appeal or otherwise. When a commander or
12 officer in charge determines that nonjudicial punishment is
13 appropriate for a particular member, all known offenses determined
14 to be appropriate for disposition by nonjudicial punishment and
15 ready to be considered at that time, including all offenses arising
16 from a single incident or course of conduct, shall be considered
17 together and shall not be made the basis for multiple punishments.
18 This subsection shall in no way restrict the right of a commander to
19 prefer court-martial charges for an offense previously punished
20 under the provisions of this article.

21 O. In accordance with subsection B of Section 843 of this title
22 (Article 43, subsection B), a person accused of an offense is not
23 liable to be punished under this section if the offense was
24 committed more than two (2) years before the imposition of

1 punishment. Periods in which the accused is absent without
2 authority shall be excluded in computing the period of limitation
3 prescribed in this section.

4 P. Whenever a punishment of forfeiture of pay is imposed under
5 this section, the forfeiture shall not apply to pay accruing before
6 the date that punishment is imposed, but only pay accruing on or
7 after the date that punishment is imposed.

8 Q. The Adjutant General may promulgate regulations prescribing
9 the type and form of records to be kept of proceedings conducted
10 pursuant to this section. The Adjutant General may promulgate any
11 other regulations necessary to carry out the provisions of this
12 section.

13 PART IV.

14 COURTS-MARTIAL JURISDICTION

15 SECTION 240. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 816 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 16. Courts-martial classified.

19 A. The three kinds of courts-martial in the state military
20 forces are the following:

21 1. General courts-martial, as described in subsection B of this
22 section;

23 2. Special courts-martial, as described in subsection C of this
24 section; and

1 3. Summary courts-martial, as described in subsection D of this
2 section.

3 B. General courts-martial. General courts-martial are of the
4 following two types:

5 1. A general court-martial consisting of a military judge and
6 eight members, subject to paragraph 3 of subsection E of Section 825
7 and Section 829 of this title (Article 25, subsection E, paragraph
8 3, and Article 29); and

9 2. A general court-martial consisting of a military judge
10 alone, if, before the court is assembled, the accused, knowing the
11 identity of the military judge and after consultation with defense
12 counsel, requests, orally on the record or in writing, a court
13 composed of a military judge alone and the military judge approves
14 the request.

15 C. Special courts-martial. Special courts-martial are of the
16 following two types:

17 1. A special court-martial consisting of a military judge and
18 four members, subject to paragraph 3 of subsection E of Section 825
19 and Section 829 of this title (Article 25, subsection E, paragraph
20 3, and Article 29); and

21 2. A special court-martial consisting of a military judge
22 alone:

23 a. if the case is so referred by the convening authority,
24 subject to Section 819 of this title (Article 19) and

1 such limitations as may be prescribed by regulations
2 promulgated by the Adjutant General, or

3 b. if the case is referred under paragraph 1 of this
4 subsection and, before the court is assembled, the
5 accused, knowing the identity of the military judge
6 and after consultation with defense counsel, requests,
7 orally on the record or in writing, a court composed
8 of a military judge alone and the military judge
9 approves the request.

10 D. Summary court-martial. A summary court-martial consists of
11 one commissioned officer.

12 SECTION 241. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 817 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 17. Jurisdiction of courts-martial in general.

16 A. Each force component shall have court-martial jurisdiction
17 over all persons subject to the Oklahoma Uniform Code of Military
18 Justice. The exercise of jurisdiction by one force component over
19 personnel of the other force component shall be in accordance with
20 regulations promulgated by the Adjutant General.

21 B. In all cases, the force component review after that by the
22 officer with authority to convene a general court-martial for the
23 command which held the trial, where that review is required under
24

1 the Code, shall be carried out by the same force component of which
2 the accused is a member.

3 SECTION 242. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 818 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 18. General courts-martial.

7 Subject to Section 817 of this title (Article 17), general
8 courts-martial shall have jurisdiction to try persons subject to the
9 Oklahoma Uniform Code of Military Justice for any offense made
10 punishable by the Code and may, under such limitations as the
11 Governor or Adjutant General may prescribe by regulation, adjudge
12 any punishment not forbidden by the Code.

13 SECTION 243. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 819 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 19. Jurisdiction of special courts-martial.

17 A. Subject to Section 817 of this title (Article 17), special
18 courts-martial have jurisdiction to try persons subject to the
19 Oklahoma Uniform Code of Military Justice for any offense made
20 punishable by the Code and may, under such limitations prescribed by
21 regulation promulgated by the Governor or Adjutant General, adjudge
22 any punishment not forbidden by the Code except dishonorable
23 discharge, dismissal, confinement for more than one (1) year,
24

1 forfeiture of pay exceeding two-thirds (2/3) pay per month, or
2 forfeiture of pay for more than one (1) year.

3 B. Neither confinement for more than six (6) months, nor
4 forfeiture of pay for more than six (6) months may be adjudged if
5 charges and specifications are referred to a special court-martial
6 consisting of a military judge alone under subparagraph a of
7 paragraph 2 of subsection C of Section 816 of this title (Article
8 16, subsection C, paragraph 2, subparagraph a).

9 SECTION 244. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 820 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 20. Jurisdiction and appeals of summary courts-martial.

13 A. Subject to Section 817 of this title (Article 17), summary
14 courts-martial have jurisdiction to try persons subject to the
15 Oklahoma Uniform Code of Military Justice, except officers, cadets
16 and officer candidates for any offense made punishable by the Code
17 under such limitations as may be prescribed by regulation
18 promulgated by the Governor or Adjutant General. No person with
19 respect to whom summary courts-martial have jurisdiction shall be
20 brought to trial before a summary court-martial if he or she objects
21 thereto. If objection to trial by summary court-martial is made by
22 an accused, trial may be ordered by special or general court-martial
23 as may be appropriate. Summary courts-martial may, under such
24 limitations as may be prescribed by regulation promulgated by the

1 Governor or Adjutant General, adjudge any punishment not forbidden
2 by the Code except dismissal, dishonorable or bad-conduct discharge,
3 confinement for more than one (1) month, hard labor without
4 confinement for more than forty-five (45) days, restriction to
5 specified limits for more than two (2) months, or forfeiture of more
6 than two-thirds (2/3) of one (1) month's pay.

7 B. A summary court-martial is a noncriminal forum. A finding
8 of guilty at a summary court-martial does not constitute a criminal
9 conviction.

10 C. Regular appeals. A person found guilty at a summary court-
11 martial who considers the punishment unjust or disproportionate to
12 the offense may appeal to the Senior Assistant Adjutant General of
13 the same component of the state military forces as the accused
14 within thirty (30) calendar days after the date the accused receives
15 written notice from the convening authority that the convening
16 authority has complied with the requirements of subsection B of
17 Section 860C of this title (Article 860C, subsection B). Before
18 acting on an appeal submitted pursuant to this subsection, the
19 Senior Assistant Adjutant General shall refer the case to a judge
20 advocate for consideration and advice.

21 D. Appeals in certain instances. Except for summary courts-
22 martial convened by the Governor or the Adjutant General, the final
23 appellate authority for summary courts-martial convened pursuant to
24 this Code shall be the Adjutant General. A person found guilty at a

1 summary court-martial whose appeal was previously denied by the
2 Senior Assistant Adjutant General may lodge an additional appeal
3 with the Adjutant General within fifteen (15) calendar days after
4 the appeal is denied. In the event the officer who convened the
5 summary court-martial is the Senior Assistant Adjutant General, an
6 appeal thereof shall be addressed directly to the Adjutant General.
7 In the event the officer who convened the summary court-martial is
8 the Adjutant General, an appeal thereof shall be addressed directly
9 to the Governor. An appeal offered pursuant to this subsection
10 shall be made only in writing. Neither the Governor nor the
11 Adjutant General shall delegate his or her duties as an appellate
12 authority under this subsection.

13 E. The Adjutant General may promulgate regulations prescribing
14 the type and form of records to be kept of appellate proceedings
15 undertaken pursuant to subsections C and D of this section.

16 SECTION 245. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 821 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 RESERVED.

20 PART V.

21 COMPOSITION OF COURTS-MARTIAL

22 SECTION 246. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 822 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 22. Who may convene general courts-martial.

2 A. General courts-martial may be convened by:

3 1. The Governor;

4 2. The Adjutant General;

5 3. Any other commanding officer in the state military forces
6 designated by the Adjutant General; or

7 4. Any other commanding officer in the state military forces
8 designated by the Governor.

9 B. If any such officer is an accuser, the court shall be
10 convened by superior competent authority, and may in any case be
11 convened by such authority if considered desirable by that superior
12 authority.

13 SECTION 247. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 823 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 23. Who may convene special courts-martial.

17 A. Special courts-martial may be convened by:

18 1. Any person who may convene a general court-martial;

19 2. The Senior Assistant Adjutant General of the same component
20 of the state military forces as the accused;

21 3. The officer designated as the army land component commander
22 when the accused is a member of the army component of state military
23 forces;

1 4. The officer designated as the air component commander when
2 the accused is a member of the air component of state military
3 forces;

4 5. The commanding officer of a brigade in the army component of
5 state military forces;

6 6. The commanding officer of a wing in the air component of
7 state military forces; or

8 7. Any other commanding officer designated by the Adjutant
9 General.

10 B. If any such officer is an accuser, the court shall be
11 convened by superior competent authority, and may in any case be
12 convened by such authority if considered desirable by that superior
13 authority.

14 SECTION 248. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 824 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 24. Who may convene summary courts-martial.

18 A. Summary courts-martial may be convened by:

19 1. Any person who may convene a general or special court-
20 martial;

21 2. The commanding officer of a battalion in the army component
22 of state military forces;

23 3. The commanding officer of a group in the air component of
24 state military forces; or

1 4. Any other commanding officer designated by the Adjutant
2 General.

3 B. If any such officer is an accuser, the court shall be
4 convened by superior competent authority, and may in any case be
5 convened by such authority if considered desirable by that superior
6 authority.

7 SECTION 249. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 825 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 25. Who may serve on courts-martial.

11 A. Any commissioned officer who is a member of the same force
12 component as the accused is eligible to serve on all courts-martial
13 for the trial of any person who may lawfully be brought before such
14 courts for trial.

15 B. Any warrant officer who is a member of the same force
16 component as the accused is eligible to serve on general and special
17 courts-martial for the trial of any person, other than a
18 commissioned officer, who may lawfully be brought before such courts
19 for trial.

20 C. 1. Any enlisted member from the same force component as the
21 accused is eligible to serve on a general or special court-martial
22 for the trial of an enlisted member.

23

24

1 2. Before a court-martial with a military judge and members is
2 assembled for trial, an enlisted member who is an accused may
3 personally request, orally on the record or in writing, that:

4 a. the membership of the court-martial be comprised
5 entirely of officers, or

6 b. enlisted members comprise at least one-third (1/3) of
7 the membership of the court-martial, regardless of
8 whether enlisted members have been detailed to the
9 court-martial.

10 3. After such a request, the accused may not be tried by a
11 general or special court-martial if the membership of the court-
12 martial is inconsistent with the request.

13 D. The accused in a court-martial with a military judge and
14 members may, after the findings are announced and before any matter
15 is presented in the sentencing phase, request, orally on the record
16 or in writing, sentencing by members.

17 E. 1. No person subject to the Oklahoma Uniform Code of
18 Military Justice may be tried by a court-martial any member of which
19 is junior to him or her in rank or grade.

20 2. When convening a court-martial, the convening authority
21 shall detail as members thereof such members of the same force
22 component as the accused as, in his or her opinion, are best
23 qualified for the duty by reason of age, education, training,
24 experience, length of service, and judicial temperament. No member

1 of the state military force is eligible to serve as a member of a
2 general or special court-martial when he or she is the accuser or a
3 witness or has acted as preliminary hearing officer or as counsel in
4 the same case.

5 3. The convening authority shall detail not less than the
6 number of members necessary to impanel the court-martial under
7 Section 829 of this title (Article 29).

8 F. Before a court-martial is assembled for the trial of a case,
9 the convening authority may excuse a member of the court from
10 participating in the case. Under regulations promulgated by the
11 Adjutant General, the convening authority may delegate his or her
12 authority under this subsection to his or her staff judge advocate,
13 to an assistant staff judge advocate or to any other principal
14 assistant.

15 SECTION 250. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 826 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 26. Military judge of a general or special court-
19 martial.

20 A. A military judge shall be detailed to each general and
21 special court-martial. The Adjutant General shall promulgate
22 regulations prescribing the manner of selection, certification and
23 detailing of military judges for such general and special courts-
24

1 martial. The military judge shall preside over each open session of
2 the court-martial to which he or she has been detailed.

3 B. A military judge shall be a member of the bar of the highest
4 court of a state, or a member of the bar of a federal court.

5 C. A military judge shall be qualified, by reason of education,
6 training, experience, and judicial temperament, for duty as a
7 military judge and shall be one of the following:

8 1. A commissioned officer of the state military forces who is a
9 member of the bar of the highest court of a state, or a member of
10 the bar of a federal court, and who is certified to be qualified for
11 such duty by the State Judge Advocate;

12 2. A retired commissioned officer of the state military forces
13 who is a member of the bar of the highest court of a state, or a
14 member of the bar of a federal court, and who is certified to be
15 qualified for such duty by the State Judge Advocate;

16 3. A judge advocate in any department of the Armed Forces of
17 the United States serving on active duty within the meaning of Title
18 10 of the United States Code who is certified to be qualified for
19 duty as a military judge by the Judge Advocate General of the armed
20 force of which such military judge is a member;

21 4. A judge presently serving in any judicial district within
22 the State of Oklahoma who possesses at least one (1) year of trial
23 experience and who currently serves or previously served as a judge
24

1 advocate in any department of the Armed Forces of the United States,
2 to include reserve components of the same;

3 5. A retired judge or justice who served in any judicial
4 capacity within the judicial department of the State of Oklahoma and
5 who previously served as a judge advocate in any department of the
6 Armed Forces of the United States, to include reserve components of
7 the same;

8 6. A federal district court judge presently serving in any
9 federal judicial district within the State of Oklahoma who possesses
10 at least one (1) year of trial experience and who previously served
11 as a judge advocate in any department of the Armed Forces of the
12 United States, to include reserve components of the same; or

13 7. A retired federal district court judge or retired federal
14 appellate court judge who previously served as a judge advocate in
15 any department of the Armed Forces of the United States, to include
16 reserve components of the same.

17 D. 1. In accordance with regulations prescribed under
18 subsection A of this section, a military judge of a general or
19 special court-martial shall be designated for detail by the senior
20 force component judge advocate of the same force component as the
21 accused.

22 2. Neither the convening authority nor any member of the staff
23 of the convening authority shall prepare or review any report
24 concerning the effectiveness, fitness, or efficiency of the military

1 judge so detailed, which relates to the military judge's performance
2 of duty as a military judge.

3 3. A commissioned officer of the state military forces who is
4 certified to be qualified for duty as a military judge of a general
5 court-martial:

6 a. may perform such duties only when the officer is
7 assigned and directly responsible to the senior force
8 component judge advocate of the force component of
9 which the military judge is a member, and

10 b. may perform duties of a judicial or nonjudicial nature
11 other than those relating to the officer's primary
12 duty as a military judge of a general court-martial
13 only when such duties are assigned to the officer by
14 or with the approval of that senior force component
15 judge advocate.

16 4. A commissioned officer of any department of the Armed Forces
17 of the United States serving on active duty within the meaning of
18 Title 10 of the United States Code who, pursuant to the Oklahoma
19 Uniform Code of Military Justice and the regulations promulgated
20 pursuant to subsection A of this section, is certified to be
21 qualified for duty as a military judge of a general court-martial
22 shall not be assigned other duties of a judicial or nonjudicial
23 nature other than those relating to the officer's primary duty as a
24 military judge of a general court-martial, except when such duties

1 are assigned to the officer by or with the approval of the Judge
2 Advocate General of the armed force of which the military judge is a
3 member.

4 5. In accordance with regulations promulgated by the Adjutant
5 General, assignments of military judges under this Article who are
6 members of the state military forces shall be for appropriate
7 minimum periods, subject to such exceptions as may be authorized in
8 the regulations.

9 E. No person is eligible to act as military judge in a case if
10 he or she is the accuser, a witness or has acted as preliminary
11 hearing officer or a counsel in the same case.

12 F. The military judge of a court-martial may not consult with
13 the members of the court except in the presence of the accused,
14 trial counsel, and defense counsel, nor may he or she vote with the
15 members of the court.

16 G. A military judge who is a commissioned officer in the state
17 military forces may be detailed under subsection A of this section
18 to a court-martial or a proceeding under subsection A of Section 830
19 of this title (Article 30, subsection A) that is convened in a
20 different force component of the state military forces, when so
21 permitted by the senior force component judge advocate of the force
22 component of which the military judge is a member.

23

24

1 SECTION 251. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 826 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 252. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 827 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 27. Detail of trial counsel and defense counsel.

9 A. 1. Trial counsel and defense counsel shall be detailed for
10 each general and special court-martial. Assistant trial counsel and
11 assistant and associate defense counsel may be detailed for each
12 general and special court-martial. The Adjutant General shall
13 promulgate regulations providing for the manner in which counsel are
14 detailed for such courts-martial and for the persons who are
15 authorized to detail counsel for such courts-martial.

16 2. No person who, with respect to a case, has served as a
17 preliminary hearing officer, court member, military judge, military
18 magistrate, or appellate judge, may later serve as trial counsel,
19 assistant trial counsel, or, unless expressly requested by the
20 accused, as defense counsel or assistant or associate defense
21 counsel in the same case. No person who has acted for the
22 prosecution may act later in the same case for the defense, nor may
23 any person who has acted for the defense act later in the same case
24 for the prosecution.

1 B. Trial counsel, defense counsel, or assistant defense counsel
2 detailed for a general or a special court-martial:

3 1. Shall be a judge advocate who is a graduate of an accredited
4 law school or is a member of the bar of a federal court or of the
5 highest court of a state; and

6 2. Shall be certified as competent to perform such duties by
7 the senior force component judge advocate of the same force
8 component of the state military forces of which he or she is a
9 member.

10 C. Any costs arising from the detailing of a military defense
11 counsel from a National Guard organization other than the Oklahoma
12 National Guard may be reimbursed out of funds available in the
13 Military Justice Fund established in Section 941 of this title.

14 SECTION 253. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 828 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 28. Detail or employment of reporters and interpreters.

18 Under such regulations as the Adjutant General may prescribe,
19 the convening authority of a court-martial or court of inquiry shall
20 detail or employ qualified court reporters, who shall record the
21 proceedings of and testimony taken before that court. Under like
22 regulations the convening authority of a court-martial or court of
23 inquiry may detail or employ interpreters who shall interpret for
24 the court.

1 SECTION 254. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 829 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 29. Assembly and impaneling of members; detail of new
5 members and military judges.

6 A. The military judge shall announce the assembly of a general
7 or special court-martial with members. After such a court-martial
8 is assembled, no member may be absent, unless the member is excused:

9 1. As a result of a challenge;

10 2. Under subparagraph b of paragraph 1 of subsection B of this
11 section; or

12 3. By order of the military judge or the convening authority
13 for disability or other good cause.

14 B. 1. Under rules promulgated by the Adjutant General, the
15 military judge of a general or special court-martial with members
16 shall:

17 a. after determination of challenges, impanel the court-
18 martial, and

19 b. excuse the members who, having been assembled, are not
20 impaneled.

21 2. In a general court-martial, the military judge shall impanel
22 eight members.

23 3. In a special court-martial, the military judge shall impanel
24 four members.

1 C. In addition to members specified in subsection B of this
2 section, the military judge shall impanel alternate members, if the
3 convening authority authorizes alternate members.

4 D. 1. If, after members are impaneled, the membership of the
5 court-martial is reduced to:

6 a. fewer than six members with respect to a general
7 court-martial, or

8 b. fewer than four members with respect to a special
9 court-martial,

10 the trial may not proceed unless the convening authority details new
11 members and, from among the members so detailed, the military judge
12 impanels new members sufficient in number to provide the membership
13 specified in paragraph 2 of this subsection.

14 2. The membership referred to in paragraph 1 of this subsection
15 is as follows:

16 a. at least six but not more than eight members with
17 respect to a general court-martial, and

18 b. four members with respect to a special court-martial.

19 E. If the military judge is unable to proceed with the trial
20 because of disability or otherwise, a new military judge shall be
21 detailed to the court-martial.

22 F. 1. In the case of new members detailed under subsection D
23 of this section, the trial may proceed with the new members present
24 after the evidence previously introduced is read or, in the case of

1 audiotape, videotape, or similar recording, is played, in the
2 presence of the new members, the military judge, the accused, and
3 counsel for both sides.

4 2. In the case of a new military judge under subsection E of
5 this section, the trial shall proceed as if no evidence had been
6 introduced, unless the evidence previously introduced is read or, in
7 the case of audiotape, videotape, or similar recording, is played,
8 in the presence of the new military judge, the accused, and counsel
9 for both sides.

10 PART VI.

11 PRETRIAL PROCEDURE

12 SECTION 255. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 830 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 30. Charges and specifications.

16 A. Charges and specifications:

17 1. May be preferred only by a person subject to the Oklahoma
18 Uniform Code of Military Justice; and

19 2. Shall be preferred by presentment in writing, signed under
20 oath before a commissioned officer of the armed forces who is
21 authorized to administer oaths.

22 B. The writing specified in paragraph 2 of subsection A of this
23 section shall state that the signer:

24

1 1. Has personal knowledge of, or has investigated, the matters
2 set forth in the charges and specifications; and

3 2. The matters set forth in the charges and specifications are
4 true, to the best of the knowledge and belief of the signer.

5 C. When charges and specifications are preferred under
6 subsection A of this section, the proper authority shall, as soon as
7 practicable:

8 1. Inform the person accused of the charges and specifications;
9 and

10 2. Determine what disposition should be made of the charges and
11 specifications in the interest of justice and discipline.

12 SECTION 256. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 831 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 31. Compulsory self-incrimination prohibited.

16 A. No person subject to the Oklahoma Uniform Code of Military
17 Justice shall compel any person to incriminate himself or herself or
18 to answer any question the answer to which may tend to incriminate
19 him or her.

20 B. No person subject to the Code shall interrogate or request
21 any statement from an accused or a person suspected of an offense
22 without first informing that person of the nature of the accusation
23 and advising that person that the person does not have to make any
24 statement regarding the offense of which the person is accused or

1 suspected and that any statement made by the person may be used as
2 evidence against the person in an administrative board proceeding,
3 in nonjudicial punishment, or in a trial by court-martial.

4 C. No person subject to the Code shall compel any person to
5 make a statement or produce evidence in the course of an
6 administrative board proceeding, nonjudicial punishment or before
7 any military court if the statement or evidence is not material to
8 the issue and may tend to degrade the person.

9 D. No statement obtained from any person in violation of this
10 section or through the use of coercion, unlawful influence, or
11 unlawful inducement may be received in evidence against the person
12 in an administrative board proceeding, in nonjudicial punishment or
13 in a trial by court-martial.

14 SECTION 257. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 832 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 32. Preliminary hearing required before referral to
18 general court-martial.

19 A. In general.

20 1. a. Except as provided in subparagraph b of this
21 paragraph, a preliminary hearing shall be held before
22 referral of charges and specifications for trial by
23 general court-martial. The preliminary hearing shall
24 be conducted by an impartial hearing officer, detailed

1 by the convening authority in accordance with
2 subsection B of this section.

3 b. Under regulations promulgated by the Adjutant General,
4 a preliminary hearing need not be held if the accused
5 submits a written waiver to the convening authority
6 and the convening authority determines that a hearing
7 is not required.

8 2. The purpose of the preliminary hearing shall be limited to
9 determining the following:

10 a. whether or not the specification alleges an offense
11 under the Oklahoma Uniform Code of Military Justice,

12 b. whether or not there is probable cause to believe that
13 the accused committed the offense charged,

14 c. whether or not the convening authority has court-
15 martial jurisdiction over the accused and over the
16 offense, and

17 d. a recommendation as to the disposition that should be
18 made of the case.

19 B. Hearing officer.

20 1. A preliminary hearing under this section shall be conducted
21 by an impartial hearing officer, who shall be a judge advocate who
22 is certified under paragraph 2 of subsection B of Section 827 of
23 this title (Article 27, subsection B, paragraph 2).

1 2. Whenever practicable, the hearing officer shall be equal in
2 grade or senior in grade to military counsel who are detailed to
3 represent the accused or the government at the preliminary hearing.

4 C. Report to convening authority. After a preliminary hearing
5 under this section, the hearing officer shall submit to the
6 convening authority a written report, accompanied by a recording of
7 the preliminary hearing as required under subsection E of this
8 section, that includes the following:

9 1. For each specification, a statement of the reasoning and
10 conclusions of the hearing officer with respect to determinations
11 under paragraph 2 of subsection A of this section, including a
12 summary of relevant witness testimony and documentary evidence
13 presented at the hearing and any observations of the hearing officer
14 concerning the testimony of witnesses and the availability and
15 admissibility of evidence at trial;

16 2. Recommendations for any necessary modifications to the form
17 of the charges or specifications;

18 3. An analysis of any additional information submitted after
19 the hearing by the parties or by a victim of an offense that, under
20 such rules as the Adjutant General may promulgate, is relevant to
21 disposition under Sections 830 and 834 of this title (Articles 30
22 and 34); and

23 4. A statement of action taken on evidence adduced with respect
24 to uncharged offenses, as described in subsection F of this section.

1 D. Rights of accused.

2 1. The accused shall be advised of the charges against the
3 accused and of the accused's right to be represented by counsel at
4 the preliminary hearing under this section. The accused has the
5 right to be represented at the preliminary hearing as provided in
6 Section 838 of this title (Article 38) and in regulations prescribed
7 under that article.

8 2. The accused may cross-examine witnesses who testify at the
9 preliminary hearing and present additional evidence that is relevant
10 to the issues for determination under paragraph 2 of subsection A of
11 this section.

12 3. The presentation of evidence and examination, including
13 cross-examination, of witnesses at a preliminary hearing shall be
14 limited to the matters relevant to determinations under paragraph 2
15 of subsection A of this section.

16 E. Effect of evidence of uncharged offense. If evidence
17 adduced in a preliminary hearing conducted under subsection A of
18 this section indicates that the accused committed an uncharged
19 offense, the hearing officer may consider the subject matter of that
20 offense without the accused having first been charged with the
21 offense if the accused:

22 1. Is present at the preliminary hearing;

23 2. Is informed of the nature of each uncharged offense
24 considered; and

1 3. Is afforded the opportunities for representation, cross-
2 examination, and presentation consistent with subsection D of this
3 section.

4 F. Effect of violation. The requirements of this section are
5 binding on all persons administering the Code, but failure to follow
6 the requirements does not constitute jurisdictional error. A defect
7 in a report under subsection C of this section is not a basis for
8 relief if the report is in substantial compliance with subsection C
9 of this section.

10 SECTION 258. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 833 of Title 44, unless there is
12 created a duplication in numbering, reads as follows:

13 ARTICLE 33. Disposition guidance.

14 The Adjutant General shall issue nonbinding guidance regarding
15 factors that commanders, convening authorities, staff judge
16 advocates, and judge advocates should take into account when
17 exercising their duties with respect to disposition of charges and
18 specifications in the interest of justice and discipline under
19 Sections 830 and 834 of this title (Articles 30 and 34). Such
20 guidance shall take into account, with appropriate consideration of
21 military requirements, the principles contained in official guidance
22 of the United States Attorney General to attorneys for the
23 government with respect to disposition of federal criminal cases in
24

1 accordance with the principle of fair and evenhanded administration
2 of federal criminal law.

3 SECTION 259. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 834 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 34. Advice to convening authority before referral for
7 trial.

8 A. General court-martial.

9 1. Staff judge advocate advice required before referral.

10 Before referral of charges and specifications to a general court-
11 martial for trial, the convening authority shall submit the matter
12 to the staff judge advocate for advice, which the staff judge
13 advocate shall provide to the convening authority in writing. The
14 convening authority may not refer a specification under a charge to
15 a general court-martial unless the staff judge advocate advises the
16 convening authority in writing that:

- 17 a. the specification alleges an offense under the
- 18 Oklahoma Uniform Code of Military Justice,
- 19 b. there is probable cause to believe that the accused
- 20 committed the offense charged, and
- 21 c. a court-martial would have jurisdiction over the
- 22 accused and the offense.

23 2. Staff judge advocate recommendation as to disposition.

24 Together with the written advice provided under paragraph 1 of this

1 subsection, the staff judge advocate shall provide a written
2 recommendation to the convening authority as to the disposition that
3 should be made of the specification in the interest of justice and
4 discipline.

5 3. Staff judge advocate advice and recommendation to accompany
6 referral. When a convening authority makes a referral for trial by
7 general court-martial, the written advice of the staff judge
8 advocate under paragraph 1 of this subsection and the written
9 recommendation of the staff judge advocate under paragraph 2 of this
10 subsection with respect to each specification shall accompany the
11 referral.

12 B. Special court-martial; convening authority consultation with
13 judge advocate. Before referral of charges and specifications to a
14 special court-martial for trial, the convening authority shall
15 consult a judge advocate on relevant legal issues.

16 C. General and special courts-martial; correction of charges
17 and specifications before referral. Before referral for trial by
18 general court-martial or special court-martial, changes may be made
19 to charges and specifications:

20 1. To correct errors in form; and

21 2. When applicable, to conform to the substance of the evidence
22 contained in a report under subsection C of Section 832 of this
23 title (Article 32, subsection C).

24

1 D. Referral defined. In this section, the term "referral"
2 means the order of a convening authority that charges and
3 specifications against an accused be tried by a specified court-
4 martial.

5 SECTION 260. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 835 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 35. Service of charges; commencement of trial.

9 A. In general. Trial counsel detailed for a court-martial
10 under Section 827 of this title (Article 27) shall cause to be
11 served upon the accused a copy of the charges and specifications
12 referred for trial.

13 B. Commencement of trial.

14 1. Subject to paragraph 2 of this subsection, no trial or other
15 proceeding of a general court-martial or a special court-martial,
16 including any session under subsection A of Section 839 of this
17 title (Article 39, subsection A) may be held over the objection of
18 the accused:

19 a. with respect to a general court-martial, from the time
20 of service through the fifth day after the date of
21 service, or

22 b. with respect to a special court-martial, from the time
23 of service through the third day after the date of
24 service.

1 as prescribed in the most recent edition of the Manual for Courts-
2 Martial, United States, including all amendments thereto adopted
3 from time to time, except when such rules are contrary to or
4 inconsistent with the Code.

5 C. The Governor or Adjutant General may promulgate additional
6 regulations applicable to courts-martial procedure. All regulations
7 made under this article shall be uniform insofar as practicable.

8 SECTION 262. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 837 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 37. Unlawfully influencing action of court.

12 A. No authority convening a general, special, or summary court-
13 martial nor any other commanding officer, or officer serving on the
14 staff thereof, shall censure, reprimand, or admonish the court or
15 any member, military judge, or counsel thereof, with respect to the
16 findings or sentence adjudged by the court, or with respect to any
17 other exercise of its or his or her functions in the conduct of the
18 proceeding. No person subject to the Oklahoma Uniform Code of
19 Military Justice shall attempt to coerce or, by an unauthorized
20 means, influence the action of the court-martial or any other
21 military tribunal or any member thereof, in reaching the findings or
22 sentence in any case, or the action of any convening, approving, or
23 reviewing authority with respect to his or her judicial acts. The

24

1 foregoing provisions of this subsection shall not apply with respect
2 to:

3 1. General instructional or informational courses in military
4 justice if such courses are designed solely for the purpose of
5 instructing members of a command in the substantive and procedural
6 aspects of courts-martial; or

7 2. To statements and instructions given in open court by the
8 military judge or counsel.

9 B. In the preparation of an effectiveness, fitness, or
10 efficiency report or any other report or document used in whole or
11 in part for the purpose of determining whether a member of the state
12 military forces is qualified to be advanced in grade, or in
13 determining the assignment or transfer of a member of the state
14 military forces, or in determining whether a member of the state
15 military forces should be retained, no person subject to the Code
16 may, in preparing any such report:

17 1. Consider or evaluate the performance of duty of any such
18 member as a member of a court-martial; or

19 2. Give a less favorable rating or evaluation of any member of
20 the state military forces because of the zeal with which such
21 member, as counsel, represented any accused before a court-martial.

22 SECTION 263. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 838 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 38. Duties of trial counsel and defense counsel.

2 A. The trial counsel of a general or special court-martial
3 shall prosecute in the name of the State of Oklahoma, and shall,
4 under the direction of the court, prepare the record of the
5 proceedings.

6 B. 1. The accused has the right to be represented in his or
7 her defense before a general or special court-martial or at a
8 preliminary hearing under Section 832 of this title (Article 32) as
9 provided in this subsection.

10 2. The accused may be represented by civilian counsel if
11 provided by the accused.

12 3. The accused may be represented:

13 a. by military counsel detailed under Section 827 of this
14 title (Article 27), or

15 b. by military counsel of his or her own selection if
16 that counsel is reasonably available as determined
17 under regulations prescribed under paragraph 7 of this
18 subsection.

19 4. If the accused is represented by civilian counsel, military
20 counsel detailed or selected under paragraph 3 of this subsection
21 shall act as associate counsel unless excused at the request of the
22 accused.

23 5. Except as provided under paragraph 6 of this subsection, if
24 the accused is represented by military counsel of his or her own

1 selection under subparagraph b of paragraph 3 of this subsection,
2 any military counsel detailed under subparagraph a of paragraph 3 of
3 this subsection shall be excused.

4 6. The accused is not entitled to be represented by more than
5 one military counsel. However, the person authorized under
6 regulations prescribed under Section 827 of this title (Article 27)
7 to detail counsel, in his or her sole discretion:

8 a. may detail additional military counsel as assistant
9 defense counsel, and

10 b. if the accused is represented by military counsel of
11 his or her own selection under subparagraph b of
12 paragraph 3 of this subsection, may approve a request
13 from the accused that military counsel detailed under
14 subparagraph a of paragraph 3 of this subsection, act
15 as associate defense counsel.

16 7. The Adjutant General shall, by regulation, define
17 "reasonably available" for the purpose of subparagraph b of
18 paragraph 3 of this subsection, and establish procedures for
19 determining whether the military counsel selected by an accused
20 under that paragraph is reasonably available. Such regulations may
21 not prescribe any limitation based on the reasonable availability of
22 counsel solely on the grounds that the counsel selected by the
23 accused is from a force component other than the one of which the
24 accused is a member. To the maximum extent practicable, such

1 regulations shall establish uniform policies between the force
2 components of the state military forces while recognizing the
3 differences in the circumstances and needs of both force components.

4 C. In any court-martial proceeding resulting in a conviction,
5 the defense counsel:

6 1. May forward for attachment to the record of proceedings a
7 brief of such matters as he or she determines should be considered
8 in behalf of the accused on review (including any objection to the
9 contents of the record which he or she considers appropriate);

10 2. May assist the accused in the submission of any matter under
11 Section 860, 860A or 860B of this title (Article 60, 60A or 60B);
12 and

13 3. May take other action authorized by the Oklahoma Uniform
14 Code of Military Justice.

15 D. An assistant trial counsel of a general court-martial may,
16 under the direction of the trial counsel or when he or she is
17 qualified to be a trial counsel as required by Section 827 of this
18 title (Article 27), perform any duty imposed by law, regulation, or
19 the custom of the service upon the trial counsel of the court. An
20 assistant trial counsel of a special court-martial may perform any
21 duty of the trial counsel.

22 E. An assistant defense counsel of a general or special court-
23 martial may perform any duty imposed by law, regulation, or the
24 custom of the service upon counsel for the accused.

1 SECTION 264. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 839 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 39. Sessions.

5 A. At any time after the service of charges which have been
6 referred for trial to a court-martial composed of a military judge
7 and members, the military judge may, subject to Section 835 of this
8 title (Article 35), call the court into session without the presence
9 of the members for the purpose of:

10 1. Hearing and determining motions raising defenses or
11 objections which are capable of determination without trial of the
12 issues raised by a plea of not guilty;

13 2. Hearing and ruling upon any matter which may be ruled upon
14 by the military judge under the Oklahoma Uniform Code of Military
15 Justice, whether or not the matter is appropriate for later
16 consideration or decision by the members of the court;

17 3. Holding the arraignment and receiving the pleas of the
18 accused;

19 4. Conducting a sentencing proceeding and sentencing the
20 accused under paragraph 1 of subsection B of Section 853 of this
21 title (Article 53, subsection B, paragraph 1); and

22 5. Performing any other procedural function which may be
23 performed by the military judge under the Code or under rules
24

1 prescribed pursuant to Section 836 of this title (Article 36) and
2 which does not require the presence of the members of the court.

3 B. Proceedings under subsection A of this section shall be
4 conducted in the presence of the accused, the defense counsel, and
5 the trial counsel and shall be made a part of the record. These
6 proceedings may be conducted notwithstanding the number of members
7 of the court and without regard to Section 829 of this title
8 (Article 29). If authorized by regulations promulgated by the
9 Adjutant General, and if at least one defense counsel is physically
10 in the presence of the accused, the presence required by this
11 subsection may otherwise be established by audiovisual technology,
12 such as video-teleconferencing technology.

13 C. When the members of a court-martial deliberate or vote, only
14 the members may be present. All other proceedings, including any
15 other consultation of the members of the court with counsel or the
16 military judge, shall be made a part of the record and shall be in
17 the presence of the accused, the defense counsel, the trial counsel,
18 and the military judge.

19 D. The findings, holdings, interpretations, and other
20 precedents of military commissions under Chapter 47A of Title 10 of
21 the United States Code:

22 1. May not be introduced or considered in any hearing, trial,
23 or other proceeding of a court-martial under the Code; and
24

1 2. May not form the basis of any holding, decision, or other
2 determination of a court-martial.

3 SECTION 265. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 840 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 40. Continuances.

7 The military judge or a summary court-martial may, for
8 reasonable cause, grant a continuance to any party for such time,
9 and as often, as may appear to be just.

10 SECTION 266. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 841 of Title 44, unless there is
12 created a duplication in numbering, reads as follows:

13 ARTICLE 41. Challenges.

14 A. 1. The military judge and members of a general or special
15 court-martial may be challenged by the accused or the trial counsel
16 for cause stated to the court. The military judge shall determine
17 the relevancy and validity of challenges for cause, and may not
18 receive a challenge to more than one person at a time. Challenges
19 by the trial counsel shall ordinarily be presented and decided
20 before those by the accused are offered.

21 2. If exercise of a challenge for cause reduces the court below
22 the number of members required by Section 816 of this title (Article
23 16), all parties shall, notwithstanding Section 829 of this title
24 (Article 29), either exercise or waive any challenge for cause then

1 apparent against the remaining members of the court before
2 additional members are detailed to the court. However, peremptory
3 challenges shall not be exercised at that time.

4 B. 1. Each accused and the trial counsel are entitled
5 initially to one peremptory challenge of the members of the court.
6 The military judge may not be challenged except for cause.

7 2. If exercise of a peremptory challenge reduces the court
8 below the number of members required by Section 816 of this title
9 (Article 16), the parties shall, notwithstanding Section 829 of this
10 title (Article 29), either exercise or waive any remaining
11 peremptory challenge (not previously waived) against the remaining
12 members of the court before additional members are detailed to the
13 court.

14 C. Whenever additional members are detailed to the court, and
15 after any challenges for cause against such additional members are
16 presented and decided, each accused and the trial counsel are
17 entitled to one peremptory challenge against members not previously
18 subject to peremptory challenge.

19 SECTION 267. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 842 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 42. Oaths.

23 A. Before performing their respective duties, military judges,
24 members of general and special courts-martial, trial counsel,

1 assistant trial counsel, defense counsel, assistant or associate
2 defense counsel, reporters, and interpreters shall take an oath to
3 perform their duties faithfully. The form of the oath, the time and
4 place of the taking thereof, the manner of recording the same, and
5 whether the oath shall be taken for all cases in which these duties
6 are to be performed or for a particular case, shall be as prescribed
7 in regulations promulgated by the Adjutant General. These
8 regulations may provide that an oath to perform faithfully duties as
9 a military judge, trial counsel, assistant trial counsel, defense
10 counsel, or assistant or associate defense counsel may be taken at
11 any time by any judge advocate or other person certified to be
12 qualified or competent for the duty, and if such an oath is taken it
13 need not again be taken at the time the judge advocate, or other
14 person is detailed to that duty.

15 B. Each witness before a court-martial shall be examined on
16 oath.

17 SECTION 268. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 843 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 43. Statute of limitations.

21 A. Except as otherwise provided in this section, a person
22 charged with a military offense is not liable to be tried by court-
23 martial if the offense was committed more than three (3) years
24

1 before the receipt of sworn charges and specifications by an officer
2 exercising summary court-martial jurisdiction over the command.

3 B. A person accused of an offense is not liable to be punished
4 under Section 815 of this title (Article 15) if the offense was
5 committed more than two (2) years before the imposition of
6 punishment.

7 C. Periods in which the accused is absent without authority or
8 fleeing from justice shall be excluded in computing the period of
9 limitation prescribed in this article.

10 D. Periods in which the accused was absent from territory in
11 which the State of Oklahoma has the authority to apprehend him or
12 her, or in the custody of civil authorities, or on active duty
13 within the meaning of Title 10 of the United States Code, or in the
14 hands of the enemy, shall be excluded in computing the periods of
15 limitation prescribed in this article.

16 E. When the United States is at war, the running of any statute
17 of limitations applicable to any offense under the Oklahoma Uniform
18 Code of Military Justice:

19 1. Involving fraud or attempted fraud against the United
20 States, the State of Oklahoma, or any agency of the foregoing in any
21 manner, whether by conspiracy or not;

22 2. Committed in connection with the acquisition, care,
23 handling, custody, control, or disposition of any real or personal
24 property of the United States, or the State of Oklahoma; or

1 3. Committed in connection with the negotiation, procurement,
2 award, performance, payment, interim financing, cancellation, or
3 other termination or settlement, of any contract, subcontract, or
4 purchase order which is connected with or related to the prosecution
5 of the war, or with any disposition of termination inventory by any
6 war contractor or government agency,
7 is suspended until three (3) years after the termination of
8 hostilities as proclaimed by the President of the United States or
9 by a joint resolution of Congress.

10 F. Defective or insufficient charges.

11 1. If charges or specifications are dismissed as defective or
12 insufficient for any cause and the period prescribed by the
13 applicable statute of limitations:

14 a. has expired, or

15 b. will expire within one hundred eighty (180) days after
16 the date of dismissal of the charges and
17 specifications,

18 trial and punishment under new charges and specifications are not
19 barred by the statute of limitations if the conditions specified in
20 paragraph 2 of this subsection are met.

21 2. The conditions referred to in paragraph 1 of this subsection
22 are that the new charges and specifications shall:

23 a. be received by an officer exercising summary court-
24 martial jurisdiction over the command within one

1 hundred eighty (180) days after the dismissal of the
2 charges or specifications, and

3 b. allege the same acts or omissions that were alleged in
4 the dismissed charges or specifications (or allege
5 acts or omissions that were included in the dismissed
6 charges or specifications).

7 G. A person charged with fraudulent enlistment or fraudulent
8 appointment under Section 904A of this title (Article 104A) may be
9 tried by court-martial if the sworn charges and specifications are
10 received by an officer exercising summary court-martial jurisdiction
11 with respect to that person, as follows:

12 1. In the case of an enlisted member, during the period of the
13 enlistment or five (5) years, whichever provides a longer period;
14 and

15 2. In the case of an officer, during the period of the
16 appointment or five (5) years, whichever provides a longer period.

17 H. If deoxyribonucleic acid (DNA) testing implicates an
18 identified person in the commission of an offense punishable by
19 confinement for more than one (1) year, no statute of limitations
20 that would otherwise preclude prosecution of the offense shall
21 preclude such prosecution until a period of time following the
22 implication of the person by DNA testing has elapsed that is equal
23 to the otherwise applicable limitation period.

1 SECTION 269. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 844 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 44. Former jeopardy.

5 A. No person may, without his or her consent, be tried a second
6 time for the same offense.

7 B. No proceeding in which an accused has been found guilty by
8 court-martial upon any charge or specification is a trial in the
9 sense of this article until the finding of guilty has become final
10 after review of the case has been fully completed.

11 C. 1. A court-martial with a military judge alone is a trial
12 for the purposes of this section if, without fault of the accused:

13 a. after introduction of evidence, and

14 b. before announcement of findings under Section 853 of
15 this title (Article 53),

16 the case is dismissed or terminated by the convening authority or on
17 motion of the prosecution for failure of available evidence or
18 witnesses.

19 2. A court-martial with a military judge and members is a trial
20 in the sense of this section if, without fault of the accused:

21 a. after the members, having taken an oath as members
22 under Section 842 of this title (Article 42) and after
23 completion of challenges under Section 841 of this
24 title (Article 41), are impaneled, and

1 b. before announcement of findings under Section 853 of
2 this title (Article 53),
3 the case is dismissed or terminated by the convening authority or on
4 motion of the prosecution for failure of available evidence or
5 witnesses.

6 SECTION 270. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 845 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 45. Pleas of the accused.

10 A. Irregular and similar pleas. If an accused after
11 arraignment makes an irregular pleading, or after a plea of guilty
12 sets up matter inconsistent with the plea, or if it appears that he
13 or she has entered the plea of guilty improvidently or through lack
14 of understanding of its meaning and effect, or if he or she fails or
15 refuses to plead, a plea of not guilty shall be entered in the
16 record, and the court shall proceed as though he or she had pleaded
17 not guilty.

18 B. Pleas of guilty. With respect to any charge or
19 specification to which a plea of guilty has been made by the accused
20 and accepted by the military judge, a finding of guilty of the
21 charge or specification may be entered immediately without vote.
22 This finding shall constitute the finding of the court unless the
23 plea of guilty is withdrawn prior to announcement of the sentence,
24

1 in which event the proceedings shall continue as though the accused
2 had pleaded not guilty.

3 C. Harmless error. A variance from the requirements of this
4 article is harmless error if the variance does not materially
5 prejudice the substantial rights of the accused.

6 SECTION 271. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 846 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 46. Opportunity to obtain witnesses and other evidence
10 in trials by court-martial.

11 A. Opportunity to obtain witnesses and other evidence. In a
12 case referred for trial by court-martial, the trial counsel, the
13 defense counsel, and the court-martial shall have equal opportunity
14 to obtain witnesses and other evidence in accordance with such
15 regulations as may be promulgated by the Adjutant General.

16 B. Subpoena and other process generally. Any subpoena or other
17 process issued under this section:

18 1. Shall be similar to that which courts of the State of
19 Oklahoma having criminal jurisdiction may issue pursuant to Title 22
20 of the Oklahoma Statutes;

21 2. Shall be executed in accordance with regulations promulgated
22 by the Adjutant General; and

23 3. Shall run to any part of the State of Oklahoma.

24

1 C. Subpoena and other process for witnesses. A subpoena or
2 other process may be issued to compel a witness to appear and
3 testify:

4 1. Before a court-martial or court of inquiry;

5 2. At a deposition under Section 849 of this title (Article
6 49); or

7 3. As otherwise authorized under the Oklahoma Uniform Code Of
8 Military Justice.

9 D. Subpoena and other process for evidence.

10 1. In general. A subpoena or other process may be issued to
11 compel the production of evidence:

12 a. for a court-martial or court of inquiry,

13 b. for a deposition under Section 849 of this title
14 (Article 49),

15 c. for an investigation of an offense under the Code, or

16 d. as otherwise authorized under the Code.

17 2. Investigative subpoena. An investigative subpoena under
18 subparagraph c of paragraph 1 of this subsection may be issued
19 before referral of charges to a court-martial only if a general
20 court-martial convening authority has authorized counsel for the
21 government to issue such a subpoena or a military judge issues such
22 a subpoena pursuant to subsection A of Section 830 of this title
23 (Article 30, subsection A).

1 3. Warrant or order for wire or electronic communications.
2 With respect to an investigation of an offense under the Code, a
3 military judge detailed in accordance with Section 826 or subsection
4 A of Section 830 of this title (Article 26 or Article 30, subsection
5 A) may issue warrants or court orders for the contents of, and
6 records concerning, wire or electronic communications in the same
7 manner as such warrants and orders may be issued by a district court
8 of the State of Oklahoma under the provisions of Title 22 of the
9 Oklahoma Statutes, subject to such limitations as may be prescribed
10 by regulations promulgated by the Adjutant General.

11 E. Request for relief from subpoena or other process. If a
12 person requests relief from a subpoena or other process under this
13 section (article) on grounds that compliance is unreasonable or
14 oppressive or is prohibited by law, a military judge detailed in
15 accordance with Section 826 or subsection A of Section 830 of this
16 title (Article 26 or Article 30, subsection A) shall review the
17 request and shall:

18 1. Order that the subpoena or other process be modified or
19 withdrawn, as appropriate; or

20 2. Order the person to comply with the subpoena or other
21 process.

22 SECTION 272. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 847 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 47. Refusal to appear or testify.

2 A. In general.

3 1. Any person described in paragraph 2 of this subsection who:

4 a. willfully neglects or refuses to appear, or

5 b. willfully refuses to qualify as a witness or to
6 testify or to produce any evidence which that person
7 is required to produce,

8 shall be guilty of indirect contempt of the court-martial or court
9 of inquiry from which the subpoena issued.

10 2. The persons referred to in paragraph 1 of this subsection
11 are the following:

12 a. any person not subject to the Oklahoma Uniform Code of
13 Military Justice who:

14 (1) is issued a subpoena or other process described
15 in subsection C of Section 846 of this title
16 (Article 46, subsection C), and

17 (2) is provided a means for payment of fees and
18 mileage pursuant to subsection D of this section,
19 and

20 b. any person not subject to the Code who is issued a
21 subpoena or other process described in subsection D of
22 Section 846 of this title (Article 46, subsection D).

1 B. Any person who commits indirect contempt shall be punished
2 in accordance with Sections 566, 567 and 568 of Title 21 of the
3 Oklahoma Statutes.

4 C. The district attorney exercising jurisdiction in the county
5 where the court-martial or court of inquiry is convened, shall, upon
6 the certification of the facts to him or her by the military court,
7 court of inquiry or convening authority, file an information against
8 and prosecute any person violating this article.

9 D. The fees and mileage of witnesses shall be paid as follows:

10 1. Any civilian witness, who is not a federal employee,
11 appearing in obedience to an order, subpoena, or other lawful
12 compulsion at any stage of a general or special court-martial or
13 court of inquiry where the party seeking the attendance of the
14 witness is the trial counsel, the defense counsel or the defendant
15 appearing pro se, shall be paid from any monies available in the
16 Military Justice Fund established in Section 941 of Title 44 of the
17 Oklahoma Statutes, the fees and mileage at the rate prescribed by
18 Section 81 of Title 28 of the Oklahoma Statutes;

19 2. Any witness appearing in obedience to an order, subpoena, or
20 other lawful compulsion at any stage of a court-martial for which no
21 provision in this subsection is applicable, shall be paid at the
22 discretion of the military judge presiding over a general or special
23 court-martial proceeding from any monies available in the Military
24 Justice Fund established in Section 941 of Title 44 of the Oklahoma

1 Statutes, the fees and mileage at the rate prescribed by Section 81
2 of Title 28 of the Oklahoma Statutes;

3 3. The comptroller of the military department, or any other
4 person designated by the Adjutant General, shall, upon proof of
5 claim, issue to witnesses, summoned pursuant to this subsection,
6 certificates showing the names of witnesses, number of days'
7 attendance, distance traveled and the amount of such fees and
8 mileage; and

9 4. The Adjutant General may promulgate additional regulations
10 governing the method and process for payment of fees and mileage to
11 a civilian witness, who is not a federal employee, appearing in
12 obedience to an order, subpoena, or other lawful compulsion at any
13 stage of a general, special or summary court-martial or court of
14 inquiry.

15 SECTION 273. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 848 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 48. Contempt.

19 A. Authority to punish.

20 1. With respect to any proceeding under the Oklahoma Uniform
21 Code of Military Justice, a judicial officer specified in paragraph
22 2 of this subsection may punish for contempt any person who:
23
24

- a. uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding,
- b. disturbs the proceeding by any riot or disorder, or
- c. willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

2. A judicial officer referred to in paragraph 1 of this subsection is either of the following:

- a. any military judge detailed to a court-martial,
- b. the chief judge of the Military Court of Appeals, or
- c. the president of a court of inquiry.

B. Opportunity to be heard and warning. A judicial officer, as specified in paragraph 2 of subsection A of this section, may punish a person cited for contempt after an opportunity to be heard has been given. Censure shall be imposed by the judicial officer only if:

1. It is clear from the identity of the offender and the character of his or her acts that disruptive conduct is willfully contemptuous; or

2. The conduct warranting the sanction is preceded by a clear warning that the conduct is impermissible and that specified sanctions may be imposed for its repetition.

1 C. Notification of contempt proceedings. The judicial officer,
2 as specified in paragraph 2 of subsection A of this section, as soon
3 as practicable after he or she is satisfied that courtroom
4 misconduct requires contempt proceedings, should inform the alleged
5 offender of his or her intention to institute said proceedings.

6 D. Notice and opportunity to provide evidence or testimony.
7 Before imposing any punishment for contempt, the judicial officer
8 shall give the offender notice of the charges and an opportunity to
9 adduce evidence or argument relevant to guilt or punishment.

10 E. Imposition of sanctions. The judicial officer before whom
11 the misconduct occurs may impose appropriate sanctions including
12 punishment for contempt.

13 F. Punishment. The punishment for contempt under subsection A
14 of this section shall not exceed the punishments provided in
15 subsection A of Section 566 of Title 21 of the Oklahoma Statutes.

16 G. Review. A punishment under this section:

17 1. If imposed by a military judge, may be reviewed by the
18 Military Court of Appeals in accordance with the uniform rules of
19 procedure for the Military Court of Appeals under subsection L of
20 Section 866 of this title (Article 66, subsection L);

21 2. If imposed by the chief judge of the Military Court of
22 Appeals, shall constitute a judgment of the court, subject to review
23 under the applicable provisions of Section 867 of this title
24 (Article 67); and

1 3. If imposed by a court of inquiry, shall be subject to review
2 by the convening authority in accordance with regulations
3 promulgated by the Adjutant General.

4 SECTION 274. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 849 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 49. Depositions.

8 A. In general.

9 1. Subject to paragraph 2 of this subsection, a convening
10 authority or a military judge may order depositions at the request
11 of any party.

12 2. A deposition may be ordered under paragraph 1 of this
13 subsection only if the requesting party demonstrates that, due to
14 exceptional circumstances, it is in the interest of justice that the
15 testimony of a prospective witness be preserved for use at a court-
16 martial or court of inquiry.

17 3. A party who requests a deposition under this section shall
18 give to every other party reasonable written notice of the time and
19 place for the deposition.

20 4. A deposition under this section shall be taken before, and
21 authenticated by, an impartial officer, as follows:

22 a. whenever practicable, by an impartial judge advocate
23 certified under subsection B of Section 827 of this
24 title (Article 27, subsection B), and

1 b. in exceptional circumstances, by an impartial military
2 or civil officer authorized to administer oaths by:
3 (1) the laws of the United States, or
4 (2) the laws of the place where the deposition is
5 taken.

6 B. Representation by counsel. Representation of the parties
7 with respect to a deposition shall be by counsel detailed in the
8 same manner as trial counsel and defense counsel are detailed under
9 Section 827 of this title (Article 27). In addition, the accused
10 shall have the right to be represented by civilian or military
11 counsel in the same manner as such counsel is provided for in
12 subsection B of Section 838 of this title (Article 38, subsection
13 B).

14 C. Admissibility and use as evidence. A deposition order under
15 subsection A of this section does not control the admissibility of
16 the deposition in a court-martial or other proceeding under the
17 Oklahoma Uniform Code of Military Justice. A party may use all or
18 part of a deposition as provided by the federal Military Rules of
19 Evidence.

20 SECTION 275. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 850 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 50. Admissibility of sworn testimony from records of
24 courts of inquiry.

1 A. Use as evidence by any party. In any case not extending to
2 the dismissal of a commissioned officer, the sworn testimony,
3 contained in the duly authenticated record of proceedings of a court
4 of inquiry, of a person whose oral testimony cannot be obtained,
5 may, if otherwise admissible under the rules of evidence, be read in
6 evidence by any party before a court-martial if the accused was a
7 party before the court of inquiry and if the same issue was involved
8 or if the accused consents to the introduction of such evidence.

9 B. Use as evidence by defense. Such testimony may be read in
10 evidence only by the defense in cases extending to the dismissal of
11 a commissioned officer.

12 C. Use in courts of inquiry and military boards. Such
13 testimony may also be read in evidence before a court of inquiry or
14 an administrative board.

15 D. Audiotape or videotape. Sworn testimony that:

- 16 1. Is recorded by audiotape, videotape, or similar method; and
- 17 2. Is contained in the duly authenticated record of proceedings
18 of a court of inquiry,
19 shall be admissible before a court-martial, court of inquiry, or
20 military board, to the same extent as sworn testimony may be read in
21 evidence before any such body under this section.

22 SECTION 276. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 850A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 50A. Defense of lack of mental responsibility.

2 A. It is an affirmative defense in a trial by court-martial
3 that, at the time of the commission of the acts constituting the
4 offense, the accused, as a result of a severe mental disease or
5 defect, was unable to appreciate the nature and quality or the
6 wrongfulness of the acts. Mental disease or defect does not
7 otherwise constitute a defense.

8 B. The accused has the burden of proving the defense of lack of
9 mental responsibility by clear and convincing evidence.

10 C. Whenever lack of mental responsibility of the accused with
11 respect to an offense is properly at issue, the military judge shall
12 instruct the members of the court as to the defense of lack of
13 mental responsibility under this article and shall charge them to
14 find the accused:

- 15 1. Guilty;
- 16 2. Not guilty; or
- 17 3. Not guilty only by reason of lack of mental responsibility.

18 D. Subsection C of this section does not apply to a court-
19 martial composed of a military judge only. In the case of a court-
20 martial composed of a military judge only, whenever lack of mental
21 responsibility of the accused with respect to an offense is properly
22 at issue, the military judge shall find the accused:

- 23 1. Guilty;
- 24 2. Not guilty; or

1 3. Not guilty only by reason of lack of mental responsibility.

2 E. Notwithstanding the provisions of Section 852 of this title
3 (Article 52), the accused shall be found not guilty only by reason
4 of lack of mental responsibility if:

5 1. A majority of the members of the court-martial present at
6 the time the vote is taken determines that the defense of lack of
7 mental responsibility has been established; or

8 2. In the case of a court-martial composed of a military judge
9 only, the military judge determines that the defense of lack of
10 mental responsibility has been established.

11 SECTION 277. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 851 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 51. Voting and rulings.

15 A. Voting by members of a general or special court-martial on
16 the findings and on the sentence shall be by secret written ballot.
17 The junior member of the court shall count the votes. The count
18 shall be checked by the president, who shall forthwith announce the
19 result of the ballot to the members of the court.

20 B. The military judge shall rule upon all questions of law and
21 all interlocutory questions arising during the proceedings. Any
22 such ruling made by the military judge upon any question of law or
23 any interlocutory question other than the factual issue of mental
24 responsibility of the accused is final and constitutes the ruling of

1 the court, except that the military judge may change a ruling at any
2 time during trial.

3 C. Before a vote is taken on the findings, the military judge
4 shall, in the presence of the accused and counsel, instruct the
5 members of the court as to the elements of the offense and charge
6 them:

7 1. That the accused shall be presumed to be innocent until his
8 or her guilt is established by legal and competent evidence beyond
9 reasonable doubt;

10 2. That in the case being considered, if there is a reasonable
11 doubt as to the guilt of the accused, the doubt shall be resolved in
12 favor of the accused and he or she shall be acquitted;

13 3. That, if there is reasonable doubt as to the degree of
14 guilt, the finding shall be in a lower degree as to which there is
15 no reasonable doubt; and

16 4. That the burden of proof to establish the guilt of the
17 accused beyond reasonable doubt is upon the government.

18 D. This section does not apply to a court-martial composed of a
19 military judge only. The military judge of such a court-martial
20 shall determine all questions of law and fact arising during the
21 proceedings and, if the accused is convicted, adjudge an appropriate
22 sentence. The military judge of such a court-martial shall make a
23 general finding and shall in addition on request find the facts

24

1 specially. If an opinion or memorandum of decision is filed, it
2 will be sufficient if the findings of fact appear therein.

3 SECTION 278. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 852 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 52. Votes required for conviction, sentencing and other
7 matters.

8 A. In general. No person may be convicted of an offense in a
9 general or special court-martial, other than:

10 1. After a plea of guilty under subsection B of Section 845 of
11 this title (Article 45, subsection B);

12 2. By a military judge in a court-martial with a military judge
13 alone, under Section 816 of this title (Article 16); or

14 3. In a court-martial with members under Section 816 of this
15 title (Article 16), by the concurrence of at least three-fourths
16 (3/4) of the members present when the vote is taken.

17 B. Level of concurrence required.

18 1. In general. Except as provided in paragraph 2 of subsection
19 A of this section, all matters to be decided by members of a general
20 or special court-martial shall be determined by a majority vote, but
21 a reconsideration of a finding of guilty or reconsideration of a
22 sentence, with a view toward decreasing the sentence, may be made by
23 any lesser vote which indicates that the reconsideration is not
24

1 | opposed by the number of votes required for that finding or
2 | sentence.

3 | 2. Sentencing. All sentences imposed by members under the
4 | Oklahoma Uniform Code of Military Justice shall be determined by the
5 | concurrence of at least three-fourths (3/4) of the members present
6 | when the vote is taken.

7 | SECTION 279. NEW LAW A new section of law to be codified
8 | in the Oklahoma Statutes as Section 853 of Title 44, unless there is
9 | created a duplication in numbering, reads as follows:

10 | ARTICLE 53. Findings and sentencing.

11 | A. A court-martial shall announce its findings and sentence to
12 | the parties as soon as determined.

13 | B. Sentencing generally.

14 | 1. General and special courts-martial.

15 | a. Sentencing by military judge. Except as provided in
16 | subparagraph b of this paragraph, if the accused is
17 | convicted of an offense in a trial by general or
18 | special court-martial, the military judge shall
19 | sentence the accused.

20 | b. Sentencing by members. If the accused is convicted of
21 | an offense by general or special court-martial
22 | consisting of a military judge and members and the
23 | accused elects sentencing by members under Section 825
24 |

1 of this title (Article 25), the members shall sentence
2 the accused.

3 c. Sentence of the accused. The sentence determined
4 pursuant to this paragraph constitutes the sentence of
5 the accused.

6 2. Summary courts-martial. If the accused is convicted of an
7 offense in a trial by summary court-martial, the court-martial shall
8 sentence the accused.

9 SECTION 280. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 853A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 53A. Plea agreements.

13 A. In general.

14 1. At any time before the announcement of findings under
15 Section 853 of this title (Article 53), the convening authority and
16 the accused may enter into a plea agreement with respect to such
17 matters as:

- 18 a. the manner in which the convening authority will
- 19 dispose of one or more charges and specifications, and
- 20 b. limitations on the sentence that may be adjudged for
- 21 one or more charges and specifications.

22 2. The military judge of a general or special court-martial may
23 not participate in discussions between the parties concerning
24 prospective terms and conditions of a plea agreement.

1 B. Limitation on acceptance of plea agreements. The military
2 judge of a general or special court-martial shall reject a plea
3 agreement that:

4 1. Contains a provision that has not been accepted by both
5 parties; or

6 2. Contains a provision that is not understood by the accused.

7 C. Binding effect of plea agreement. Upon acceptance by the
8 military judge of a general or special court-martial, a plea
9 agreement shall bind the parties and the court-martial.

10 SECTION 281. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 854 of Title 44, unless there is
12 created a duplication in numbering, reads as follows:

13 ARTICLE 54. Record of trial.

14 A. General and special courts-martial. Each general or special
15 court-martial shall keep a separate record of the proceedings in
16 each case brought before it. The record shall be certified by a
17 court reporter, except that in the case of death, disability, or
18 absence of a court reporter, the record shall be certified by an
19 official selected as the Adjutant General may prescribe by
20 regulation.

21 B. Summary courts-martial. Each summary court-martial shall
22 keep a separate record of the proceedings in each case, and the
23 record shall be certified in the manner required by such regulations
24 as the Adjutant General may prescribe.

1 C. Contents of record.

2 1. Except as provided in paragraph 2 of this subsection, the
3 record shall contain such matters as the Adjutant General may
4 prescribe by regulation.

5 2. In accordance with regulations prescribed by the Adjutant
6 General, a complete record of proceedings and testimony shall be
7 prepared in any case of a sentence of dismissal, discharge,
8 confinement for more than six (6) months, or forfeiture of pay for
9 more than six (6) months.

10 D. A copy to the accused. A copy of the record of the
11 proceedings of each general and special court-martial shall be given
12 to the accused as soon as it is certified.

13 E. Copy to victim. In the case of a general or special court-
14 martial upon request, a copy of all prepared records of the
15 proceedings of the court-martial shall be given to the victim of the
16 offense if the victim testified during the proceedings. The record
17 of the proceedings shall be provided without charge and as soon as
18 the records are certified. The victim shall be notified of the
19 opportunity to receive the records of the proceedings.

20 PART VIII.

21 SENTENCES

22 SECTION 282. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 855 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 55. Cruel and unusual punishments prohibited.

2 Punishment by flogging, or by branding, marking, or tattooing on
3 the body, or any other cruel or unusual punishment, may not be
4 adjudged by any court-martial or inflicted upon any person subject
5 to the Oklahoma Uniform Code of Military Justice. The use of irons,
6 single or double, except for the purpose of safe custody, is
7 prohibited.

8 SECTION 283. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 856 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 56. Sentencing.

12 A. Sentence maximums. The punishment which a court-martial may
13 direct for an offense may not exceed such limits as the Governor or
14 Adjutant General may prescribe for that offense.

15 B. Imposition of sentence.

16 1. In general. In sentencing an accused under Section 853 of
17 this title (Article 53), a court-martial shall impose punishment
18 that is sufficient, but not greater than necessary, to promote
19 justice and to maintain good order and discipline in the state
20 military forces, taking into consideration:

- 21 a. the nature and circumstances of the offense and the
22 history and characteristics of the accused,
23 b. the impact of the offense on:
24

- 1 (1) the financial, social, psychological, or medical
- 2 well-being of any victim of the offense, and
- 3 (2) the mission, discipline, or efficiency of the
- 4 command of the accused and any victim of the
- 5 offense,

6 c. the need for the sentence:

- 7 (1) to reflect the seriousness of the offense,
- 8 (2) to promote respect for the law,
- 9 (3) to provide just punishment for the offense,
- 10 (4) to promote adequate deterrence of misconduct,
- 11 (5) to protect others from further crimes by the
- 12 accused,
- 13 (6) to rehabilitate the accused, and
- 14 (7) to provide, in appropriate cases, the opportunity
- 15 for retraining and return to duty to meet the
- 16 needs of the service, and

17 d. the sentences available under this chapter.

18 2. Sentencing by military judge. In announcing the sentence in
19 a general or special court-martial in which the accused is sentenced
20 by a military judge alone under Section 853 of this title (Article
21 53), the military judge shall, with respect to each offense of which
22 the accused is found guilty, specify the term of confinement, if
23 any, and the amount of the fine, if any. If the accused is
24 sentenced to confinement for more than one offense, the military

1 judge shall specify whether the terms of confinement are to run
2 consecutively or concurrently.

3 3. Sentencing by members. In a general or special court-
4 martial in which the accused has elected sentencing by members, the
5 court-martial shall announce a single sentence for all of the
6 offenses of which the accused was found guilty.

7 C. Appeal of sentence by the State of Oklahoma.

8 1. With the approval of the State Judge Advocate and consistent
9 with standards and procedures set forth in regulations prescribed by
10 the Governor or the Adjutant General, the government may appeal a
11 sentence to the Military Court of Appeals, on the grounds that:

12 a. the sentence violates the law, or

13 b. the sentence is plainly unreasonable, as determined in
14 accordance with standards and procedures prescribed by
15 the Governor or the Adjutant General.

16 2. An appeal under this subsection shall be filed within sixty
17 (60) days after the date on which the judgment of a court-martial is
18 entered into the record under Section 860C of this title (Article
19 60C).

20 SECTION 284. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 857 of Title 44, unless there is
22 created a duplication in numbering, reads as follows:

23 ARTICLE 57. Effective date of sentences.

24 A. Execution of sentences. A court-martial sentence shall be

1 executed and take effect as follows:

2 1. Forfeiture and reduction. A forfeiture of pay or allowances
3 shall be applicable to pay and allowances accruing on and after the
4 date on which the sentence takes effect. Any forfeiture of pay or
5 allowances or reduction in grade that is included in a sentence of a
6 court-martial takes effect on the earlier of:

7 a. the date that is fourteen (14) days after the date on
8 which the sentence is adjudged, or

9 b. in the case of a summary court-martial, the date on
10 which the sentence is approved by the convening
11 authority;

12 2. Confinement. Any period of confinement included in a
13 sentence of a court-martial begins to run from the date the sentence
14 is adjudged by the court-martial, but periods during which the
15 sentence to confinement is suspended or deferred shall be excluded
16 in computing the service of the term of confinement;

17 3. Approval of dismissal. If in the case of a commissioned
18 officer, or cadet, the sentence of a court-martial extends to
19 dismissal, that part of the sentence providing for dismissal may not
20 be executed until approved by the Adjutant General or by the Senior
21 Assistant Adjutant General of the same component as the accused if
22 such authority is so delegated by the Adjutant General. In such a
23 case, the Adjutant General, or Senior Assistant Adjutant General, as
24 the case may be, may commute, remit, or suspend the sentence, or any

1 part of the sentence, as the Adjutant General or Senior Assistant
2 Adjutant General sees fit. In time of war or national emergency he
3 or she may commute a sentence of dismissal to reduction to any
4 enlisted grade. A person so reduced may be required to serve for
5 the duration of the war or emergency and six (6) months thereafter;

6 4. Completion of appellate review. If a sentence extends to
7 dismissal, or a dishonorable or bad-conduct discharge, that part of
8 the sentence extending to dismissal or a dishonorable or bad-conduct
9 discharge may be executed, in accordance with applicable
10 regulations, after completion of appellate review and, with respect
11 to dismissal, approval under paragraph 3 of this subsection, as
12 appropriate; and

13 5. Other sentences. Except as otherwise provided in this
14 subsection, a general or special court-martial sentence is effective
15 upon entry of judgment and a summary court-martial sentence is
16 effective when the convening authority acts on the sentence.

17 B. Deferral of sentences.

18 1. In general. On application by an accused, the convening
19 authority or, if the accused is no longer under his or her
20 jurisdiction, the officer exercising general court-martial
21 jurisdiction over the command to which the accused is currently
22 assigned, may, in his or her sole discretion, defer the effective
23 date of a sentence of confinement, reduction, or forfeiture. The
24 deferment shall terminate upon entry of judgment or, in the case of

1 a summary court-martial, when the convening authority acts on the
2 sentence. The deferment may be rescinded at any time by the officer
3 who granted it or, if the accused is no longer under his or her
4 jurisdiction, by the officer exercising general court-martial
5 jurisdiction over the command to which the accused is currently
6 assigned.

7 2. Deferral of certain persons sentenced to confinement. In
8 any case in which a court-martial sentences a person referred to in
9 paragraph 3 of this subsection to confinement, the convening
10 authority may defer the service of the sentence to confinement,
11 without the consent of that person, until after the person has been
12 permanently released to the state military forces by a state or
13 foreign country referred to in that paragraph.

14 3. Covered persons. Paragraph 2 of this subsection applies to
15 a person subject to this chapter who:

16 a. while in the custody of a state or foreign country is
17 temporarily returned by that state or foreign country
18 to the state military forces for trial by court-
19 martial, and

20 b. after the court-martial, is returned to that state or
21 foreign country under the authority of a mutual
22 agreement or treaty, as the case may be.

23 4. State defined. In this subsection, the term "state"
24 includes the District of Columbia and any commonwealth, territory,

1 or possession of the United States.

2 5. Deferral while review pending. In any case in which a
3 court-martial sentences a person to confinement, but in which review
4 of the case under subsection A of Section 867 of this title (Article
5 67, subsection A) is pending, the Adjutant General may defer further
6 service of the sentence to confinement while that review is pending.

7 C. Appellate review.

8 1. Completion of appellate review. Appellate review is
9 complete under this section when:

10 a. a review under Section 865 of this title (Article 65)
11 is completed, or

12 b. a review under Section 866 of this title (Article 66)
13 is completed by the Military Court of Appeals and:

14 (1) the time for the accused to file a Petition for
15 Review by the Court of Criminal Appeals has
16 expired and the accused has not filed a timely
17 petition for such review and the case is not
18 otherwise under review by that Court,

19 (2) such a petition is rejected by the Court of
20 Criminal Appeals, or

21 (3) review is completed in accordance with the
22 judgment of the Court of Criminal Appeals.

23 2. Completion as final judgment of legality of proceedings.

24 The completion of appellate review shall constitute a final judgment

1 as to the legality of the proceedings.

2 SECTION 285. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 858 of Title 44, unless there is
4 created a duplication in numbering, reads as follows:

5 ARTICLE 58. Execution of confinement.

6 A. Under such regulations as the Governor or Adjutant General
7 may prescribe, a sentence of confinement adjudged by a court-
8 martial, whether or not the sentence includes discharge or
9 dismissal, and whether or not the discharge or dismissal has been
10 executed, may be carried into execution by confinement in any place
11 of confinement under the control of the state military forces or in
12 any penal or correctional institution used or under the control of
13 the Oklahoma Department of Corrections. Persons so confined in a
14 penal or correctional institution not under the control of the state
15 military forces are subject to the same discipline and treatment as
16 persons confined or committed by the courts of this state.

17 B. No confinement ordered by a court-martial shall include hard
18 labor.

19 SECTION 286. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 858A of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 ARTICLE 58A. Sentences: reduction in enlisted grade.

23 A. A court-martial sentence of an enlisted member in a pay
24 grade above E-1, as set forth in the judgment of the court-martial

1 entered into the record under Section 860C of this title (Article
2 60C), that includes:

- 3 1. A dishonorable or bad-conduct discharge; or
- 4 2. Confinement,

5 reduces that member to pay grade E-1, if such a reduction is
6 authorized by regulation prescribed by the Governor or Adjutant
7 General. The reduction in pay grade shall take effect on the date
8 on which the judgment is so entered.

9 B. If the sentence of a member who is reduced in pay grade
10 under subsection A of this section is set aside or reduced, or, as
11 finally affirmed, does not include any punishment named in
12 paragraphs 1 or 2 of subsection A of this section, the rights and
13 privileges of which he or she was deprived because of that reduction
14 shall be restored to him or her and he or she is entitled to the pay
15 and allowances to which he or she would have been entitled, for the
16 period the reduction was in effect, had he or she not been so
17 reduced.

18 SECTION 287. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 858B of Title 44, unless there
20 is created a duplication in numbering, reads as follows:

21 ARTICLE 58B. Sentences: forfeiture of pay and allowances during
22 confinement.

23 A. 1. A court-martial sentence described in paragraph 2 of
24 this subsection shall result in the forfeiture of pay, or of pay and

1 allowances, due that member during any period of confinement or
2 parole. The forfeiture pursuant to this article shall take effect
3 on the date determined under Section 857 of this title (Article 57)
4 and may be deferred as provided in that article. The pay and
5 allowances forfeited, in the case of a general court-martial, shall
6 be all pay and allowances due that member during such period and, in
7 the case of a special court-martial, shall be two-thirds (2/3) of
8 all pay due that member during such period.

9 2. A sentence covered by this section is any sentence that
10 includes:

- 11 a. confinement for more than six (6) months; or
- 12 b. confinement for six (6) months or less and a
13 dishonorable or bad-conduct discharge or dismissal.

14 B. In a case involving an accused who has dependents, the
15 convening authority or other person acting under Section 860A or
16 860B of this title (Article 60A or 60B) may waive any or all of the
17 forfeitures of pay and allowances required by subsection A of this
18 section for a period not to exceed six (6) months. Any amount of
19 pay or allowances that, except for a waiver under this subsection,
20 would be forfeited shall be paid, as the convening authority or
21 other person taking action directs, to the dependents of the
22 accused.

23 C. If the sentence of a member who forfeits pay and allowances
24 under subsection A of this section is set aside or disapproved or,

1 as finally approved, does not provide for a punishment referred to
2 in paragraph 2 of subsection A of this section, the member shall be
3 paid the pay and allowances which the member would have been paid,
4 except for the forfeiture, for the period which the forfeiture was
5 in effect.

6 SECTION 288. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 858C of Title 44, unless there
8 is created a duplication in numbering, reads as follows:

9 ARTICLE 58C. Enforcement of fines or adjudication of pecuniary
10 liability.

11 When a sentence, including a fine, or a finally approved
12 adjudication of pecuniary liability under a report of survey or
13 financial liability investigation of property loss (FLIPL) has been
14 ordered executed pursuant to regulations promulgated by the Adjutant
15 General, the collection of the fine or the adjudication of pecuniary
16 liability may be made executory and enforced by the Oklahoma
17 Attorney General, or his or her designee, in the judicial district
18 as described in Section 22 of Title 20 of the Oklahoma Statutes in
19 which the court martial was held or in the district court judicial
20 district, where nonjudicial punishment was decided or district court
21 judicial district of residence of the accused or person against whom
22 the pecuniary charge was raised in the same manner as a money
23 judgment in a civil case or by the withholding of any funds due the
24 accused from the state or any of its agencies in accordance with

1 regulations prescribed by the Adjutant General. To the extent not
2 prohibited by federal law or regulation, a fine may be enforced by
3 withholding federal funds due the accused.

4 PART IX.

5 POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

6 SECTION 289. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 859 of Title 44, unless there is
8 created a duplication in numbering, reads as follows:

9 ARTICLE 59. Error of law; lesser included offense.

10 A. A finding or sentence of court-martial may not be held
11 incorrect on the ground of an error of law unless the error
12 materially prejudices the substantial rights of the accused.

13 B. Any reviewing authority with the power to approve or affirm
14 a finding of guilty may approve or affirm, instead, so much of the
15 finding as includes a lesser included offense.

16 SECTION 290. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 860 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 60. Posttrial processing in general and special courts-
20 martial.

21 A. Statement of trial results.

22 1. The military judge of a general or special court-martial
23 shall enter into the record of trial a document entitled "Statement
24 of Trial Results", which shall set forth:

- a. each plea and finding,
- b. the sentence, if any, and
- c. such other information as the Adjutant General may prescribe by regulation.

2. Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victim of the offense.

B. Posttrial motions. In accordance with regulations prescribed by the Adjutant General, the military judge in a general or special court-martial shall address all posttrial motions and other posttrial matters that:

1. May affect a plea, a finding, the sentence, the Statement of Trial Results, the record of trial, or any posttrial action by the convening authority; and

2. Are subject to resolution by the military judge before entry of judgment.

SECTION 291. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860A of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 60A. Limited authority to act on sentence in specified posttrial circumstances.

A. In general.

1. The convening authority of a general or special court-martial described in paragraph 2 of this subsection:

- 1 a. may act on the sentence of the court-martial only as
2 provided in subsection B, C or D of this section, and
3 b. may not act on the findings of the court-martial.

4 2. The courts-martial referred to in paragraph 1 of this
5 subsection are the following:

- 6 a. a general or special court-martial in which the
7 maximum sentence of confinement established under
8 subsection A of Section 856 of this title (Article 56,
9 subsection A) for any offense of which the accused is
10 found guilty is more than two (2) years,
11 b. a general or special court-martial in which the total
12 of the sentences of confinement imposed, running
13 consecutively, is more than six (6) months, and
14 c. a general or special court-martial in which the
15 sentence imposed includes a dismissal, dishonorable
16 discharge, or bad-conduct discharge.

17 3. Except as provided in subsection D of this section, the
18 convening authority may act under this section only before entry of
19 judgment.

20 4. Under regulations prescribed by the Adjutant General, a
21 commissioned officer commanding for the time being, a successor in
22 command, or any person exercising general court-martial jurisdiction
23 may act under this section in place of the convening authority.
24

1 B. Reduction, commutation, and suspension of sentences
2 generally.

3 1. Except as provided in subsection C or D of this section, the
4 convening authority may not reduce, commute, or suspend any of the
5 following sentences:

6 a. a sentence of confinement, if the total period of
7 confinement imposed for all offenses involved, running
8 consecutively, is greater than six (6) months, and

9 b. a sentence of dismissal, dishonorable discharge, or
10 bad-conduct discharge.

11 2. The convening authority may reduce, commute, or suspend any
12 sentence not specified in paragraph 1 of this subsection.

13 C. Suspension of certain sentences upon recommendation of
14 military judge.

15 1. Upon recommendation of the military judge, as included in
16 the Statement of Trial Results, together with an explanation of the
17 facts supporting the recommendation, the convening authority may
18 suspend:

19 a. a sentence of confinement, in whole or in part, or

20 b. a sentence of dismissal, dishonorable discharge, or
21 bad-conduct discharge.

22 2. The convening authority may not, under paragraph 1 of this
23 subsection:

24 a. suspend a mandatory minimum sentence, or

1 b. suspend a sentence to an extent in excess of the
2 suspension recommended by the military judge.

3 D. Reduction of sentence for substantial assistance by accused.

4 1. Upon a recommendation by the trial counsel, if the accused,
5 after sentencing and before entry of judgment, provides substantial
6 assistance in the investigation or prosecution of another person,
7 the convening authority may reduce, commute, or suspend a sentence,
8 in whole or in part, including any mandatory minimum sentence.

9 2. Upon a recommendation by a trial counsel, designated in
10 accordance with regulations prescribed by the Adjutant General, if
11 the accused, after entry of judgment, provides substantial
12 assistance in the investigation or prosecution of another person, a
13 convening authority, designated under such regulations, may reduce,
14 commute, or suspend a sentence, in whole or in part, including any
15 mandatory minimum sentence.

16 3. In evaluating whether the accused has provided substantial
17 assistance under this subsection, the convening authority may
18 consider the presentence assistance of the accused.

19 E. Submissions by accused and victim.

20 1. In accordance with regulations prescribed by the Adjutant
21 General, in determining whether to act under this section, the
22 convening authority shall consider matters submitted in writing by
23 the accused or any victim of an offense. Such rules shall include:
24

- a. procedures for notice of the opportunity to make such submissions,
- b. the deadlines for such submissions, and
- c. procedures for providing the accused and any victim of an offense with a copy of the recording of any open sessions of the court-martial and copies of, or access to, any admitted, unsealed exhibits.

2. The convening authority shall not consider under this section any submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.

F. Decision of convening authority.

1. The decision of the convening authority under this section shall be forwarded to the military judge, with copies provided to the accused and to any victim of the offense.

2. If, under this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall include a written explanation of the reasons for such action.

3. If, under paragraph 2 of subsection D of this section, the convening authority reduces, commutes, or suspends the sentence, the decision of the convening authority shall be forwarded to the military judge for appropriate modification of the entry of

1 judgment, which shall be transmitted to the State Judge Advocate for
2 appropriate action.

3 SECTION 292. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 860B of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 60B. Posttrial actions in summary courts-martial and
7 certain general and special courts-martial.

8 A. In general.

9 1. In a court-martial not specified in paragraph 2 of
10 subsection A of Section 860A of this title (Article 60A, subsection
11 A, paragraph 2), the convening authority may:

- 12 a. dismiss any charge or specification by setting aside
13 the finding of guilty,
- 14 b. change a finding of guilty to a charge or
15 specification to a finding of guilty to a lesser
16 included offense,
- 17 c. disapprove the findings and the sentence and dismiss
18 the charges and specifications,
- 19 d. disapprove the findings and the sentence and order a
20 rehearing as to the findings and the sentence,
- 21 e. disapprove, commute, or suspend the sentence, in whole
22 or in part, or
- 23 f. disapprove the sentence and order a rehearing as to
24 the sentence.

1 2. In a summary court-martial, the convening authority shall
2 approve the sentence or take other action on the sentence under
3 paragraph 1 of this subsection.

4 3. Except as provided in paragraph 4 of this subsection, the
5 convening authority may act under this section only before entry of
6 judgment.

7 4. The convening authority may act under this section after
8 entry of judgment in a general or special court-martial in the same
9 manner as the convening authority may act under paragraph 2 of
10 subsection D of Section 860A of this title (Article 60A, subsection
11 D, paragraph 2). Such action shall be forwarded to the military
12 judge, who shall ensure appropriate modification to the entry of
13 judgment and shall transmit the entry of judgment to the State Judge
14 Advocate for appropriate action.

15 5. Under regulations prescribed by the Adjutant General, a
16 commissioned officer commanding for the time being, a successor in
17 command, or any person exercising general court-martial jurisdiction
18 may act under this section in place of the convening authority.

19 B. Limitations on rehearings. The convening authority may not
20 order a rehearing under this section:

21 1. As to the findings, if there is insufficient evidence in the
22 record to support the findings;

23 2. To reconsider a finding of not guilty of any specification
24 or a ruling which amounts to a finding of not guilty; or

1 3. To reconsider a finding of not guilty of any charge, unless
2 there has been a finding of guilty under a specification laid under
3 that charge, which sufficiently alleges a violation of some section
4 of the Oklahoma Uniform Code of Military Justice.

5 C. Submissions by accused and victim. In accordance with
6 regulations prescribed by the Adjutant General, in determining
7 whether to act under this section, the convening authority shall
8 consider matters submitted in writing by the accused or any victim
9 of the offense. Such rules shall include the matter required by
10 subsection E of Section 860A of this title (Article 60A, subsection
11 E).

12 D. Decision of convening authority.

13 1. In a general or special court-martial, the decision of the
14 convening authority under this section shall be forwarded to the
15 military judge, with copies provided to the accused and to any
16 victim of the offense.

17 2. If the convening authority acts on the findings or the
18 sentence under paragraph 1 of subsection A of this section, the
19 decision of the convening authority shall include a written
20 explanation of the reasons for such action.

21 SECTION 293. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 860C of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 ARTICLE 60C. Entry of judgment.

1 A. Entry of judgment of general or special court-martial.

2 1. In accordance with regulations prescribed by the Adjutant
3 General, in a general or special court-martial, the military judge
4 shall enter into the record of trial the judgment of the court. The
5 judgment of the court shall consist of the following:

- 6 a. the Statement of Trial Results under Section 860 of
7 this title (Article 60),
8 b. any modifications of, or supplements to, the Statement
9 of Trial Results by reason of:

10 (1) any posttrial action by the convening authority,

11 or

12 (2) any ruling, order, or other determination of the
13 military judge that affects a plea, a finding, or
14 the sentence.

15 2. Under regulations prescribed by the Adjutant General, the
16 judgment under paragraph 1 of this subsection shall be:

- 17 a. provided to the accused and to any victim of the
18 offense, and
19 b. made available to the public.

20 B. Summary court-martial judgment. The findings and sentence
21 of a summary court-martial, as modified by any posttrial action by
22 the convening authority under Section 860B of this title (Article
23 60B), constitutes the judgment of the court-martial and shall be
24

1 recorded and distributed under regulations prescribed by the
2 Adjutant General.

3 SECTION 294. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 861 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 61. Waiver of right to appeal; withdrawal of appeal.

7 A. Waiver of right to appeal. After entry of judgment in a
8 general or special court-martial, under regulations promulgated by
9 the Adjutant General, the accused may waive the right to appellate
10 review in each case subject to such review under Section 866 of this
11 title (Article 66). Such a waiver shall be:

- 12 1. Signed by the accused and by defense counsel; and
- 13 2. Attached to the record of trial.

14 B. Withdrawal of appeal. In a general or special court-
15 martial, the accused may withdraw an appeal at any time.

16 C. Waiver or withdrawal as bar. A waiver or withdrawal under
17 this section bars review under Section 866 of this title (Article
18 66).

19 SECTION 295. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 862 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 62. Appeal by the State of Oklahoma.

23

24

1 A. 1. In a trial by general or special court-martial, or in a
2 pretrial proceeding under Section 830A of this title (Article 30A),
3 the State of Oklahoma may appeal the following:

- 4 a. an order or ruling of the military judge which
5 terminates the proceedings with respect to a charge or
6 specification,
- 7 b. an order or ruling which excludes evidence that is
8 substantial proof of a fact material in the
9 proceeding,
- 10 c. an order or ruling which directs the disclosure of
11 classified or confidential information,
- 12 d. an order or ruling which imposes sanctions for
13 nondisclosure of classified or confidential
14 information,
- 15 e. a refusal of the military judge to issue a protective
16 order sought by the State of Oklahoma to prevent the
17 disclosure of classified or confidential information,
- 18 f. a refusal by the military judge to enforce an order
19 described in subparagraph e of this paragraph that has
20 previously been issued by appropriate authority, and
- 21 g. an order or ruling of the military judge entering a
22 finding of not guilty with respect to a charge or
23 specification following the return of a finding of
24 guilty by the members.

1 2. a. An appeal of an order or ruling may not be taken
2 unless the trial counsel provides the military judge
3 with written notice of appeal from the order or ruling
4 within seventy-two (72) hours of the order or ruling.
5 Such notice shall include a certification by the trial
6 counsel that the appeal is not taken for the purpose
7 of delay and (if the order or ruling appealed is one
8 which excludes evidence) that the evidence excluded is
9 substantial proof of a fact material in the
10 proceeding.

11 b. An appeal of an order or ruling may not be taken when
12 prohibited by Section 844 of this title (Article 44).

13 3. An appeal under this section shall be diligently prosecuted
14 by appellate government counsel.

15 B. An appeal under this section shall be forwarded by a means
16 prescribed under regulations of the Adjutant General directly to the
17 Military Court of Appeals and shall, whenever practicable, have
18 priority over all other proceedings before that court. In ruling on
19 an appeal under this section, the Military Court of Appeals may act
20 only with respect to matters of law.

21 C. Any period of delay resulting from an appeal under this
22 section shall be excluded in deciding any issue regarding denial of
23 a speedy trial unless an appropriate authority determines that the
24

1 appeal was filed solely for the purpose of delay with the knowledge
2 that it was totally frivolous and without merit.

3 D. The provisions of this section shall be liberally construed
4 to effect its purposes.

5 SECTION 296. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 863 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 63. Rehearings.

9 A. Each rehearing under the Oklahoma Uniform Code of Military
10 Justice shall take place before a court-martial composed of members
11 who were not members of the court-martial which first heard the
12 case. Upon a rehearing the accused may not be tried for any offense
13 of which he or she was found not guilty by the first court-martial,
14 and no sentence in excess of or more severe than the original
15 sentence may be adjudged, unless the sentence is based upon a
16 finding of guilty of an offense not considered upon the merits in
17 the original proceedings, or unless the sentence prescribed for the
18 offense is mandatory.

19 B. If the sentence adjudged by the first court-martial was in
20 accordance with a plea agreement under Section 853A of this title
21 (Article 53A) and the accused at the rehearing does not comply with
22 the agreement, or if a plea of guilty was entered for an offense at
23 the first court-martial and a plea of not guilty was entered at the
24 rehearing, the sentence as to those charges or specifications may

1 include any punishment not in excess of that which could have been
2 adjudged at the first court-martial, subject to such limitations as
3 the Adjutant General may prescribe by regulation.

4 C. If, after appeal by the government under subsection C of
5 Section 856 of this title (Article 56, subsection C), the sentence
6 adjudged is set aside and a rehearing on sentence is ordered by the
7 Military Court of Appeals or Court of Criminal Appeals, the court-
8 martial may impose any sentence that is in accordance with the order
9 or ruling setting aside the adjudged sentence, subject to such
10 limitations as the Adjutant General may prescribe by regulation.

11 SECTION 297. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 864 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 64. Judge advocate review of finding of guilty in
15 summary court-martial.

16 A. In general. Under regulations prescribed by the Adjutant
17 General, each summary court-martial in which there is a finding of
18 guilty shall be reviewed by a judge advocate. A judge advocate may
19 not review a case under this subsection if the judge advocate has
20 acted in the same case as an accuser, preliminary hearing officer,
21 member of the court, military judge, or counsel or has otherwise
22 acted on behalf of the prosecution or defense. The judge advocate's
23 review shall be in writing and shall contain the following:

24 1. Conclusions as to whether:

- a. the court had jurisdiction over the accused and the offense,
- b. the charge and specification stated an offense, and
- c. the sentence was within the limits prescribed as a matter of law;

2. A response to each allegation of error made in writing by the accused; and

3. If the case is sent for action under subsection B of this section, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.

B. Record. The record of trial and related documents in each case reviewed under subsection A of this section shall be sent for action to the person exercising general court-martial jurisdiction over the accused at the time the court was convened (or to that person's successor in command) if:

1. The judge advocate who reviewed the case recommends corrective action; or

2. Such action is otherwise required by regulations of the Adjutant General.

C. 1. The person to whom the record of trial and related documents are sent under subsection B of this section may:

- a. disapprove or approve the findings or sentence, in whole or in part,

- 1 b. remit, commute, or suspend the sentence in whole or in
2 part,
3 c. except where the evidence was insufficient at the
4 trial to support the findings, order a rehearing on
5 the findings, on the sentence, or on both, or
6 d. dismiss the charges.

7 2. If a rehearing is ordered but the convening authority finds
8 a rehearing impracticable, he or she shall dismiss the charges.

9 3. If the opinion of the judge advocate in the judge advocate's
10 review under subsection A of this section is that corrective action
11 is required as a matter of law and if the person required to take
12 action under subsection B does not take action that is at least as
13 favorable to the accused as that recommended by the judge advocate,
14 the record of trial and action thereon shall be sent to the State
15 Judge Advocate for review under Section 869 of this title (Article
16 69).

17 SECTION 298. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 865 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 65. Transmittal and review of records.

21 A. Transmittal of records.

22 1. Finding of guilty in general or special court-martial. If
23 the judgment of a general or special court-martial entered under
24

1 Section 860C of this title (Article 60C) includes a finding of
2 guilty, the record shall be transmitted to the State Judge Advocate.

3 2. Other cases. In all other cases, records of trial by court-
4 martial and related documents shall be transmitted and disposed of
5 as the Adjutant General may prescribe by regulation.

6 B. Cases for direct appeal.

7 1. Automatic review. If the judgment includes a sentence of
8 dismissal of a commissioned officer, or cadet, dishonorable
9 discharge or bad-conduct discharge, or confinement for two (2) years
10 or more, the State Judge Advocate shall forward the record of trial
11 to the Military Court of Appeals for review under paragraph 3 of
12 subsection F of Section 866 of this title (Article 66, subsection F,
13 paragraph 3).

14 2. Cases eligible for direct appeal review.

15 a. In general. If the case is eligible for direct review
16 under paragraph 1 of subsection F of Section 866 of
17 this title (Article 66, subsection F, paragraph 1),
18 the State Judge Advocate shall:

19 (1) forward a copy of the record of trial to an
20 appellate defense counsel who shall be detailed
21 to review the case and, upon request of the
22 accused, to represent the accused before the
23 Military Court of Appeals, and
24

1 (2) upon written request of the accused, forward a
2 copy of the record of trial to civilian counsel
3 provided by the accused.

4 b. Inapplicability. Subparagraph a of this paragraph
5 shall not apply if the accused:

6 (1) waives the right to appeal under Section 861 of
7 this title (Article 61), or

8 (2) declines in writing the detailing of appellate
9 defense counsel under division (1) of
10 subparagraph a of this paragraph.

11 C. Notice of right to appeal.

12 1. In general. The State Judge Advocate shall provide notice
13 to the accused of the right to file an appeal under paragraph 1 of
14 subsection F of Section 866 of this title (Article 66, subsection F,
15 paragraph 1) by means of depositing in the United States mail for
16 delivery by first-class certified mail to the accused at an address
17 provided by the accused or, if no such address has been provided by
18 the accused, at the latest address listed for the accused in the
19 official service record of the accused.

20 2. Inapplicability upon waiver of appeal. Paragraph 1 of this
21 subsection shall not apply if the accused waives the right to appeal
22 under Section 861 of this title (Article 61).

23 D. Review by State Judge Advocate.
24

1 1. By whom. A review conducted under this subsection may be
2 conducted by an attorney within the Office of the State Judge
3 Advocate or another attorney designated under regulations prescribed
4 by the Adjutant General.

5 2. Review of cases not eligible for direct appeal.

6 a. In general. A review under subparagraph b of this
7 paragraph shall be completed in each general and
8 special court-martial that is not eligible for direct
9 appeal under paragraph 1 or 3 of subsection F of
10 Section 866 of this title (Article 66, subsection F,
11 paragraph 1 or 3).

12 b. Scope of review. A review referred to in subparagraph
13 a of this paragraph shall include a written decision
14 providing each of the following:

- 15 (1) a conclusion as to whether the court had
16 jurisdiction over the accused and the offense,
17 (2) a conclusion as to whether the charge and
18 specification stated an offense,
19 (3) a conclusion as to whether the sentence was
20 within the limits prescribed as a matter of law,
21 and
22 (4) a response to each allegation of error made in
23 writing by the accused.

1 3. Review when direct appeal is waived, withdrawn, or not
2 filed.

3 a. In general. A review under subparagraph b of this
4 paragraph shall be completed in each general and
5 special court-martial if:

6 (1) the accused waives the right to appeal or
7 withdraws appeal under Section 861 of this title
8 (Article 61), or

9 (2) the accused does not file a timely appeal in a
10 case eligible for direct appeal under
11 subparagraph a, b or c of paragraph 1 of
12 subsection F of Section 866 of this title
13 (Article 66, subsection F, paragraph 1,
14 subparagraph a, b or c).

15 b. Scope of review. A review referred to in subparagraph
16 a of this paragraph shall include a written decision
17 limited to providing conclusions on the matters
18 specified in divisions (1), (2) and (3) of
19 subparagraph b of paragraph 2 of this subsection.

20 E. Remedy.

21 1. In general. If, after a review of a record under subsection
22 D of this section, the attorney conducting the review believes
23 corrective action may be required, the record shall be forwarded to
24

1 the State Judge Advocate, who may set aside the findings or
2 sentence, in whole or in part.

3 2. Rehearing. In setting aside findings or sentence, the State
4 Judge Advocate may order a rehearing, except that a rehearing may
5 not be ordered in violation of Section 844 of this title (Article
6 44).

7 3. Remedy without rehearing.

8 a. Dismissal when no rehearing ordered. If the State
9 Judge Advocate sets aside findings and sentence and
10 does not order a rehearing, the State Judge Advocate
11 shall dismiss the charges.

12 b. Dismissal when rehearing impractical. If the State
13 Judge Advocate sets aside findings and orders a
14 rehearing and the convening authority determines that
15 a rehearing would be impractical, the convening
16 authority shall dismiss the charges.

17 SECTION 299. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 866 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 66. Military Court of Appeals for state military
21 forces.

22 A. Military Court of Appeals. There is hereby established a
23 Military Court of Appeals for the state military forces of the State
24 of Oklahoma. The Military Court of Appeals shall be a court of

1 record and except as provided in Section 867 of this title (Article
2 67), the appellate jurisdiction of the Military Court of Appeals
3 shall be exclusive in all courts-martial cases convened by state
4 military forces regardless of whether a court-martial was conducted
5 within or without the physical boundaries of the State of Oklahoma.

6 B. Composition and method of appointment. The Military Court
7 of Appeals shall be composed of one panel of not less than three
8 appellate military judges. At the time the Military Court of
9 Appeals is initially constituted and each time thereafter when a
10 vacancy shall occur or is certain to occur on the Court, the State
11 Judge Advocate shall choose and submit to the Governor at least one
12 nominee for a vacant seat, certified by the State Judge Advocate as
13 qualified, by reason of education, training, experience, and
14 judicial temperament, for duty as an appellate military judge.
15 Prior to submission of a nominee to the Governor, the nominee shall
16 have previously notified the State Judge Advocate in writing that he
17 or she will serve as an appellate military judge if appointed. The
18 Governor shall appoint one nominee to fill the vacancy, but if the
19 Governor fails to do so within sixty (60) days after the State Judge
20 Advocate submits the nominee to the Governor or the Governor does
21 not affirmatively reject in writing the nominee so submitted, the
22 State Judge Advocate shall appoint one nominee, the appointment to
23 be certified by the Secretary of State. No person so nominated and
24 appointed by the Governor or by the State Judge Advocate shall take

1 his or her seat on the Military Court of Appeals without first
2 receiving the approbation of the Senate through advice and consent;
3 provided that, in the case of any vacancy that occurs while the
4 Legislature is not in regular session within the meaning of Section
5 26 of Article V of the Oklahoma Constitution, the Governor, or the
6 State Judge Advocate as provided in this subsection, shall appoint a
7 person who satisfies the requirements established in subsection C of
8 this section to serve as an appellate military judge. If the
9 interim nomination of the appellate military judge is not approved
10 by the Senate during the first regular session following its
11 submission, it shall be deemed rejected.

12 C. Qualifications. An appellate military judge who is
13 appointed to the Military Court of Appeals shall be a licensed
14 practicing attorney or judge of a court of record, or both, in
15 Oklahoma for one (1) year preceding his or her appointment and shall
16 continue to be a duly licensed attorney while in office to be
17 eligible to hold the office. No appellate military judge shall be
18 appointed to the Military Court of Appeals who did not previously
19 serve as a judge advocate in any department of the Armed Forces of
20 the United States, to include reserve components of the same. The
21 Military Court of Appeals shall include at least one appellate
22 military judge who previously served in the United States Army or a
23 reserve component of the same. The Military Court of Appeals shall

24

1 include at least one appellate military judge who previously served
2 in the United States Air Force or a reserve component of the same.

3 D. Term of office and causes for removal or retirement. Each
4 appellate military judge appointed pursuant to this section shall,
5 unless removed for cause, serve out the term for which he or she is
6 appointed. Appellate military judges appointed pursuant to this
7 section shall serve for fixed terms of office of appropriate minimum
8 periods which shall be prescribed by regulations promulgated by the
9 Adjutant General. The appellate military judges of the Military
10 Court of Appeals, exercising judicial power under the provisions of
11 the Oklahoma Uniform Code of Military Justice, shall be subject to
12 removal from office, or to compulsory retirement from office, by
13 proceedings in the Court on the Judiciary, for:

14 1. Gross neglect of duty, corruption in office, habitual
15 drunkenness, commission while in office of any offense involving
16 moral turpitude, gross partiality in office, oppression in office,
17 mental or physical disability preventing the proper performance of
18 official duty or incompetence to perform the duties of the office;
19 or

20 2. Other reasons arising from military customs and practices
21 defined in regulations promulgated by the Adjutant General.

22 E. Compensation. Appellate military judges shall receive
23 compensation calculated on the basis of the current basic pay
24 received by a member in active federal service at the grade of O-6

1 with twenty (20) years of time in service. The Adjutant General
2 shall promulgate regulations establishing the method of calculating
3 compensation for less than full-time service by members of the
4 Military Court of Appeals. Appellate military judges may be paid
5 such actual and necessary expenses as may be provided for in
6 regulations promulgated by the Adjutant General.

7 F. Review.

8 1. Appeals by accused. The Military Court of Appeals shall
9 have jurisdiction over a timely appeal from the judgment of a court-
10 martial, entered into the record under Section 860C of this title
11 (Article 60C), as follows:

- 12 a. on appeal by the accused in a case in which the
13 sentence extends to confinement for more than six (6)
14 months and the case is not subject to automatic review
15 under paragraph 3 of this subsection,
- 16 b. on appeal by the accused in a case in which the
17 government previously filed an appeal under Section
18 862 of this title (Article 62),
- 19 c. on appeal by the accused in a case that the State
20 Judge Advocate has sent to the Military Court of
21 Appeals for review of the sentence under subsection C
22 of Section 856 of this title (Article 56, subsection
23 C),

24

1 d. in a case in which the accused filed an application
2 for review with the Court under subparagraph b of
3 paragraph 1 of subsection D of Section 869 of this
4 title (Article 69, subsection D, paragraph 1,
5 subparagraph b) and the application has been granted
6 by the Court.

7 2. Review of certain sentences. The Military Court of Appeals
8 shall have jurisdiction over all cases that the State Judge Advocate
9 orders sent to the Court for review under subsection C of Section
10 856 of this title (Article 56, subsection C).

11 3. Automatic review. The Military Court of Appeals shall have
12 jurisdiction over a court-martial in which the judgment entered into
13 the record under Section 860C of this title (Article 60C) includes a
14 sentence of dismissal of a commissioned officer, cadet, dishonorable
15 discharge or bad-conduct discharge, or confinement for two (2) years
16 or more.

17 G. Timeliness. An appeal under paragraph 1 of subsection F of
18 this section is timely if it is filed as follows:

19 1. In the case of an appeal by the accused under subparagraph a
20 or b of paragraph 1 of subsection F of this section, if filed before
21 the later of:

22 a. the end of the ninety-day period beginning on the date
23 the accused is provided notice of appellate rights
24

1 under subsection C of Section 865 of this title
2 (Article 65, subsection C), or

3 b. the date set by the Military Court of Appeals by rule
4 or order; and

5 2. In the case of an appeal by the accused under paragraph 1 of
6 subsection C of Section 865 of this title (Article 65, subsection C,
7 paragraph 1), if filed before the later of:

8 a. the end of the ninety-day period beginning on the date
9 the accused is notified that the application for
10 review has been granted by letter placed in the United
11 States mail for delivery by first-class certified mail
12 to the accused at an address provided by the accused
13 or, if no such address has been provided by the
14 accused, at the latest address listed for the accused
15 in his or her official service record, or

16 b. the date set by the Military Court of Appeals by rule
17 or order.

18 H. Duties.

19 1. Cases appealed by accused. In any case before the Military
20 Court of Appeals under subsection F of this section, the Court may
21 act only with respect to the findings and sentence as entered into
22 the record under Section 860C of this title (Article 60C). The
23 Court may affirm only such findings of guilty, and the sentence or
24

1 such part or amount of the sentence, as the Court finds correct on
2 the basis of applicable law.

3 2. Error or excessive delay. In any case before the Military
4 Court of Appeals under subsection F of this section, the Court may
5 provide appropriate relief if the accused demonstrates error or
6 excessive delay in the processing of the court-martial after the
7 judgment was entered into the record under Section 860C of this
8 title (Article 60C).

9 I. Consideration of appeal of sentence by the State of
10 Oklahoma.

11 1. In general. In considering a sentence on appeal or review
12 as provided in subsection C of Section 856 of this title (Article
13 56, subsection C), the Military Court of Appeals may consider:

- 14 a. whether the sentence violates the law, and
- 15 b. whether the sentence is plainly unreasonable.

16 2. Record on appeal or review. In an appeal or review under
17 this subsection or subsection C of Section 856 of this title
18 (Article 56, subsection C), the record on appeal or review shall
19 consist of:

- 20 a. any portion of the record in the case that is
- 21 designated as pertinent by either of the parties,
- 22 b. the information submitted during the sentencing
- 23 proceeding, and

24

1 c. any information required by regulations promulgated by
2 the Adjutant General or by rule or order of the
3 Military Court of Appeals.

4 J. Limits of authority.

5 1. Set aside of findings.

6 a. In general. If the Military Court of Appeals sets
7 aside the findings, the Court:

8 (1) may affirm any lesser included offense, and

9 (2) may, except when prohibited by Section 844 of
10 this title (Article 44), order a rehearing.

11 b. Dismissal when no rehearing ordered. If the Military
12 Court of Appeals sets aside the findings and does not
13 order a rehearing, the Court shall order that the
14 charges be dismissed.

15 c. Dismissal when rehearing impracticable. If the
16 Military Court of Appeals orders a rehearing on a
17 charge and the convening authority finds a rehearing
18 impracticable, the convening authority may dismiss the
19 charge.

20 2. Set aside of sentence. If the Military Court of Appeals
21 sets aside the sentence, the Court may:

22 a. modify the sentence to a lesser sentence, or

23 b. order a rehearing.
24

1 3. Additional proceedings. If the Military Court of Appeals
2 determines that additional proceedings are warranted, the Court may
3 order a hearing as may be necessary to address a substantial issue,
4 subject to such limitations as the Court may direct and under such
5 regulations as the Adjutant General may prescribe.

6 K. Action in accordance with decisions of courts. The State
7 Judge Advocate shall, unless there is to be further action by the
8 Governor, the Adjutant General, or the Oklahoma Court of Criminal
9 Appeals, instruct the appropriate authority to take action in
10 accordance with the decision of the Military Court of Appeals.

11 L. Rules of procedure and designation of chief judge. The
12 State Judge Advocate shall prescribe uniform rules of procedure for
13 the Military Court of Appeals which shall be published as a military
14 publication and shall meet periodically to formulate policies and
15 procedure in regard to review of court-martial cases in the office
16 of the State Judge Advocate and by the Military Court of Appeals.
17 The State Judge Advocate shall designate as chief judge one of the
18 appellate military judges of the Military Court of Appeals.

19 M. Prohibition on evaluation of other members of courts. No
20 member of the Military Court of Appeals shall be required, or on his
21 or her own initiative be permitted, to prepare, approve, disapprove,
22 review, or submit, with respect to any other member of the Military
23 Court of Appeals, an effectiveness, fitness, or efficiency report,
24 or any other report or document used in whole or in part for the

1 purpose of determining whether a member of the state military forces
2 is qualified to be advanced in grade, or in determining the
3 assignment or transfer of a member of the state military forces, or
4 in determining whether a member of the state military forces should
5 be retained as a member of the state military forces.

6 N. Ineligibility of members of courts to review records of
7 cases involving certain prior member service. No member of the
8 Military Court of Appeals shall be eligible to review the record of
9 any trial if such member served as investigating officer in the case
10 or served as a member of the court-martial before which such trial
11 was conducted, or served as military judge, trial or defense
12 counsel, or reviewing officer of such trial.

13 SECTION 300. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 867 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 67. Review by the Oklahoma Court of Criminal Appeals.

17 A. Powers as court of last resort. The Oklahoma Court of
18 Criminal Appeals shall be the court of last resort for all general
19 and special courts-martial convened by the state military forces.
20 In reviewing petitions or appeals granted pursuant to this section,
21 the Oklahoma Court of Criminal Appeals shall have and shall exercise
22 all powers granted to the Court under the Oklahoma Statutes and the
23 Oklahoma Constitution.

24

1 B. Petition for Review. Except as provided in subsection C of
2 this section for appeals arising from a guilty plea, a decision of
3 the Military Court of Appeals may be reviewed by the Oklahoma Court
4 of Criminal Appeals upon the filing of an appeal in the form of a
5 Petition for Review if a majority of judges on the Oklahoma Court of
6 Criminal Appeals directs that such Petition for Review shall be
7 granted. Decisions of the Military Court of Appeals shall be final
8 unless a Petition for Review is granted by the Oklahoma Court of
9 Criminal Appeals or a writ of certiorari is granted pursuant to
10 subsection C of this section.

11 C. Appeals arising from guilty plea. All appeals taken from
12 any conviction on a plea of guilty shall first be decided by the
13 Military Court of Appeals. In the event the conviction arising from
14 a plea of guilty is upheld by the Court of Military Appeals, an
15 appeal may be taken by petition for writ of certiorari to the
16 Oklahoma Court of Criminal Appeals, as provided in subsection D of
17 this section; provided, such petition must be filed within ninety
18 (90) days from the date of said conviction. The Oklahoma Court of
19 Criminal Appeals may take jurisdiction of any case for the purpose
20 of correcting the appeal records when the same do not disclose
21 judgment and sentence; such jurisdiction shall be for the sole
22 purpose of correcting such defect or defects.

23 D. Procedures established by court rules. The procedures for
24 filing a Petition for Review or appeal made pursuant to subsection B

1 or C of this section shall be as provided in the Rules of the Court
2 of Criminal Appeals; and the Oklahoma Court of Criminal Appeals
3 shall provide by court rules, which shall have the force of statute:

4 1. The procedure to be followed by the courts-martial in the
5 preparation and authentication of transcripts and records in cases
6 appealed under the Oklahoma Uniform Code of Military Justice;

7 2. The procedure to be followed by the Court of Military
8 Appeals in the preparation of the record in cases brought up on
9 appeal to the Oklahoma Court of Criminal Appeals under the Code;

10 3. The procedure to be followed for the completion and
11 submission of the Petition for Review or such other appeals lodged
12 pursuant to the Code; and

13 4. The procedure to be followed for filing a petition for and
14 the issuance of a writ of certiorari.

15 E. Scope of review on certiorari. The scope of review to be
16 afforded on certiorari shall be prescribed by the Oklahoma Court of
17 Criminal Appeals.

18 F. Additional proceedings. If the Oklahoma Court of Criminal
19 Appeals determines that additional proceedings are warranted, the
20 Oklahoma Court of Criminal Appeals may order a hearing, rehearing or
21 other proceedings in accordance with the Rules of the Court of
22 Criminal Appeals.

23 G. Action in accordance with decisions of the Oklahoma Court of
24 Criminal Appeals. The State Judge Advocate shall instruct the

1 appropriate authority to take action in accordance with the decision
2 of the Oklahoma Court of Criminal Appeals.

3 SECTION 301. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 867A of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 RESERVED.

7 SECTION 302. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 868 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 RESERVED

11 SECTION 303. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 869 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 69. Review by State Judge Advocate.

15 A. In general. Upon application by the accused and subject to
16 subsections B, C and D of this section, the State Judge Advocate may
17 modify or set aside, in whole or in part, the findings and sentence
18 in a court-martial that is not reviewed under Section 866 of this
19 title (Article 66).

20 B. Timing. To qualify for consideration, an application under
21 subsection A of this section shall be submitted to the State Judge
22 Advocate not later than one (1) year after the date of completion of
23 review under Section 864 or 865 of this title (Article 64 or 65), as
24 the case may be. The State Judge Advocate may, for good cause

1 shown, extend the period for submission of an application, but may
2 not consider an application submitted more than three (3) years
3 after such completion date.

4 C. Scope.

5 1. a. In a case reviewed under Section 864 or subsection B
6 of Section 865 of this title (Article 64 or Article
7 65, subsection B), the State Judge Advocate may set
8 aside the findings or sentence, in whole or in part,
9 on the grounds of newly discovered evidence, fraud on
10 the court, lack of jurisdiction over the accused or
11 the offense, error prejudicial to the substantial
12 rights of the accused, or the appropriateness of the
13 sentence.

14 b. In setting aside findings or sentence, the State Judge
15 Advocate may order a rehearing, except that a
16 rehearing may not be ordered in violation of Section
17 844 of this title (Article 44).

18 c. If the State Judge Advocate sets aside findings and
19 sentence and does not order a rehearing, the State
20 Judge Advocate shall dismiss the charges.

21 d. If the State Judge Advocate sets aside findings and
22 orders a rehearing and the convening authority
23 determines that a rehearing would be impractical, the
24 convening authority shall dismiss the charges.

1 2. In a case reviewed under subsection B of Section 865 of this
2 title (Article 65, subsection B), review under this section is
3 limited to the issue of whether the waiver or withdrawal of an
4 appeal was invalid under the law. If the State Judge Advocate
5 determines that the waiver or withdrawal of an appeal was invalid,
6 the State Judge Advocate shall order appropriate corrective action
7 under regulations promulgated by the Adjutant General.

8 D. Military Court of Appeals.

9 1. The Military Court of Appeals may review the action taken by
10 the State Judge Advocate under subsection C of this section:

11 a. in a case sent to the Military Court of Appeals by
12 order of the State Judge Advocate, or

13 b. in a case submitted to the Military Court of Appeals
14 by the accused in an application for review.

15 2. The Military Court of Appeals may grant an application under
16 subparagraph b of paragraph 1 of this subsection only if:

17 a. the application demonstrates a substantial basis for
18 concluding that the action on review under subsection
19 C of this section constituted prejudicial error, and

20 b. the application is filed not later than the earlier
21 of:

22 (1) sixty (60) days after the date on which the
23 accused is notified of the decision of the State
24 Judge Advocate, or

1 (2) sixty (60) days after the date on which a copy of
2 the decision of the State Judge Advocate is
3 deposited in the United States mail for delivery
4 by first-class certified mail to the accused at
5 an address provided by the accused or, if no such
6 address has been provided by the accused, at the
7 latest address listed for the accused in his or
8 her official service record.

9 3. The submission of an application for review under this
10 subsection does not constitute a proceeding before the Military
11 Court of Appeals for purposes of paragraph 1 of subsection C of
12 Section 870 of this title (Article 70, subsection C, paragraph 1).

13 E. Action only on matters of law. Notwithstanding Section 866
14 of this title (Article 66), in any case reviewed by the Military
15 Court of Appeals under subsection D of this section, the Court may
16 take action only with respect to matters of law.

17 SECTION 304. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 870 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 70. Appellate counsel.

21 A. The State Judge Advocate shall detail in his or her office
22 one or more commissioned officers as appellate government counsel,
23 and one or more commissioned officers as appellate defense counsel,
24

1 who are qualified under paragraph 1 of subsection B of Section 827
2 of this title (Article 27, subsection B, paragraph 1).

3 B. Appellate government counsel shall represent the State of
4 Oklahoma before the Military Court of Appeals or the Court of
5 Criminal Appeals when directed to do so by the State Judge Advocate.

6 C. Appellate defense counsel shall represent the accused before
7 the Military Court of Appeals, or the Court of Criminal Appeals:

8 1. When requested by the accused;

9 2. When the State of Oklahoma is represented by counsel; or

10 3. When the State Judge Advocate has sent the case to the
11 Military Court of Appeals.

12 D. The accused has the right to be represented before the
13 Military Court of Appeals, or the Court of Criminal Appeals by
14 civilian counsel if provided by him or her.

15 E. Military appellate counsel shall also perform such other
16 functions in connection with the review of court-martial cases as
17 the State Judge Advocate directs.

18 F. As provided in regulations promulgated by the Adjutant
19 General, if needed, the State Judge Advocate may employ civilian
20 appellate counsel for the government and for the defense.

21 SECTION 305. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 871 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 RESERVED.

1 SECTION 306. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 872 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 72. Vacation of suspension.

5 A. Before the vacation of the suspension of a special court-
6 martial sentence which as approved includes a bad-conduct discharge,
7 or of any general court-martial sentence, the officer having special
8 court-martial jurisdiction over the probationer shall hold a hearing
9 on the alleged violation of probation. The State Judge Advocate
10 shall detail a judge advocate, who is certified under subsection B
11 of Section 827 of this title (Article 27, subsection B), to conduct
12 the hearing. The probationer shall be represented at the hearing by
13 counsel if the probationer so desires.

14 B. The record of the hearing and the recommendation of the
15 officer having special court-martial jurisdiction shall be sent for
16 action to the Adjutant General. If the Adjutant General vacates the
17 suspension, any unexecuted part of the sentence shall be executed,
18 subject to applicable restrictions in Section 857 of this title
19 (Article 57).

20 C. The suspension of any other sentence may be vacated by any
21 authority competent to convene, for the command in which the accused
22 is serving or assigned, a court of the kind that imposed the
23 sentence.

24

1 SECTION 307. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 873 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 73. Petition for a new trial.

5 At any time within three (3) years after the date of the entry
6 of judgment under Section 860C of this title (Article 60C), the
7 accused may petition the State Judge Advocate for a new trial on the
8 grounds of newly discovered evidence or fraud on the court. If the
9 accused's case is pending before the Military Court of Appeals or
10 before the Court of Criminal Appeals, the State Judge Advocate shall
11 refer the petition to the appropriate court for action. Otherwise,
12 the State Judge Advocate shall act upon the petition.

13 SECTION 308. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 874 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 74. Remission and suspension.

17 A. The Adjutant General and, when designated by him or her, a
18 Senior Assistant Adjutant General, the State Judge Advocate, or
19 commanding officer may remit or suspend any part or amount of the
20 unexecuted part of any sentence, including all uncollected
21 forfeitures other than a sentence approved by the Governor.

22 B. The Adjutant General may, for good cause, substitute an
23 administrative form of discharge for a discharge or dismissal
24 executed in accordance with the sentence of a court-martial.

1 SECTION 309. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 875 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 75. Restoration.

5 A. Under such regulations as the Adjutant General may
6 promulgate, all rights, privileges, and property affected by an
7 executed part of a court-martial sentence which has been set aside
8 or disapproved, except an executed dismissal or discharge, shall be
9 restored unless a new trial or rehearing is ordered and such
10 executed part is included in a sentence imposed upon the new trial
11 or rehearing.

12 B. If a previously executed sentence of dishonorable or bad-
13 conduct discharge is not imposed on a new trial, the Adjutant
14 General shall substitute therefor a form of discharge authorized for
15 administrative issuance unless the accused is to serve out the
16 remainder of his or her enlistment.

17 C. If a previously executed sentence of dismissal is not
18 imposed on a new trial, the Adjutant General shall substitute
19 therefor a form of discharge authorized for administrative issue,
20 and the commissioned officer dismissed by that sentence may be
21 reappointed pursuant to Sections 875 and 12203 of Title 10 of the
22 United States Code and any applicable regulations prescribed
23 thereunder by the President of the United States or the Secretary
24 concerned.

1 SECTION 310. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 876 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 76. Finality of proceedings, findings, and sentences.

5 The appellate review of records of trial provided by the
6 Oklahoma Uniform Code of Military Justice, the proceedings,
7 findings, and sentences of courts-martial as approved, reviewed, or
8 affirmed as required by the Code, and all dismissals and discharges
9 carried into execution under sentences by courts-martial following
10 approval, review, or affirmation as required by the Code, are final
11 and conclusive. Orders publishing the proceedings of courts-martial
12 and all action taken pursuant to those proceedings are binding upon
13 all departments, courts, agencies, and officers of the State of
14 Oklahoma, subject only to action upon a petition for a new trial as
15 provided in Section 873 of this title (Article 73) and to action by
16 the Adjutant General as provided in Section 874 of this title
17 (Article 74) and the authority of the Governor.

18 SECTION 311. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 876A of Title 44, unless there
20 is created a duplication in numbering, reads as follows:

21 ARTICLE 76A. Leave required to be taken pending review of
22 certain court-martial convictions.

23 Under regulations promulgated by the Adjutant General, an
24 accused who has been sentenced by a court-martial may be required to

1 take leave pending completion of action under this part if the
2 sentence includes an unsuspended dismissal or an unsuspended
3 dishonorable or bad-conduct discharge. The accused may be required
4 to begin such leave on the date of the entry of judgment under
5 Section 860C of this title (Article 60C) or at any time after such
6 date, and such leave may be continued until the date on which action
7 under this part is completed or may be terminated at any earlier
8 time.

9 SECTION 312. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 876B of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 76B. Lack of mental capacity or mental responsibility.

13 A. No person accused of violating a punitive section under the
14 Oklahoma Uniform Code of Military Justice shall be brought to trial
15 by a general or special court-martial if that person is presently
16 suffering from a mental disease or defect rendering him or her
17 mentally incompetent to the extent that he or she is unable to
18 understand the nature of the proceedings against him or her or to
19 conduct or cooperate intelligently in the defense of the case.

20 B. A person is presumed to have the capacity to stand trial
21 unless the contrary is established.

22 C. The procedure for determining mental competence shall be
23 established in regulations promulgated by the Adjutant General.

24 PART X.

1 PUNITIVE ARTICLES

2 SECTION 313. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 877 of Title 44, unless there is
4 created a duplication in numbering, reads as follows:

5 ARTICLE 77. Principals.

6 Any person punishable under the Oklahoma Uniform Code of
7 Military Justice who:

8 1. Commits an offense punishable by the Oklahoma Uniform Code
9 of Military Justice, or aids, abets, counsels, commands, or procures
10 its commission; or

11 2. Causes an act to be done which if directly performed by him
12 or her would be punishable by this chapter,
13 shall be a principal.

14 SECTION 314. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 878 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 78. Accessory after the fact.

18 Any person subject to the Oklahoma Uniform Code of Military
19 Justice who, knowing that an offense punishable by the Code has been
20 committed, receives, comforts, or assists the offender in order to
21 hinder or prevent his or her apprehension, trial, or punishment
22 shall be punished as a court-martial may direct.

1 SECTION 315. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 879 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 79. Conviction of offense charged, lesser included
5 offenses.

6 A. In general. An accused may be found guilty of any of the
7 following:

- 8 1. The offense charged;
- 9 2. A lesser included offense;
- 10 3. An attempt to commit the offense charged; and
- 11 4. An attempt to commit a lesser included offense, if the
12 attempt is an offense in its own right.

13 B. Lesser included offense defined. In this section, the term
14 "lesser included offense" means:

- 15 1. An offense that is necessarily included in the offense
16 charged; and
- 17 2. Any lesser included offense so designated by regulation
18 prescribed by the Adjutant General.

19 C. Regulatory authority. Any designation of a lesser-included
20 offense in a regulation referred to in subsection B of this section
21 shall be reasonably included in the greater offense.

22 SECTION 316. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 880 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 80. Attempts.

2 A. An act, done with specific intent to commit an offense under
3 the Oklahoma Uniform Code of Military Justice, amounting to more
4 than mere preparation and tending, even though failing, to effect
5 its commission, shall be an attempt to commit that offense.

6 B. Any person subject to the Code who attempts to commit any
7 offense punishable by the Code shall be punished as a court-martial
8 may direct, unless otherwise specifically prescribed.

9 C. Any person subject to the Code may be convicted of an
10 attempt to commit an offense although it appears on the trial that
11 the offense was consummated.

12 SECTION 317. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 881 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 81. Conspiracy.

16 Any person subject to the Oklahoma Uniform Code of Military
17 Justice who conspires with any other person to commit an offense
18 under the Code shall, if one or more of the conspirators does an act
19 to effect the object of the conspiracy, be punished as a court-
20 martial may direct.

21 SECTION 318. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 882 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 82. Soliciting commission of offenses.

1 A. Soliciting commission of offenses generally. Any person
2 subject to the Oklahoma Uniform Code of Military Justice who
3 solicits or advises another to commit an offense under the Code,
4 other than an offense specified in subsection B of this section,
5 shall be punished as a court-martial may direct.

6 B. Soliciting desertion, mutiny, sedition, or misbehavior
7 before the enemy. Any person subject to the Code who solicits or
8 advises another to violate Section 885 of this title (Article 85),
9 Section 894 of this title (Article 94), or Section 899 of this title
10 (Article 99):

11 1. If the offense solicited or advised is attempted or is
12 committed, shall be punished with the punishment provided for the
13 commission of the offense; and

14 2. If the offense solicited or advised is not attempted or
15 committed, shall be punished as a court-martial may direct.

16 SECTION 319. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 883 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 83. Malingering.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who, with the intent to avoid work, duty, or service:

22 1. Feigns illness, physical disablement, mental lapse, or
23 mental derangement; or

24 2. Intentionally inflicts self-injury,

1 shall be punished as a court-martial may direct.

2 SECTION 320. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 884 of Title 44, unless there is
4 created a duplication in numbering, reads as follows:

5 ARTICLE 84. Breach of medical quarantine.

6 Any person subject to the Oklahoma Uniform Code of Military
7 Justice:

8 1. Who is ordered into medical quarantine by a person
9 authorized to issue such order; and

10 2. Who, with knowledge of the quarantine and the limits of the
11 quarantine, goes beyond those limits before being released from the
12 quarantine by proper authority,
13 shall be punished as a court-martial may direct.

14 SECTION 321. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 885 of Title 44, unless there is
16 created a duplication in numbering, reads as follows:

17 ARTICLE 85. Desertion.

18 A. Any member of the state military forces who:

19 1. Without authority goes or remains absent from his or her
20 unit, organization, or place of duty with intent to remain away
21 therefrom permanently;

22 2. Quits his or her unit, organization, or place of duty with
23 intent to avoid hazardous duty or to shirk important service; or
24

1 3. Without being regularly separated from one of the force
2 components of state military forces enlists or accepts an
3 appointment in the same or another one of the armed forces without
4 fully disclosing the fact that he or she has not been regularly
5 separated, or enters any foreign armed service except when
6 authorized by the United States,
7 is guilty of desertion.

8 B. Any commissioned officer of the state military forces who,
9 after tender of his or her resignation and before notice of its
10 acceptance, quits his or her post or proper duties without leave and
11 with intent to remain away therefrom permanently is guilty of
12 desertion.

13 C. Any person found guilty of desertion or attempt to desert
14 shall be punished, if the offense is committed in time of war, by
15 confinement of not more than ten (10) years or such other punishment
16 as a court-martial may direct, but if the desertion or attempt to
17 desert occurs at any other time, by such punishment as a court-
18 martial may direct.

19 SECTION 322. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 886 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 86. Absence without leave.

23 Any member of the state military forces who, without authority:
24

- 1 1. Fails to go to his or her appointed place of duty at the
2 time prescribed;
- 3 2. Goes from that place; or
- 4 3. Absents himself or herself or remains absent from his or her
5 unit, organization, or place of duty at which he or she is required
6 to be at the time prescribed,
7 shall be punished as a court-martial may direct.

8 SECTION 323. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 887 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 87. Missing movement; jumping from vessel.

12 A. Missing movement. Any person subject to the Oklahoma
13 Uniform Code of Military Justice who, through neglect or design,
14 misses the movement of a ship, aircraft, or unit with which the
15 person is required in the course of duty to move shall be punished
16 as a court-martial may direct.

17 B. Jumping from vessel into the water. Any person subject to
18 the Code who wrongfully and intentionally jumps into the water from
19 a vessel in use by the armed forces shall be punished as a court-
20 martial may direct.

21 SECTION 324. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 887A of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 ARTICLE 87A. Resistance, flight, breach of arrest, and escape.

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who:

- 3 1. Resists apprehension;
- 4 2. Flees from apprehension;
- 5 3. Breaks arrest; or
- 6 4. Escapes from custody or confinement,

7 shall be punished as a court-martial may direct.

8 SECTION 325. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 887B of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 326. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 888 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 88. Contempt toward officials.

16 Any commissioned officer who uses contemptuous words against the
17 President, the Vice President, Congress, the Secretary of Defense,
18 the Secretary of a military department, the Secretary of Homeland
19 Security, the Governor of the State of Oklahoma, or the Oklahoma
20 Legislature shall be punished as a court-martial may direct.

21 SECTION 327. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 889 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24

1 ARTICLE 89. Disrespect toward superior commissioned officer;
2 assault of superior commissioned officer.

3 A. Disrespect. Any person subject to the Oklahoma Uniform Code
4 of Military Justice who behaves with disrespect toward that person's
5 superior commissioned officer shall be punished as a court-martial
6 may direct.

7 B. Assault. Any person subject to the Code who strikes that
8 person's superior commissioned officer or draws or lifts up any
9 weapon or offers any violence against that officer while the officer
10 is in the execution of the officer's office shall be punished, if
11 the offense is committed in time of declared war, by confinement of
12 not more than ten (10) years or such other punishment as a court-
13 martial may direct, and if the offense is committed at any other
14 time, by such punishment as a court-martial may direct.

15 SECTION 328. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 890 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 ARTICLE 90. Willfully disobeying superior commissioned officer.

19 Any person subject to the Oklahoma Uniform Code of Military
20 Justice who willfully disobeys a lawful command of that person's
21 superior commissioned officer shall be punished, if the offense is
22 committed in time of declared war, by confinement of not more than
23 ten (10) years or such other punishment as a court-martial may
24

1 direct, and if the offense is committed at any other time, by such
2 punishment as a court-martial may direct.

3 SECTION 329. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 891 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 91. Insubordinate conduct toward warrant officer, or
7 noncommissioned officer.

8 Any warrant officer or enlisted member who:

9 1. Strikes or assaults a warrant officer, or noncommissioned
10 officer, while that officer is in the execution of his or her
11 office;

12 2. Willfully disobeys the lawful order of a warrant officer, or
13 noncommissioned officer; or

14 3. Treats with contempt or is disrespectful in language or
15 deportment toward a warrant officer, or noncommissioned officer,
16 while that officer is in the execution of his or her office,
17 shall be punished as a court-martial may direct.

18 SECTION 330. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 892 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 92. Failure to obey order or regulation.

22 Any person subject to the Oklahoma Uniform Code of Military
23 Justice who:

24

1 1. Violates or fails to obey any lawful general order or
2 regulation;

3 2. Having knowledge of any other lawful order issued by a
4 member of the state military forces, which it is his or her duty to
5 obey, fails to obey the order; or

6 3. Is derelict in the performance of his or her duties,
7 shall be punished as a court-martial may direct.

8 SECTION 331. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 893 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 93. Cruelty and maltreatment.

12 Any person subject to the Oklahoma Uniform Code of Military
13 Justice who is guilty of cruelty toward, or oppression or
14 maltreatment of, any person subject to his or her orders shall be
15 punished as a court-martial may direct.

16 SECTION 332. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 893A of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 93A. Prohibited activities with military recruit or
20 trainee by person in position of special trust.

21 A. Abuse of training leadership position. Any person subject
22 to the Oklahoma Uniform Code of Military Justice:

23 1. Who is an officer, or a noncommissioned officer;
24

1 2. Who is in a training leadership position with respect to a
2 specially protected junior member of the state military forces; and

3 3. Who engages in prohibited sexual activity with such
4 specially protected junior member of the state military forces,
5 shall be punished as a court-martial may direct.

6 B. Abuse of position as military recruiter. Any person subject
7 to the Code:

8 1. Who is a military recruiter and engages in prohibited sexual
9 activity with an applicant for military service; or

10 2. Who is a military recruiter and engages in prohibited sexual
11 activity with a specially protected junior member of the state
12 military forces who is enlisted under a delayed entry program,
13 shall be punished as a court-martial may direct.

14 C. Consent. Consent is not a defense for any conduct at issue
15 in a prosecution under this section (article).

16 D. Definitions. In this section (article):

17 1. Specially protected junior member of the state military
18 forces. The term "specially protected junior member of the state
19 military forces" means:

20 a. a member of the state military forces who is assigned
21 to, or is awaiting assignment to, basic training or
22 other initial active duty for training, including a
23 member who is enlisted under a delayed entry program,
24

- 1 b. a member of the state military forces who is a cadet,
2 an officer candidate, or a student in any other
3 officer qualification program, and
- 4 c. a member of the state military forces in any program
5 that, by regulation prescribed by the Secretary of the
6 Army or the Secretary of the Air Force or the Adjutant
7 General, is identified as a training program for
8 initial career qualification;

9 2. Training leadership position. The term "training leadership
10 position" means, with respect to a specially protected junior member
11 of the state military forces, any of the following:

- 12 a. any drill instructor position or other leadership
13 position in a basic training program, an officer
14 candidate school, a reserve officers' training corps
15 unit, a training program for entry into the state
16 military forces, or any program that, by regulation
17 prescribed by the Secretary of the Army or the
18 Secretary of the Air Force or the Adjutant General,
19 and
- 20 b. faculty and staff of any officer candidate school
21 organized under the authority of the Adjutant General;

22 3. Applicant for military service. The term "applicant for
23 military service" means a person who, under regulations prescribed
24 by the Secretary of the Army or the Secretary of the Air Force or

1 the Adjutant General, is an applicant for original enlistment or
2 appointment in the state military forces;

3 4. Military recruiter. The term "military recruiter" means a
4 person who, under regulations prescribed by the Secretary of the
5 Army or the Secretary of the Air Force or the Adjutant General, has
6 the primary duty to recruit persons for service in the state
7 military forces; and

8 5. Prohibited sexual activity. The term "prohibited sexual
9 activity" means, as specified in regulations prescribed by the
10 Secretary of the Army or the Secretary of the Air Force or the
11 Adjutant General, inappropriate physical intimacy under
12 circumstances described in such regulations.

13 SECTION 333. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 894 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 94. Mutiny or sedition.

17 A. Any person subject to the Oklahoma Uniform Code of Military
18 Justice who:

19 1. With intent to usurp or override lawful military authority,
20 refuses, in concert with any other person, to obey orders or
21 otherwise do his or her duty or creates any violence or disturbance
22 is guilty of mutiny;

23 2. With intent to cause the overthrow or destruction of lawful
24 civil authority, creates, in concert with any other person, revolt,

1 violence, or other disturbance against that authority is guilty of
2 sedition;

3 3. Fails to do his or her utmost to prevent and suppress a
4 mutiny or sedition being committed in his or her presence, or fails
5 to take all reasonable means to inform his or her superior
6 commissioned officer or commanding officer of a mutiny or sedition
7 which he or she knows or has reason to believe is taking place, is
8 guilty of a failure to suppress or report a mutiny or sedition.

9 B. A person who is found guilty of attempted mutiny, mutiny,
10 sedition, or failure to suppress or report a mutiny or sedition
11 shall be punished as a court-martial may direct.

12 SECTION 334. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 895 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 95. Offenses by sentinel or lookout.

16 A. Drunk or sleeping on post, or leaving post before being
17 relieved. Any sentinel or lookout who is drunk on post, who sleeps
18 on post, or who leaves post before being regularly relieved, shall
19 be punished, if the offense is committed in time of war, by
20 confinement of not more than ten (10) years or other punishment as a
21 court-martial may direct, but if the offense is committed at any
22 other time, by such punishment as a court-martial may direct.

23

24

1 B. Loitering or wrongfully sitting on post. Any sentinel or
2 lookout who loiters or wrongfully sits down on post shall be
3 punished as a court-martial may direct.

4 SECTION 335. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 895A of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 95A. Disrespect toward sentinel or lookout.

8 A. Disrespectful language toward sentinel or lookout. Any
9 person subject to the Oklahoma Uniform Code of Military Justice who,
10 knowing that another person is a sentinel or lookout, uses wrongful
11 and disrespectful language that is directed toward and within the
12 hearing of the sentinel or lookout, who is in the execution of
13 duties as a sentinel or lookout, shall be punished as a court-
14 martial may direct.

15 B. Disrespectful behavior toward sentinel or lookout. Any
16 person subject to the Code who, knowing that another person is a
17 sentinel or lookout, behaves in a wrongful and disrespectful manner
18 that is directed toward and within the sight of the sentinel or
19 lookout, who is in the execution of duties as a sentinel or lookout,
20 shall be punished as a court-martial may direct.

21 SECTION 336. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 896 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24

1 ARTICLE 96. Release of prisoner without authority; drinking
2 with prisoner.

3 A. Release of prisoner without authority. Any person subject
4 to the Oklahoma Uniform Code of Military Justice:

5 1. Who, without authority to do so, releases a prisoner; or

6 2. Who, through neglect or design, allows a prisoner to escape,
7 shall be punished as a court-martial may direct, whether or not the
8 prisoner was committed in strict compliance with the law.

9 B. Drinking with prisoner. Any person subject to the Code who
10 unlawfully drinks any alcoholic beverage with a prisoner shall be
11 punished as a court-martial may direct.

12 SECTION 337. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 897 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 97. Unlawful detention.

16 Any person subject to the Oklahoma Uniform Code of Military
17 Justice who, except as provided by law, apprehends, arrests, or
18 confines any person shall be punished as a court-martial may direct.

19 SECTION 338. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 898 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 98. Misconduct as prisoner.

23 Any person subject to the Oklahoma Uniform Code of Military
24 Justice who, while in the hands of the enemy in time of war:

1 1. For the purpose of securing favorable treatment by his or
2 her captors acts without proper authority in a manner contrary to
3 law, custom, or regulation, to the detriment of others of whatever
4 nationality held by the enemy as civilian or military prisoners; or

5 2. While in a position of authority over such persons maltreats
6 them without justifiable cause,
7 shall be punished as a court-martial may direct.

8 SECTION 339. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 899 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 99. Misbehavior before the enemy.

12 Any person subject to the Oklahoma Uniform Code of Military
13 Justice who before or in the presence of the enemy:

14 1. Runs away;

15 2. Shamefully abandons, surrenders, or delivers up any command,
16 unit, place, or military property which it is his or her duty to
17 defend;

18 3. Through disobedience, neglect, or intentional misconduct
19 endangers the safety of any such command, unit, place, or military
20 property;

21 4. Casts away his or her arms or ammunition;

22 5. Is guilty of cowardly conduct;

23 6. Quits his or her place of duty to plunder or pillage;

24

1 7. Causes false alarms in any command, unit, or place under
2 control of the armed forces of the United States or the state
3 military forces;

4 8. Willfully fails to do his or her utmost to encounter,
5 engage, capture, or destroy any enemy troops, combatants, vessels,
6 aircraft, or any other thing, which it is his or her duty so to
7 encounter, engage, capture, or destroy; or

8 9. Does not afford all practicable relief and assistance to any
9 troops, combatants, vessels, or aircraft of the armed forces
10 belonging to the United States or their allies, to the State of
11 Oklahoma, or to any other state, when engaged in battle,
12 shall be punished as a court-martial may direct.

13 SECTION 340. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 900 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 100. Subordinate compelling surrender.

17 Any person subject to the Oklahoma Uniform Code of Military
18 Justice who compels or attempts to compel the commander of any
19 place, vessel, aircraft, or other military property, or of any body
20 of members of the state military forces, to give it up to an enemy
21 or to abandon it, or who strikes the colors or flag to an enemy
22 without proper authority, shall be punished as a court-martial may
23 direct.

1 SECTION 341. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 901 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 101. Improper use of countersign.

5 Any person subject to the Oklahoma Uniform Code of Military
6 Justice who in time of war discloses the parole or countersign to
7 any person not entitled to receive it or who gives to another who is
8 entitled to receive and use the parole or countersign a different
9 parole or countersign from that which, to his or her knowledge, he
10 or she was authorized and required to give, shall be punished as a
11 court-martial may direct.

12 SECTION 342. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 902 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 ARTICLE 102. Forcing a safeguard.

16 Any person subject to the Oklahoma Uniform Code of Military
17 Justice who forces a safeguard shall be punished as a court-martial
18 may direct.

19 SECTION 343. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 903 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 RESERVED.
23
24

1 SECTION 344. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 903A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 345. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 903B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 ARTICLE 103B. Aiding the enemy.

9 Any person who:

10 1. Aids, or attempts to aid, the enemy with arms, ammunition,
11 supplies, money, or other things; or

12 2. Without proper authority, knowingly harbors or protects or
13 gives intelligence to, or communicates or corresponds with or holds
14 any intercourse with the enemy, either directly or indirectly,
15 shall be punished as a court-martial may direct.

16 SECTION 346. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 903C of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 103C. Unlawful disclosure of confidential information.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who, with intent or reason to believe that it is to be used
22 in the commission of a crime or act of terrorism under Oklahoma law,
23 communicates, delivers or transmits, or attempts to communicate,
24 deliver or transmit confidential information, directly or

1 indirectly, to any other person shall be punished as a court-martial
2 may direct.

3 SECTION 347. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 904 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 ARTICLE 104. Public records offenses.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who willfully and unlawfully alters, conceals, removes,
9 mutilates, obliterates, destroys, or takes with the intent to alter,
10 conceal, remove, mutilate, obliterate, or destroy, a certain public
11 record, and whose conduct, under the circumstances, was to the
12 prejudice of good order and discipline in the armed forces or was of
13 a nature to bring discredit upon the armed forces, shall be punished
14 as a court-martial may direct.

15 SECTION 348. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 904A of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 104A. Fraudulent enlistment, appointment, or
19 separation.

20 Any person who:

21 1. Procures his or her own enlistment or appointment in the
22 state military forces by knowingly false representation or
23 deliberate concealment as to his or her qualifications for that
24

1 enlistment or appointment and receives pay or allowances thereunder;
2 or

3 2. Procures his or her own separation from the state military
4 forces by knowingly false representation or deliberate concealment
5 as to his or her eligibility for that separation,
6 shall be punished as a court-martial may direct.

7 SECTION 349. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 904B of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 104B. Unlawful enlistment, appointment, or separation.

11 Any person subject to the Oklahoma Uniform Code of Military
12 Justice who effects an enlistment or appointment in or a separation
13 from the state military forces of any person who is known to him or
14 her to be ineligible for that enlistment, appointment, or separation
15 because it is prohibited by law, regulation, or order shall be
16 punished as a court-martial may direct.

17 SECTION 350. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 905 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 RESERVED.

21 SECTION 351. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 905A of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 ARTICLE 105A. False or unauthorized pass offenses.

1 A. Wrongful making, altering, etc. Any person subject to the
2 Oklahoma Uniform Code of Military Justice who, wrongfully and
3 falsely, makes, alters, counterfeits, or tampers with a military or
4 official pass, permit, discharge certificate, or identification card
5 shall be punished as a court-martial may direct.

6 B. Wrongful sale, etc. Any person subject to the Code who
7 wrongfully sells, gives, lends, or disposes of a false or
8 unauthorized military or official pass, permit, discharge
9 certificate, or identification card, knowing that the pass, permit,
10 discharge certificate, or identification card is false or
11 unauthorized, shall be punished as a court-martial may direct.

12 C. Wrongful use or possession. Any person subject to the Code
13 who wrongfully uses or possesses a false or unauthorized military or
14 official pass, permit, discharge certificate, or identification
15 card, knowing that the pass, permit, discharge certificate, or
16 identification card is false or unauthorized, shall be punished as a
17 court-martial may direct.

18 SECTION 352. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 906 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 RESERVED.

22 SECTION 353. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 906A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 106A. Wearing unauthorized insignia, decoration, badge,
2 ribbon, device, or lapel button.

3 Any person subject to the Oklahoma Uniform Code of Military
4 Justice:

5 1. Who is not authorized to wear an insignia, decoration,
6 badge, ribbon, device, or lapel button; and

7 2. Who wrongfully wears such insignia, decoration, badge,
8 ribbon, device, or lapel button upon the person's uniform or
9 civilian clothing,

10 shall be punished as a court-martial may direct.

11 SECTION 354. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 907 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 107. False official statements; false swearing.

15 A. False official statements. Any person subject to the
16 Oklahoma Uniform Code of Military Justice who, with intent to
17 deceive:

18 1. Signs any false record, return, regulation, order, or other
19 official document, knowing it to be false; or

20 2. Makes any other false official statement knowing it to be
21 false,
22 shall be punished as a court-martial may direct.

23 B. False swearing. Any person subject to the Code:

24 1. Who takes an oath that:

- a. is administered in a matter in which such oath is required or authorized by law, and
- b. is administered by a person with authority to do so; and

2. Who, upon such oath, makes or subscribes to a statement, if the statement is false and at the time of taking the oath, the person does not believe the statement to be true, shall be punished as a court-martial may direct.

SECTION 355. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 907A of Title 44, unless there is created a duplication in numbering, reads as follows:

RESERVED.

SECTION 356. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 908 of Title 44, unless there is created a duplication in numbering, reads as follows:

ARTICLE 108. Military property-loss, damage, destruction, or wrongful disposition.

Any person subject to the Oklahoma Uniform Code of Military Justice who, without proper authority:

1. Sells or otherwise disposes of;
2. Willfully or through neglect damages, destroys, or loses; or
3. Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of,

1 any military property of the United States, the State of Oklahoma,
2 or any other state, shall be punished as a court-martial may direct.

3 SECTION 357. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 908A of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 108A. Captured or abandoned property.

7 A. All persons subject to the Oklahoma Uniform Code of Military
8 Justice shall secure all public property taken for the service of
9 the United States, or the State of Oklahoma, or another state, and
10 shall give notice and turn over to the proper authority without
11 delay all captured or abandoned property in their possession,
12 custody, or control.

13 B. Any person subject to the Code who:

14 1. Fails to carry out the duties prescribed in subsection A of
15 this section;

16 2. Buys, sells, trades, or in any way deals in or disposes of
17 captured or abandoned property, whereby he or she receives or
18 expects any profit, benefit, or advantage to himself or herself or
19 another directly or indirectly connected with himself or herself; or

20 3. Engages in looting or pillaging,
21 shall be punished as a court-martial may direct.

22 SECTION 358. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 909 of Title 44, unless there is
24 created a duplication in numbering, reads as follows:

1 ARTICLE 109. Property other than military property-waste,
2 spoilage, or destruction.

3 Any person subject to the Oklahoma Uniform Code of Military
4 Justice who willfully or recklessly wastes, spoils, or otherwise
5 willfully and wrongfully destroys or damages any property other than
6 military property of the United States or of the State of Oklahoma
7 or of any other state shall be punished as a court-martial may
8 direct.

9 SECTION 359. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 909A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 RESERVED.

13 SECTION 360. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 910 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 ARTICLE 110. Improper hazarding of vessel or aircraft.

17 A. Willful and wrongful hazarding. Any person subject to the
18 Oklahoma Uniform Code of Military Justice who, willfully and
19 wrongfully, hazards or suffers to be hazarded any vessel or aircraft
20 of the armed forces of the United States, the state military forces,
21 or of the military forces of any other state shall be punished as a
22 court-martial may direct.

23 B. Negligent hazarding. Any person subject to the Code who
24 negligently hazards or suffers to be hazarded any vessel or aircraft

1 of the armed forces of the United States, the state military forces,
2 or of the military forces of any other state shall be punished as a
3 court-martial may direct.

4 SECTION 361. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 911 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 RESERVED.

8 SECTION 362. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 912 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 112. Drunkenness and other incapacitation offenses.

12 A. Drunk on duty. Any person subject to the Oklahoma Uniform
13 Code of Military Justice, other than a sentinel or lookout, who is
14 drunk on duty shall be punished as a court-martial may direct.

15 B. Incapacitation for duty from drunkenness or drug use. Any
16 person subject to the Code who, as a result of indulgence in any
17 alcoholic beverage or any drug, is incapacitated for the proper
18 performance of duty shall be punished as a court-martial may direct.

19 C. Drunk prisoner. Any person subject to the Code who is a
20 prisoner and, while in such status, is drunk shall be punished as a
21 court-martial may direct.

22 SECTION 363. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 912A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 112A. Wrongful use, possession, etc., of controlled
2 substances.

3 A. Any person subject to the Oklahoma Uniform Code of Military
4 Justice who wrongfully uses, possesses, manufactures, distributes,
5 imports into the customs territory of the United States, exports
6 from the United States, or introduces into an installation, vessel,
7 vehicle, or aircraft used by or under the control of the armed
8 forces of the United States or of the state military forces a
9 substance described in subsection B of this section shall be
10 punished as a court-martial may direct.

11 B. The substances referred to in subsection A of this section
12 are the following:

13 1. Opium, heroin, cocaine, amphetamine, lysergic acid
14 diethylamide, methamphetamine, phencyclidine, barbituric acid, and
15 marijuana and any compound or derivative of any such substance;

16 2. Any substance not specified in paragraph 1 of this
17 subsection that is listed on a schedule of controlled substances
18 prescribed by the President for the purposes of the Uniform Code of
19 Military Justice, Title 10 of the United States Code, Section 801,
20 et seq.; and

21 3. Any other substance not specified in paragraph 1 of this
22 subsection or contained on a list prescribed by the President under
23 paragraph 2 of this subsection that is listed in schedules I through
24

1 V of article 202 of the Controlled Substances Act, Title 21 of the
2 United States Code, Section 812.

3 SECTION 364. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 913 of Title 44, unless there is
5 created a duplication in numbering, reads as follows:

6 RESERVED.

7 SECTION 365. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 914 of Title 44, unless there is
9 created a duplication in numbering, reads as follows:

10 ARTICLE 114. Endangerment offenses.

11 A. Reckless endangerment. Any person subject to the Oklahoma
12 Uniform Code of Military Justice who engages in conduct that:

- 13 1. Is wrongful and reckless or is wanton; and
14 2. Is likely to produce death or grievous bodily harm to
15 another person,

16 shall be punished as a court-martial may direct.

17 B. Dueling. Any person subject to the Code:

- 18 1. Who fights or promotes, or is concerned in or connives at
19 fighting, a duel; or

20 2. Who, having knowledge of a challenge sent or about to be
21 sent, fails to report the facts promptly to the proper authority,
22 shall be punished as a court-martial may direct.

23 C. Firearm discharge, endangering human life. Any person
24 subject to the Code who, willfully and wrongly, discharges a

1 firearm, under circumstances such as to endanger human life shall be
2 punished as a court-martial may direct.

3 D. State active duty, personal firearms. Any person subject to
4 the Code and in a state active duty status who carries a personal
5 firearm openly or concealed on or about his or her person without
6 the authorization of the Adjutant General or pursuant to the state
7 rules for the use of force then in effect shall be punished as a
8 court-martial may direct.

9 E. Carrying concealed weapon. Any person subject to the Code
10 who unlawfully carries a dangerous weapon concealed on or about his
11 or her person shall be punished as a court-martial may direct.

12 SECTION 366. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 915 of Title 44, unless there is
14 created a duplication in numbering, reads as follows:

15 RESERVED.

16 SECTION 367. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 916 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 116. Riot or breach of peace.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who causes or participates in any riot or breach of the
22 peace shall be punished as a court-martial may direct.

23

24

1 SECTION 368. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 917 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 117. Provoking speeches or gestures.

5 Any person subject to the Oklahoma Uniform Code of Military
6 Justice who uses provoking or reproachful words or gestures towards
7 any other person subject to the Code shall be punished as a court-
8 martial may direct.

9 SECTION 369. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 917A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 117A. Wrongful broadcast or distribution of intimate
13 visual images.

14 A. Prohibition. Any person subject to the Oklahoma Uniform
15 Code of Military Justice:

16 1. Who knowingly and wrongfully broadcasts or distributes an
17 intimate visual image of another person or a visual image of
18 sexually explicit conduct involving a person who:

19 a. is at least eighteen (18) years of age at the time the
20 intimate visual image or visual image of sexually
21 explicit conduct was created,

22 b. is identifiable from the intimate visual image or
23 visual image of sexually explicit conduct itself, or
24 from information displayed in connection with the

1 intimate visual image or visual image of sexually
2 explicit conduct, and

3 c. does not explicitly consent to the broadcast or
4 distribution of the intimate visual image or visual
5 image of sexually explicit conduct;

6 2. Who knows or reasonably should have known that the intimate
7 visual image or visual image of sexually explicit conduct was made
8 under circumstances in which the person depicted in the intimate
9 visual image or visual image of sexually explicit conduct retained a
10 reasonable expectation of privacy regarding any broadcast or
11 distribution of the intimate visual image or visual image of
12 sexually explicit conduct;

13 3. Who knows or reasonably should have known that the broadcast
14 or distribution of the intimate visual image or visual image of
15 sexually explicit conduct is likely:

16 a. to cause harm, harassment, intimidation, emotional
17 distress, or financial loss for the person depicted in
18 the intimate visual image or visual image of sexually
19 explicit conduct, or

20 b. to harm substantially the depicted person with respect
21 to that person's health, safety, business, calling,
22 career, financial condition, reputation, or personal
23 relationships; and

1 4. Whose conduct, under the circumstances, had a reasonably
2 direct and palpable connection to a military mission or military
3 environment,
4 is guilty of wrongful distribution of intimate visual images or
5 visual images of sexually explicit conduct and shall be punished as
6 a court-martial may direct.

7 B. Definitions. In this section:

8 1. Broadcast. The term "broadcast" means to electronically
9 transmit a visual image with the intent that it be viewed by a
10 person or persons;

11 2. Distribute. The term "distribute" means to deliver to the
12 actual or constructive possession of another person, including
13 transmission by mail or electronic means;

14 3. Intimate visual image. The term "intimate visual image"
15 means a visual image that depicts a private area of a person;

16 4. Private area. The term "private area" means the naked or
17 underwear-clad genitalia, anus, buttocks, or female areola or
18 nipple;

19 5. Reasonable expectation of privacy. The term "reasonable
20 expectation of privacy" means circumstances in which a reasonable
21 person would believe that a private area of the person, or sexually
22 explicit conduct involving the person, would not be visible to the
23 public;

24

1 6. Sexually explicit conduct. The term "sexually explicit
2 conduct" means actual or simulated genital-genital contact, oral-
3 genital contact, anal-genital contact, or oral-anal contact, whether
4 between persons of the same or opposite sex, bestiality,
5 masturbation, or sadistic or masochistic abuse; and

6 7. Visual image. The term "visual image" means the following:

7 a. any developed or undeveloped photograph, picture,
8 film, or video,

9 b. any digital or computer image, picture, film, or video
10 made by any means, including those transmitted by any
11 means, including streaming media, even if not stored
12 in a permanent format,

13 c. any digital or electronic data capable of conversion
14 into a visual image.

15 SECTION 370. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 918 of Title 44, unless there is
17 created a duplication in numbering, reads as follows:

18 RESERVED.

19 SECTION 371. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 919 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 RESERVED.

1 SECTION 372. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 919A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 373. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 919B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 374. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 920 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 120. Sexual assault generally.

13 A. Sexual assault. Any person subject to the Oklahoma Uniform
14 Code of Military Justice who:

15 1. Commits a sexual act upon another person by:

- 16 a. threatening or placing that other person in fear,
- 17 b. making a fraudulent representation that the sexual act
18 serves a professional purpose, or
- 19 c. inducing a belief by any artifice, pretense, or
20 concealment that the person is another person;

21 2. Commits a sexual act upon another person:

- 22 a. without the consent of the other person, or

23

24

1 b. when the person knows or reasonably should know that
2 the other person is asleep, unconscious, or otherwise
3 unaware that the sexual act is occurring; or

4 3. Commits a sexual act upon another person when the other
5 person is incapable of consenting to the sexual act due to:

6 a. impairment by any drug, intoxicant, or other similar
7 substance, and that condition is known or reasonably
8 should be known by the person, or

9 b. a mental disease or defect, or physical disability,
10 and that condition is known or reasonably should be
11 known by the person,

12 is guilty of sexual assault and shall be punished as a court-martial
13 may direct.

14 B. Aggravated sexual contact. Any person subject to the
15 Oklahoma Uniform Code of Military Justice who commits or causes
16 sexual contact upon or by another person, if to do so would violate
17 Section 1111 of Title 21 of the Oklahoma Statutes, had the sexual
18 contact been a sexual act as defined in subsection F of this
19 section, is guilty of aggravated sexual contact and shall be
20 punished as a court-martial may direct.

21 C. Abusive sexual contact. Any person subject to the Code who
22 commits or causes sexual contact upon or by another person, if to do
23 so would violate subsection A of this section had the sexual contact
24

1 been a sexual act, is guilty of abusive sexual contact and shall be
2 punished as a court-martial may direct.

3 D. Proof of threat. In a prosecution under this section, in
4 proving that a person made a threat, it need not be proven that the
5 person actually intended to carry out the threat or had the ability
6 to carry out the threat.

7 E. Defenses. An accused may raise any applicable defenses
8 available under the Code or the Rules for Court-Martial contained in
9 the most recent edition of the Manual for Courts-Martial, United
10 States, including all amendments thereto adopted from time to time,
11 except when such rules are contrary to or inconsistent with the
12 Code. Marriage is not a defense for any conduct in issue in any
13 prosecution under this section.

14 F. Definitions. In this section:

15 1. Sexual act. The term "sexual act" means:

- 16 a. the penetration, however slight, of the penis into the
17 vulva or anus or mouth,
- 18 b. contact between the mouth and the penis, vulva,
19 scrotum, or anus, or
- 20 c. the penetration, however slight, of the vulva or penis
21 or anus of another by any part of the body or any
22 object, with an intent to abuse, humiliate, harass, or
23 degrade any person or to arouse or gratify the sexual
24 desire of any person;

1 2. Sexual contact. The term "sexual contact" means touching,
2 or causing another person to touch, either directly or through the
3 clothing, the vulva, penis, scrotum, anus, groin, breast, inner
4 thigh, or buttocks of any person, with an intent to abuse,
5 humiliate, harass, or degrade any person or to arouse or gratify the
6 sexual desire of any person. Touching may be accomplished by any
7 part of the body or an object;

8 3. Grievous bodily harm. The term "grievous bodily harm" means
9 serious bodily injury. It includes fractured or dislocated bones,
10 deep cuts, torn members of the body, serious damage to internal
11 organs, and other severe bodily injuries. It does not include minor
12 injuries such as a black eye or a bloody nose;

13 4. Force. The term "force" means:

- 14 a. the use of a weapon,
- 15 b. the use of such physical strength or violence as is
16 sufficient to overcome, restrain, or injure a person,
17 or
- 18 c. inflicting physical harm sufficient to coerce or
19 compel submission by the victim;

20 5. Unlawful force. The term "unlawful force" means an act of
21 force done without legal justification or excuse;

22 6. Threatening or placing that other person in fear. The term
23 "threatening or placing that other person in fear" means a
24 communication or action that is of sufficient consequence to cause a

1 reasonable fear that noncompliance will result in the victim or
2 another person being subjected to the wrongful action contemplated
3 by the communication or action;

4 7. Consent.

- 5 a. the term "consent" means a freely given agreement to
6 the conduct at issue by a competent person. An
7 expression of lack of consent through words or conduct
8 means there is no consent. Lack of verbal or physical
9 resistance does not constitute consent. Submission
10 resulting from the use of force, threat of force, or
11 placing another person in fear also does not
12 constitute consent. A current or previous dating or
13 social or sexual relationship by itself or the manner
14 of dress of the person involved with the accused in
15 the conduct at issue does not constitute consent,
- 16 b. a sleeping, unconscious, or incompetent person cannot
17 consent. A person cannot consent to force causing or
18 likely to cause death or grievous bodily harm or to
19 being rendered unconscious. A person cannot consent
20 while under threat or in fear or under the
21 circumstances described in subparagraph b or c of
22 paragraph 1 of subsection A of this section,
- 23 c. all the surrounding circumstances are to be considered
24 in determining whether a person gave consent; and

1 8. Incapable of consenting. The term "incapable of consenting"
2 means the person is:

3 a. incapable of appraising the nature of the conduct at
4 issue, or

5 b. physically incapable of declining participation in, or
6 communicating unwillingness to engage in, the sexual
7 act at issue.

8 SECTION 375. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 920A of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 376. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 920B of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 RESERVED.

16 SECTION 377. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 920C of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 120C. Other sexual misconduct.

20 A. Indecent viewing, visual recording, or broadcasting. Any
21 person subject to the Oklahoma Uniform Code of Military Justice who,
22 without legal justification or lawful authorization:

23
24

1 1. Knowingly and wrongfully views the private area of another
2 person, without that other person's consent and under circumstances
3 in which that other person has a reasonable expectation of privacy;

4 2. Knowingly photographs, videotapes, films, or records by any
5 means the private area of another person, without that other
6 person's consent and under circumstances in which that other person
7 has a reasonable expectation of privacy; or

8 3. Knowingly broadcasts or distributes any such recording that
9 the person knew or reasonably should have known was made under the
10 circumstances proscribed in paragraphs 1 and 2 of this subsection,
11 is guilty of an offense under this section and shall be punished as
12 a court-martial may direct.

13 B. Forcible pandering. Any person subject to the Code who
14 compels another person to engage in an act of prostitution with any
15 person is guilty of forcible pandering and shall be punished as a
16 court-martial may direct.

17 C. Indecent exposure. Any person subject to the Code who
18 intentionally exposes, in an indecent manner, the genitalia, anus,
19 buttocks, or female areola or nipple is guilty of indecent exposure
20 and shall by punished as a court-martial may direct.

21 D. Definitions. In this section:

22 1. Act of prostitution. The term "act of prostitution" means a
23 sexual act or sexual contact, as defined in subsection F of Section
24

1 920 of this title (Article 120, subsection F), on account of which
2 anything of value is given to, or received by, any person;

3 2. Private area. The term "private area" means the naked or
4 underwear-clad genitalia, anus, buttocks, or female areola or
5 nipple;

6 3. Reasonable expectation of privacy. The term "under
7 circumstances in which that other person has a reasonable
8 expectation of privacy" means:

9 a. circumstances in which a reasonable person would
10 believe that he or she could disrobe in privacy,
11 without being concerned that an image of a private
12 area of the person was being captured, or

13 b. circumstances in which a reasonable person would
14 believe that a private area of the person would not be
15 visible to the public;

16 4. Broadcast. The term "broadcast" means to electronically
17 transmit a visual image with the intent that it be viewed by a
18 person or persons;

19 5. Distribute. The term "distribute" means delivering to the
20 actual or constructive possession of another, including transmission
21 by electronic means;

22 6. Indecent manner. The term "indecent manner" means conduct
23 that amounts to a form of immorality relating to sexual impurity
24 which is grossly vulgar, obscene, and repugnant to common propriety,

1 and tends to excite sexual desire or deprave morals with respect to
2 sexual relations.

3 SECTION 378. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 920D of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 120D. Fraternalization.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice who is a commissioned officer, warrant officer or
9 noncommissioned officer and:

10 1. Who fraternizes on terms of military equality with one or
11 more certain enlisted members in a certain manner;

12 2. Who then knows the person or persons to be an enlisted
13 person or persons;

14 3. Who, through such fraternization, knowingly violates the
15 customs of the United States Army, if a member of the army component
16 of the state military forces, or the customs of the United States
17 Air Force, if a member of the air force component of the state
18 military forces, that officers shall not fraternize with enlisted
19 members on terms of equality; and

20 4. Under the circumstances, the conduct of the accused was to
21 the prejudice of good order and discipline in the state military
22 forces or was of a nature to bring discredit upon the state military
23 forces,
24 shall be punished as a court-martial may direct.

1 SECTION 379. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 921 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 121. Larceny and wrongful appropriation.

5 A. Any person subject to the Oklahoma Uniform Code of Military
6 Justice who wrongfully takes, obtains, or withholds, by any means,
7 from the possession of the owner or of any other person any money,
8 personal property, or article of value of any kind:

9 1. With intent permanently to deprive or defraud another person
10 of the use and benefit of property or to appropriate it to his or
11 her own use or the use of any person other than the owner, steals
12 that property and is guilty of larceny; or

13 2. With intent temporarily to deprive or defraud another person
14 of the use and benefit of property or to appropriate it to his or
15 her own use or the use of any person other than the owner, is guilty
16 of wrongful appropriation.

17 B. Any person found guilty of larceny or wrongful appropriation
18 shall be punished as a court-martial may direct.

19 SECTION 380. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 921A of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 RESERVED.
23
24

1 SECTION 381. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 921B of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 382. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 922 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 383. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 922A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 RESERVED.

13 SECTION 384. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 923 of Title 44, unless there is
15 created a duplication in numbering, reads as follows:

16 RESERVED.

17 SECTION 385. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 923A of Title 44, unless there
19 is created a duplication in numbering, reads as follows:

20 RESERVED.

21 SECTION 386. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 924 of Title 44, unless there is
23 created a duplication in numbering, reads as follows:

24 ARTICLE 124. Frauds against the government.

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice:

3 1. Who, knowing it to be false or fraudulent:

4 a. makes any claim against the United States, the State
5 of Oklahoma, or any officer thereof, or

6 b. presents to any person in the civil or military
7 service thereof, for approval or payment, any claim
8 against the United States, the State of Oklahoma, or
9 any officer thereof;

10 2. Who, for the purpose of obtaining the approval, allowance,
11 or payment of any claim against the United States, the State of
12 Oklahoma, or any officer thereof:

13 a. makes or uses any writing or other paper knowing it to
14 contain any false or fraudulent statements,

15 b. makes any oath, affirmation or certification to any
16 fact or to any writing or other paper knowing the
17 oath, affirmation or certification to be false, or

18 c. forges or counterfeits any signature upon any writing
19 or other paper, or uses any such signature knowing it
20 to be forged or counterfeited;

21 3. Who, having charge, possession, custody, or control of any
22 money, or other property of the United States or the State of
23 Oklahoma, furnished or intended for the armed forces of the United
24 States or the state military forces, knowingly delivers to any

1 person having authority to receive it, any amount thereof less than
2 that for which he or she receives a certificate or receipt; or

3 4. Who, being authorized to make or deliver any paper
4 certifying the receipt of any property of the United States or the
5 State of Oklahoma, furnished or intended for the armed forces of the
6 United States or the state military forces, makes or delivers to any
7 person such writing without having full knowledge of the truth of
8 the statements therein contained and with intent to defraud the
9 United States or the State of Oklahoma,
10 shall be punished as a court-martial may direct.

11 SECTION 387. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 924A of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

14 RESERVED.

15 SECTION 388. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 924B of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 RESERVED.

19 SECTION 389. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 925 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 RESERVED.

23

24

1 SECTION 390. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 926 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 391. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 927 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 392. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 928 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 128. Assault.

13 A. Any person subject to the Oklahoma Uniform Code of Military
14 Justice who attempts or offers with unlawful force or violence to do
15 bodily harm to another person, whether or not the attempt or offer
16 is consummated, is guilty of assault and shall be punished as a
17 court-martial may direct.

18 B. Any person subject to the Code who:

19 1. Commits an assault with a dangerous weapon or other means or
20 force likely to produce death or grievous bodily harm; or

21 2. Commits an assault and intentionally inflicts grievous
22 bodily harm with or without a weapon,
23 is guilty of aggravated assault and shall be punished as a court-
24 martial may direct.

1 SECTION 393. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 928A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 394. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 928B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 RESERVED.

9 SECTION 395. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 929 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 RESERVED.

13 SECTION 396. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 929A of Title 44, unless there
15 is created a duplication in numbering, reads as follows:

16 RESERVED.

17 SECTION 397. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 930 of Title 44, unless there is
19 created a duplication in numbering, reads as follows:

20 ARTICLE 130. Stalking.

21 A. In general. Any person subject to the Oklahoma Uniform Code
22 of Military Justice:

23 1. Who wrongfully engages in a course of conduct directed at a
24 specific person that would cause a reasonable person to fear death

1 or bodily harm, including sexual assault, to himself or herself, to
2 a member of his or her immediate family, or to his or her intimate
3 partner;

4 2. Who has knowledge, or should have knowledge, that the
5 specific person will be placed in reasonable fear of death or bodily
6 harm, including sexual assault, to himself or herself, to a member
7 of his or her immediate family, or to his or her intimate partner;
8 and

9 3. Whose conduct induces reasonable fear in the specific person
10 of death or bodily harm, including sexual assault, to himself or
11 herself, to a member of his or her immediate family, or to his or
12 her intimate partner,
13 is guilty of stalking and shall be punished as a court-martial may
14 direct.

15 B. Definitions. In this section:

16 1. The term "conduct" means conduct of any kind, including use
17 of surveillance, the mails, an interactive computer service, an
18 electronic communication service, or an electronic communication
19 system;

20 2. The term "course of conduct" means:

- 21 a. a repeated maintenance of visual or physical proximity
22 to a specific person,
23 b. a repeated conveyance of verbal threats, written
24 threats, or threats implied by conduct, or a

1 combination of such threats, directed at or toward a
2 specific person, or

3 c. a pattern of conduct composed of repeated acts
4 evidencing a continuity of purpose;

5 3. The term "repeated", with respect to conduct, means two or
6 more occasions of such conduct;

7 4. The term "immediate family", in the case of a specific
8 person, means:

9 a. that person's spouse, parent, brother or sister,
10 child, or other person to whom he or she stands in
11 loco parentis, or

12 b. any other person living in his or her household and
13 related to him or her by blood or marriage; and

14 5. The term "intimate partner", in the case of a specific
15 person, means:

16 a. a former spouse of the specific person, a person who
17 shares a child in common with the specific person, or
18 a person who cohabits with or has cohabited as a
19 spouse with the specific person, or

20 b. a person who has been in a social relationship of a
21 romantic or intimate nature with the specific person,
22 as determined by the length of the relationship, the
23 type of relationship, and the frequency of interaction
24 between the persons involved in the relationship.

1 SECTION 398. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 931 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 131. Perjury.

5 Any person subject to the Oklahoma Uniform Code of Military
6 Justice who in a judicial proceeding or court of inquiry or in a
7 course of justice willfully and corruptly:

8 1. Upon a lawful oath or in any form allowed by law to be
9 substituted for an oath, gives any false testimony material to the
10 issue or matter of inquiry; or

11 2. In any declaration, certificate, verification, or statement
12 under penalty of perjury subscribes any false statement material to
13 the issue or matter of inquiry,
14 is guilty of perjury and shall be punished as a court-martial may
15 direct.

16 SECTION 399. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 931A of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 131A. Subornation of perjury.

20 A. In general. Any person subject to the Oklahoma Uniform Code
21 of Military Justice who induces and procures another person:

22 1. To take an oath; and

23 2. To falsely testify, depose, or state upon such oath,
24

1 shall, if the conditions specified in subsection B are satisfied, be
2 punished as a court-martial may direct.

3 B. Conditions. The conditions referred to in subsection A are
4 the following:

5 1. The oath is administered with respect to a matter for which
6 such oath is required or authorized by law;

7 2. The oath is administered by a person having authority to do
8 so;

9 3. Upon the oath, the other person willfully makes or
10 subscribes a statement;

11 4. The statement is material;

12 5. The statement is false; and

13 6. When the statement is made or subscribed, the person subject
14 to the Code and the other person do not believe that the statement
15 is true.

16 SECTION 400. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 931B of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 131B. Obstructing justice.

20 Any person subject to the Oklahoma Uniform Code of Military
21 Justice who engages in conduct in the case of a certain person
22 against whom the accused had reason to believe there were or would
23 be criminal or disciplinary proceedings pending, with intent to
24

1 influence, impede, or otherwise obstruct the due administration of
2 justice, shall be punished as a court-martial may direct.

3 SECTION 401. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 931C of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 ARTICLE 131C. Misprision of serious offense.

7 Any person subject to the Oklahoma Uniform Code of Military
8 Justice:

9 1. Who knows that another person has committed a serious
10 offense; and

11 2. Wrongfully conceals the commission of the offense and fails
12 to make the commission of the offense known to civilian or military
13 authorities as soon as possible,
14 shall be punished as a court-martial may direct.

15 SECTION 402. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 931D of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 131D. Wrongful refusal to testify.

19 Any person subject to the Oklahoma Uniform Code of Military
20 Justice who, in the presence of a court-martial, a board of
21 officers, a court of inquiry, a preliminary hearing, or an officer
22 taking a deposition, of or for the State of Oklahoma, wrongfully
23 refuses to qualify as a witness or to answer a question after having
24

1 | been directed to do so by the person presiding shall be punished as
2 | a court-martial may direct.

3 | SECTION 403. NEW LAW A new section of law to be codified
4 | in the Oklahoma Statutes as Section 931E of Title 44, unless there
5 | is created a duplication in numbering, reads as follows:

6 | RESERVED.

7 | SECTION 404. NEW LAW A new section of law to be codified
8 | in the Oklahoma Statutes as Section 931F of Title 44, unless there
9 | is created a duplication in numbering, reads as follows:

10 | ARTICLE 131F. Noncompliance with procedural rules.

11 | Any person subject to the Oklahoma Uniform Code of Military
12 | Justice who:

13 | 1. Is responsible for unnecessary delay in the disposition of
14 | any case of a person accused of an offense under the Code; or

15 | 2. Knowingly and intentionally fails to enforce or comply with
16 | any provision of the Code regulating the proceedings before, during,
17 | or after trial of an accused,

18 | shall be punished as a court-martial may direct.

19 | SECTION 405. NEW LAW A new section of law to be codified
20 | in the Oklahoma Statutes as Section 931G of Title 44, unless there
21 | is created a duplication in numbering, reads as follows:

22 | ARTICLE 131G. Wrongful interference with adverse administrative
23 | proceeding.

24 |

1 Any person subject to the Oklahoma Uniform Code of Military
2 Justice who, having reason to believe that an adverse administrative
3 proceeding is pending against any person subject to the Code,
4 wrongfully acts with the intent:

5 1. To influence, impede, or obstruct the conduct of the
6 proceeding; or

7 2. Otherwise to obstruct the due administration of justice,
8 shall be punished as a court-martial may direct.

9 SECTION 406. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 932 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 132. Retaliation.

13 A. In general. Any person subject to the Oklahoma Uniform Code
14 of Military Justice who, with the intent to retaliate against any
15 person for reporting or planning to report a criminal offense, or
16 making or planning to make a protected communication, or with the
17 intent to discourage any person from reporting a criminal offense or
18 making or planning to make a protected communication:

19 1. Wrongfully takes or threatens to take an adverse personnel
20 action against any person; or

21 2. Wrongfully withholds or threatens to withhold a favorable
22 personnel action with respect to any person,
23 shall be punished as a court-martial may direct.

24 B. Definitions. In this section:

1 1. The term "protected communication" means the following:

2 a. a lawful communication to a Member of Congress or a
3 Member of the Oklahoma Legislature or an Inspector
4 General, and

5 b. a communication to a covered individual or
6 organization in which a member of the state military
7 forces complains of, or discloses information that the
8 member reasonably believes constitutes evidence of,
9 any of the following:

10 (1) a violation of law or regulation, including a law
11 or regulation prohibiting sexual harassment or
12 unlawful discrimination, or

13 (2) gross mismanagement, a gross waste of funds, an
14 abuse of authority, or a substantial and specific
15 danger to public health or safety;

16 2. The term "Inspector General" has the meaning given that term
17 in Section 1034(j) of Title 10 of the United States Code;

18 3. The term "covered individual or organization" means any
19 recipient of a communication specified in clauses (i) through (v) of
20 Section 1034(b)(1)(B) of Title 10 of the United States Code; and

21 4. The term "unlawful discrimination" means discrimination on
22 the basis of race, color, religion, sex, or national origin.
23
24

1 SECTION 407. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 933 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 133. Conduct unbecoming an officer and a gentleman.

5 Any commissioned officer, cadet, or officer candidate who is
6 convicted of conduct unbecoming an officer and a gentleman shall be
7 punished as a court-martial may direct.

8 SECTION 408. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 934 of Title 44, unless there is
10 created a duplication in numbering, reads as follows:

11 ARTICLE 134. General article.

12 Though not specifically mentioned in the Oklahoma Uniform Code
13 of Military Justice, all disorders and neglects to the prejudice of
14 good order and discipline in the state military forces, all conduct
15 of a nature to bring discredit upon the state military forces, and
16 crimes and offenses not capital, of which persons subject to the
17 Code may be guilty, shall be taken cognizance of by a general,
18 special, or summary court-martial, according to the nature and
19 degree of the offense, and shall be punished at the discretion of
20 that court. However, where a crime constitutes an offense that
21 violates both the Code and the criminal laws of the State of
22 Oklahoma, jurisdiction over the offense shall be determined in
23 accordance with Section 802 of this title (Article 2).

24 PART XI.

1 MISCELLANEOUS PROVISIONS

2 SECTION 409. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 935 of Title 44, unless there is
4 created a duplication in numbering, reads as follows:

5 ARTICLE 135. Courts of inquiry.

6 A. Courts of inquiry to investigate any matter of concern to
7 the state military forces may be convened by any person authorized
8 to convene a general court-martial or by any other person designated
9 by the Adjutant General for that purpose, whether or not the persons
10 involved have requested such an inquiry.

11 B. A court of inquiry consists of three or more commissioned
12 officers. For each court of inquiry, the convening authority shall
13 also appoint counsel for the court.

14 C. 1. Any person subject to the Oklahoma Uniform Code of
15 Military Justice whose conduct is subject to inquiry shall be
16 designated as a party.

17 2. Any person subject to the Code and employed by the Oklahoma
18 Military Department, and who has a direct interest in the subject of
19 inquiry, has the right to be designated as a party upon request to
20 the court.

21 3. Any person designated as a party shall be given due notice
22 and has the right to be present, to be represented by counsel, to
23 cross-examine witnesses, and to introduce evidence.

1 D. Members of a court of inquiry may be challenged by a party,
2 but only for cause stated to the court.

3 E. The members, counsel, the reporter, and interpreters of
4 courts of inquiry shall take an oath to faithfully perform their
5 duties.

6 F. Witnesses may be summoned to appear and testify and be
7 examined before courts of inquiry, as provided for courts-martial.

8 G. Courts of inquiry shall make findings of fact but may not
9 express opinions or make recommendations unless required to do so by
10 the convening authority.

11 H. Each court of inquiry shall keep a record of its
12 proceedings, which shall be authenticated by the signatures of the
13 president and counsel for the court and forwarded to the convening
14 authority. If the record cannot be authenticated by the president,
15 it shall be signed by a member in lieu of the president. If the
16 record cannot be authenticated by the counsel for the court, it
17 shall be signed by a member in lieu of the counsel.

18 SECTION 410. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 936 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 136. Authority to administer oaths.

22 A. The following persons may administer oaths for the purposes
23 of military administration, including military justice:

24 1. All judge advocates;

- 1 2. All summary courts-martial;
- 2 3. All adjutants, assistant adjutants, acting adjutants, and
- 3 personnel adjutants;
- 4 4. All commanding officers of the state military forces;
- 5 5. All staff judge advocates, and acting or assistant staff
- 6 judge advocates; or
- 7 6. All other persons designated by regulations of the armed
- 8 forces of the United States or by statute.

9 B. The following persons on active duty or performing inactive-
10 duty training may administer oaths necessary in the performance of
11 their duties:

- 12 1. The military judge, trial counsel, and assistant trial
- 13 counsel for all general and special courts-martial;
- 14 2. The president and the counsel for the court of any court of
- 15 inquiry;
- 16 3. All officers designated to take a deposition;
- 17 4. All persons detailed to conduct an investigation;
- 18 5. All recruiting officers;
- 19 6. All other persons designated by regulations of the armed
- 20 forces of the United States or by statute.

21 C. Each judge and the senior judge of the Military Court of
22 Appeals shall have the powers relating to oaths, affirmations, and
23 acknowledgments provided to justices and judges of the State of
24 Oklahoma.

1 D. The signature without seal of any such person, together with
2 the title of his or her office, is prima facie evidence of the
3 authority of that person.

4 SECTION 411. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 937 of Title 44, unless there is
6 created a duplication in numbering, reads as follows:

7 ARTICLE 137. Articles to be explained.

8 A. 1. The sections of the Oklahoma Uniform Code of Military
9 Justice specified in paragraph 3 of this subsection shall be
10 carefully explained to each enlisted member at the time of, or
11 within thirty (30) days after, the member's initial entrance into a
12 duty status with the state military forces.

13 2. Such articles shall be explained again:

14 a. after the member has completed basic or recruit
15 training, and

16 b. at the time when the member reenlists.

17 3. This subsection applies with respect to Sections 802, 803,
18 807-815, 825, 827, 831, 837, 838, 855, 877-934, and 937-939 of this
19 title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-134, and 137-
20 139).

21 B. The text of the code and of the regulations prescribed under
22 such code shall be made available to a member of the state military
23 forces, upon request by the member, for the member's personal
24 examination.

1 SECTION 412. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 938 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 138. Complaints of wrongs.

5 Any member of the state military forces who believes himself or
6 herself wronged by a commanding officer, and who, upon due
7 application to that commanding officer, is refused redress, may
8 complain to any superior commissioned officer, who shall forward the
9 complaint to the officer exercising special court-martial
10 jurisdiction over the officer against whom it is made. The officer
11 exercising special court-martial jurisdiction shall examine into the
12 complaint and take proper measures for redressing the wrong
13 complained of; and shall, as soon as possible, send to the Adjutant
14 General a true statement of that complaint, with the proceedings had
15 thereon.

16 SECTION 413. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 939 of Title 44, unless there is
18 created a duplication in numbering, reads as follows:

19 ARTICLE 139. Redress of injuries to property.

20 A. Whenever a complaint is made to any commanding officer that
21 willful damage has been done to the property of any person or that
22 the person's property has been wrongfully taken by members of the
23 state military forces, the commanding officer, under such
24 regulations promulgated by the Adjutant General, shall convene a

1 board to investigate the complaint. The board shall consist of from
2 one to three commissioned officers and, for the purpose of that
3 investigation, it has power to summon witnesses and examine them
4 upon oath, to receive depositions or other documentary evidence, and
5 to assess the damages sustained against the responsible parties.
6 The assessment of damages made by the board is subject to the
7 approval of the commanding officer, and in the amount approved by
8 that officer shall be charged against the pay of the offenders. The
9 order of the commanding officer directing charges herein authorized
10 is conclusive on any disbursing officer for payment to the injured
11 parties of the damages so assessed and approved.

12 B. If the offenders cannot be ascertained, but the organization
13 or detachment to which they belong is known, charges totaling the
14 amount of damages assessed and approved may be made in such
15 proportion as may be considered just upon the individual members
16 thereof who are shown to have been present at the scene at the time
17 the damages complained of were inflicted, as determined by the
18 approved findings of the board.

19 SECTION 414. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 940 of Title 44, unless there is
21 created a duplication in numbering, reads as follows:

22 ARTICLE 140. Delegation by the Governor.

23 The Governor may delegate any authority vested in the Governor
24 under the Oklahoma Uniform Code of Military Justice, and provide for

1 the subdelegation of any such authority, except the powers given the
2 Governor by Section 822 and subsection K of Section 815 of this
3 title (Article 22 and Article 15, subsection K). Any delegations of
4 authority carried out pursuant to this section shall be published as
5 an executive order which the Adjutant General shall cause to be
6 published as a military publication.

7 SECTION 415. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 940A of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 140A. Precedence of regulations.

11 When both the Governor and Adjutant General are authorized under
12 the Oklahoma Uniform Code of Military Justice to promulgate
13 regulations governing the same matter, if such regulations conflict,
14 the regulations promulgated by the Governor shall take precedence.

15 SECTION 416. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 940B of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 140B. Publication in administrative code.

19 Military publications promulgated or published by or under the
20 authority of the Adjutant General shall be provided to the Secretary
21 of State to be published and indexed as part of the "Oklahoma
22 Administrative Code". In the event state or federal law restricts
23 access to a military publication, the requirements of this
24 subsection shall not be applicable. Military publications

1 promulgated or published by a previous Adjutant General shall remain
2 in effect following appointment of the next Adjutant General by the
3 Governor until otherwise modified or rescinded in writing by the
4 newly appointed Adjutant General.

5 SECTION 417. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 942 of Title 44, unless there is
7 created a duplication in numbering, reads as follows:

8 ARTICLE 142. Payment and collection of fines.

9 A. Fines imposed by a military court or through imposition of
10 nonjudicial punishment shall be paid to the State of Oklahoma and
11 delivered to the convening authority or his or her designee or in
12 the case of nonjudicial punishment, the imposing officer. Fines may
13 be collected in the following manner:

14 1. By cash or money order;

15 2. By retention of any pay or allowances due or to become due
16 to the person fined from any state or the United States; or

17 3. By garnishment or levy, together with costs, on the wages,
18 goods, and chattels of a person delinquent in paying a fine, as
19 provided by law.

20 B. Any sum so received or retained shall be deposited in the
21 Military Justice Fund, except that the court may direct that the sum
22 so received or retained be provided to a victim or victims as
23 restitution.

24

1 SECTION 418. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 943 of Title 44, unless there is
3 created a duplication in numbering, reads as follows:

4 ARTICLE 143. Uniformity of interpretation.

5 The Oklahoma Uniform Code of Military Justice shall be so
6 construed as to effectuate its general purpose to make it uniform,
7 so far as practical, with the Uniform Code of Military Justice,
8 Chapter 47 of Title 10 of the United States Code.

9 SECTION 419. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 944 of Title 44, unless there is
11 created a duplication in numbering, reads as follows:

12 ARTICLE 144. Immunity for duties performed under Code.

13 Any person acting under the provisions of the Oklahoma Uniform
14 Code of Military Justice, whether as a member of the military or as
15 a civilian, shall be immune from personal liability for any of the
16 acts or omissions which he or she did or failed to do as part of his
17 or her duties under the Code.

18 SECTION 420. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 945 of Title 44, unless there is
20 created a duplication in numbering, reads as follows:

21 ARTICLE 145. Jurisdiction not extended to certain crimes.

22 Though not specifically mentioned in the Oklahoma Uniform Code
23 of Military Justice, all disorders and neglects to the prejudice of
24 good order and discipline in the state military forces, of which

1 persons subject to the Code may be guilty, shall be taken cognizance
2 of by a general, special, or summary court-martial according to the
3 nature and degree of the offense and shall be punished at the
4 discretion of that court. However, cognizance may not be taken of,
5 and jurisdiction shall not be extended to, the crimes of murder,
6 manslaughter, rape, rape and sexual assault of a child, child
7 endangerment, death or injury of an unborn child, kidnapping,
8 domestic violence, arson, robbery, maiming, arson, extortion,
9 burglary, parole violations or housebreaking, jurisdiction of which
10 is reserved to civil courts.

11 SECTION 421. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 946 of Title 44, unless there is
13 created a duplication in numbering, reads as follows:

14 ARTICLE 146. Continuances for military service.

15 A. It shall be the duty of any justice, judge, judicial
16 referee, corporation commissioner, administrative law judge or
17 hearing officer presiding over any civil, criminal or administrative
18 proceeding in this state to continue any trial, hearing or other
19 action pending before the court or an administrative forum when a
20 party to the pending action or the primary counsel representing a
21 party to the pending action is not present at the time the case or
22 matter in question is reached on the docket or schedule by reason of
23 participation in:

24

1 1. Active federal service, as defined in Title 10 of the United
2 States Code;

3 2. Title 32 active duty, as defined in Section 801 of this
4 title (Article 1);

5 3. Service in other reserve components of the Armed Forces of
6 the United States, as defined in Title 10 of the United States Code;
7 or

8 4. State active duty, as defined in Section 801 of this title
9 (Article 1).

10 B. The trial, hearing or other pending action may proceed if
11 the party, without the presence of his or her primary counsel, or
12 the primary counsel, without the presence of the party, declares
13 that the case or matter in question is nevertheless ready to proceed
14 at the scheduled time.

15 C. If the primary counsel of a party to the pending action is
16 not present due to military service pursuant to subsection A of this
17 section, the party so affected shall declare under oath that he or
18 she cannot properly proceed with the trial, hearing or other action
19 pending before the court or administrative forum without the
20 presence of the primary counsel.

21 D. If a party to the pending action is not present due to
22 military service pursuant to subsection A of this section, his or
23 her legal counsel shall appear and shall state in his or her place
24

1 that the case or matter in question cannot properly proceed without
2 the presence of the absent party.

3 E. Continuances granted pursuant to this section shall remain
4 in effect no longer than ninety (90) calendar days. The justice,
5 judge, judicial referee, corporation commissioner, administrative
6 law judge or hearing officer may, at his or her discretion, continue
7 the proceeding in question in order to carry out the administration
8 of justice. The protections provided to service members in this
9 section shall be available in addition to any protections afforded
10 to service members under Section 208.1 of this title.

11 SECTION 422. AMENDATORY 44 O.S. 2011, Section 208, is
12 amended to read as follows:

13 Section 208. No person shall discriminate against any officer
14 or enlisted member of the National Guard or Civil Air Patrol or a
15 judge carrying out his or her duties as a member of the Military
16 Court of Appeals because of his or her membership therein. No
17 person shall prohibit or refuse entrance to any officer or enlisted
18 member of the United States Armed Forces, or of the military forces
19 of this state, into any public entertainment or place of amusement
20 because such officer or enlisted member is wearing a uniform of the
21 organization to which he or she belongs. No employer, officer or
22 agent of any corporation, company, firm or other person, shall
23 discharge any person from employment because of being an officer,
24 warrant officer or enlisted member of the military forces of the

1 state, or hinder or prevent him or her from performing any military
2 service he or she may be called upon to perform by proper authority,
3 in respect to his or her employment, trade or business. Any person
4 violating any of the provisions of this section, shall be punished
5 by a fine of not to exceed One Hundred Dollars (\$100.00), or by
6 imprisonment in the county jail for a period of not to exceed thirty
7 (30) days, or by both such fine and imprisonment.

8 SECTION 423. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 231b of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Subject to the conditions and limitations established in
12 regulations promulgated by the Governor, the state military forces
13 may use all appropriate means necessary to protect assets vital to
14 national security classified as such pursuant to the rules,
15 regulations or instructions promulgated by the United States
16 Department of Defense or the military departments of the United
17 States Department of Defense or as otherwise ordered by the
18 Governor.

19 B. Any regulations promulgated by the Governor pursuant to this
20 section shall be published by the Adjutant General as a military
21 publication as defined in Section 801 of this title.

22 SECTION 424. AMENDATORY 44 O.S. 2011, Section 241, is
23 amended to read as follows:

24

1 Section 241. The Governor, pursuant to the authority granted
2 the states by ~~the Act of Congress of October 21, 1940~~ Section 109 of
3 Title 32 of the United States Code or a successor provision, and
4 under such regulations as the Secretary of Defense may prescribe for
5 discipline in training, is hereby authorized to enlist, organize,
6 maintain, equip and discipline such military forces other than the
7 National Guard as he or she may deem necessary to defend the state.
8 Such forces shall be uniformed and subject to Sections 1 through
9 117, ~~192 through 195.8,~~ Sections 208 through 235.2 237, and ~~2101~~
10 ~~through 3113~~ Sections 800 through 946 of this title ~~unless in~~
11 ~~conflict with such sections,~~ insofar as such sections do not
12 conflict with Sections 241 through 250 of this title.

13 SECTION 425. AMENDATORY 44 O.S. 2011, Section 242, is
14 amended to read as follows:

15 Section 242. Such military forces shall be designated as the
16 "Oklahoma State Guard" and shall be composed of officers
17 commissioned or assigned, and such able-bodied male citizens of the
18 state as shall volunteer for service therein. They shall be
19 additional to and distinct from the National Guard ~~organized under~~
20 ~~existing law~~ of the State of Oklahoma, as defined in Title 32 of the
21 United States Code. They shall not be required to serve outside the
22 boundaries of ~~this state~~ the State of Oklahoma.

23 SECTION 426. AMENDATORY 44 O.S. 2011, Section 243, is
24 amended to read as follows:

1 Section 243. A. The Governor is hereby authorized to prescribe
2 rules and regulations governing the enlistment, organization,
3 administration, equipment, discipline and discharge of the personnel
4 of such military forces; to requisition from the Secretary of
5 Defense such arms and equipment as may be in the possession of and
6 can be spared by the Department of Defense and to extend thereto the
7 facilities of state armories, Armed Forces Reserve Centers,
8 readiness centers, logistics, aviation, and training facilities,
9 warehouses and their equipment and such other state premises and
10 property as may be available for the purpose of drill and
11 instruction. Insofar as applicable the procedure for the
12 enlistment, organization, pay, maintenance, equipment and
13 disciplining of such forces shall be in conformity with the law and
14 the rules and regulations governing and pertaining to the National
15 Guard; provided, that the officers and enlisted ~~men~~ personnel in the
16 Oklahoma State Guard shall not receive any compensation or monetary
17 allowances from the state except when ~~called into active service~~
18 activated for state active duty, as defined in Section 801 of this
19 title, by order of the Governor.

20 B. Members of the Oklahoma State Guard shall be considered part
21 of state military forces as defined in Section 801 of this title and
22 shall be subject to the Oklahoma Uniform Code of Military Justice.

23 C. When prescribing the rules and regulations governing
24 enlistment, organization, administration, equipment, discipline and

1 discharge of the personnel of the Oklahoma State Guard, the Governor
2 shall issue such rules and regulations in the form of an executive
3 order or in a series of such orders which shall be published in the
4 Oklahoma Administrative Code. For purposes of the Administrative
5 Procedures Act, the executive order prescribing the rules and
6 regulations governing enlistment, organization, administration,
7 equipment, discipline and discharge of the personnel of the Oklahoma
8 State Guard shall be considered a military publication and shall be
9 published and indexed as part of the Oklahoma Administrative Code.

10 SECTION 427. AMENDATORY 44 O.S. 2011, Section 244, is
11 amended to read as follows:

12 Section 244. Nothing in ~~this act~~ the Oklahoma State Guard Act
13 shall be construed as authorizing such forces, or any part thereof
14 to be called, ordered or in any manner drafted, as such into the
15 military service of the United States, but no person shall by reason
16 of his or her enlistment or commission in any such forces be
17 exempted from military service under any law of the United States.

18 SECTION 428. AMENDATORY 44 O.S. 2011, Section 247, is
19 amended to read as follows:

20 Section 247. No person shall be enlisted for more than one (1)
21 year, but such enlistment may be renewed. The oath to be taken upon
22 enlistment in such forces shall be substantially in the form
23 prescribed for enlisted ~~men~~ members of the National Guard,
24 substituting the words "Oklahoma State Guard" where necessary.

1 SECTION 429. AMENDATORY 44 O.S. 2011, Section 248, is
2 amended to read as follows:

3 Section 248. ~~(a) Whenever such forces or any part thereof~~
4 ~~shall be ordered out for active service the Articles of War of the~~
5 ~~United States applicable to members of the National Guard of this~~
6 ~~state in relation to courts-martial, their jurisdiction and the~~
7 ~~limits of punishment and the rules and regulations prescribed~~
8 ~~thereunder shall be in full force and effect with respect to "the~~
9 ~~Oklahoma State Guard."~~

10 ~~(b)~~ No officer or enlisted ~~man~~ person of ~~such forces~~ the
11 Oklahoma State Guard shall be arrested on any warrant, except for
12 treason or felony, while going to, remaining at, or returning from a
13 place where he or she is ordered to attend for military duty. Every
14 officer and enlisted ~~man~~ member of such forces shall, during his or
15 her service therein, be exempt from service upon any posse comitatus
16 and from jury duty.

17 SECTION 430. AMENDATORY 44 O.S. 2011, Section 250, is
18 amended to read as follows:

19 Section 250. This act may be cited as the Oklahoma State Guard
20 Act.

21 SECTION 431. AMENDATORY 21 O.S. 2011, Section 133, is
22 amended to read as follows:

23 Section 133. This chapter~~7~~ does not affect any power conferred
24 by law upon any court martial or other military authority or officer

1 to impose or inflict punishment upon offenders; nor any power
2 conferred by law upon any public body, tribunal, or officer, to
3 impose or inflict punishment for a contempt; nor any provisions of
4 the laws relating to apprentices, ~~bastards,~~ disorderly persons,
5 ~~Indians and vagrants~~ behavior or vagrancy.

6 SECTION 432. AMENDATORY 75 O.S. 2011, Section 250.4, as
7 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.
8 2018, Section 250.4), is amended to read as follows:

9 Section 250.4 A. 1. Except as is otherwise specifically
10 provided in this subsection, each agency is required to comply with
11 Article I of the Administrative Procedures Act.

12 2. The Corporation Commission shall be required to comply with
13 the provisions of Article I of the Administrative Procedures Act
14 except for subsections A, B, C and E of Section 303 of this title
15 and Section 306 of this title. To the extent of any conflict or
16 inconsistency with Article I of the Administrative Procedures Act,
17 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
18 it is expressly declared that Article I of the Administrative
19 Procedures Act is an amendment to and alteration of Sections 18
20 through 34 of Article IX of the Oklahoma Constitution.

21 3. The Oklahoma Military Department shall be exempt from the
22 provisions of Article I of the Administrative Procedures Act to the
23 extent it exercises its responsibility for military affairs.

24 Military publications, as defined in Section 801 of Title 44 of the

1 Oklahoma Statutes, shall be exempt from the provisions of Article I
2 and Article II of the Administrative Procedures Act, except as
3 provided in Section 251 of this title.

4 4. The Oklahoma Ordnance Works Authority, the Northeast
5 Oklahoma Public Facilities Authority, the Oklahoma Office of
6 Homeland Security and the Board of Trustees of the Oklahoma College
7 Savings Plan shall be exempt from Article I of the Administrative
8 Procedures Act.

9 5. The Transportation Commission and the Department of
10 Transportation shall be exempt from Article I of the Administrative
11 Procedures Act to the extent they exercise their authority in
12 adopting standard specifications, special provisions, plans, design
13 standards, testing procedures, federally imposed requirements and
14 generally recognized standards, project planning and programming,
15 and the operation and control of the State Highway System.

16 6. The Oklahoma State Regents for Higher Education shall be
17 exempt from Article I of the Administrative Procedures Act with
18 respect to:

- 19 a. prescribing standards of higher education,
- 20 b. prescribing functions and courses of study in each
21 institution to conform to the standards,
- 22 c. granting of degrees and other forms of academic
23 recognition for completion of the prescribed courses,
- 24 d. allocation of state-appropriated funds, and

1 e. fees within the limits prescribed by the Legislature.

2 7. Institutional governing boards within The Oklahoma State
3 System of Higher Education shall be exempt from Article I of the
4 Administrative Procedures Act.

5 8. a. The Commissioner of Public Safety shall be exempt from
6 Sections 303.1, 304, 307.1, 308 and 308.1 of this
7 title insofar as it is necessary to promulgate rules
8 pursuant to the Oklahoma Motor Carrier Safety and
9 Hazardous Materials Transportation Act, to maintain a
10 current incorporation of federal motor carrier safety
11 and hazardous material regulations, or pursuant to
12 Chapter 6 of Title 47 of the Oklahoma Statutes, to
13 maintain a current incorporation of federal commercial
14 driver license regulations, for which the Commissioner
15 has no discretion when the state is mandated to
16 promulgate rules identical to federal rules and
17 regulations.

18 b. Such rules may be adopted by the Commissioner and
19 shall be deemed promulgated twenty (20) days after
20 notice of adoption is published in "The Oklahoma
21 Register". Such publication need not set forth the
22 full text of the rule but may incorporate the federal
23 rules and regulations by reference.
24

1 c. Such copies of promulgated rules shall be filed with
2 the Secretary as required by Section 251 of this
3 title.

4 d. For any rules for which the Commissioner has
5 discretion to allow variances, tolerances or
6 modifications from the federal rules and regulations,
7 the Commissioner shall fully comply with Article I of
8 the Administrative Procedures Act.

9 9. The Council on Judicial Complaints shall be exempt from
10 Section 306 of Article I of the Administrative Procedures Act, with
11 respect to review of the validity or applicability of a rule by an
12 action for declaratory judgment, or any other relief based upon the
13 validity or applicability of a rule, in the district court or by an
14 appellate court. A party aggrieved by the validity or applicability
15 of a rule made by the Council on Judicial Complaints may petition
16 the Court on the Judiciary to review the rules and issue opinions
17 based upon them.

18 10. The Department of Corrections, State Board of Corrections,
19 county sheriffs and managers of city jails shall be exempt from
20 Article I of the Administrative Procedures Act with respect to:

21 a. prescribing internal management procedures for the
22 management of the state prisons, county jails and city
23 jails and for the management, supervision and control
24 of all incarcerated prisoners, and

1 b. prescribing internal management procedures for the
2 management of the probation and parole unit of the
3 Department of Corrections and for the supervision of
4 probationers and parolees.

5 11. The State Board of Education shall be exempt from Article I
6 of the Administrative Procedures Act with respect to prescribing
7 subject matter standards as provided for in Section 11-103.6a of
8 Title 70 of the Oklahoma Statutes.

9 B. As specified, the following agencies or classes of agency
10 activities are not required to comply with the provisions of Article
11 II of the Administrative Procedures Act:

- 12 1. The Oklahoma Tax Commission;
- 13 2. The Commission for Human Services;
- 14 3. The Oklahoma Ordnance Works Authority;
- 15 4. The Corporation Commission;
- 16 5. The Pardon and Parole Board;
- 17 6. The Midwestern Oklahoma Development Authority;
- 18 7. The Grand River Dam Authority;
- 19 8. The Northeast Oklahoma Public Facilities Authority;
- 20 9. The Council on Judicial Complaints;
- 21 10. The Board of Trustees of the Oklahoma College Savings Plan;
- 22 11. The supervisory or administrative agency of any penal,
23 mental, medical or eleemosynary institution, only with respect to
24 the institutional supervision, custody, control, care or treatment

1 of inmates, prisoners or patients therein; provided, that the
2 provisions of Article II shall apply to and govern all
3 administrative actions of the Oklahoma Alcohol Prevention, Training,
4 Treatment and Rehabilitation Authority;

5 12. The Board of Regents or employees of any university,
6 college, or other institution of higher learning;

7 13. The Oklahoma Horse Racing Commission, its employees or
8 agents only with respect to hearing and notice requirements on the
9 following classes of violations which are an imminent peril to the
10 public health, safety and welfare:

- 11 a. any rule regarding the running of a race,
- 12 b. any violation of medication laws and rules,
- 13 c. any suspension or revocation of an occupation license
14 by any racing jurisdiction recognized by the
15 Commission,
- 16 d. any assault or other destructive acts within
17 Commission-licensed premises,
- 18 e. any violation of prohibited devices, laws and rules,
19 or
- 20 f. any filing of false information;

21 14. The Commissioner of Public Safety only with respect to
22 driver license hearings and hearings conducted pursuant to the
23 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

24

1 15. The Administrator of the Department of Securities only with
2 respect to hearings conducted pursuant to provisions of the Oklahoma
3 Take-over Disclosure Act of 1985;

4 16. Hearings conducted by a public agency pursuant to Section
5 962 of Title 47 of the Oklahoma Statutes;

6 17. The Oklahoma Military Department;

7 18. The University Hospitals Authority, including all hospitals
8 or other institutions operated by the University Hospitals
9 Authority;

10 19. The Oklahoma Health Care Authority Board and the
11 Administrator of the Oklahoma Health Care Authority; and

12 20. The Oklahoma Office of Homeland Security.

13 SECTION 433. AMENDATORY 75 O.S. 2011, Section 251, as
14 amended by Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2018,
15 Section 251), is amended to read as follows:

16 Section 251. A. 1. Upon the request of the Secretary, each
17 agency shall furnish to the Office a complete set of its permanent
18 rules in such form as is required by the Secretary or as otherwise
19 provided by law.

20 2. The Secretary shall promulgate rules to ensure the effective
21 administration of the provisions of Article I of the Administrative
22 Procedures Act. The rules shall include, but are not limited to,
23 rules prescribing paper size, numbering system, and the format of
24 documents required to be filed pursuant to the provisions of the

1 Administrative Procedures Act or such other requirements as deemed
2 necessary by the Secretary to implement the provisions of the
3 Administrative Procedures Act.

4 B. 1. Each agency shall file the number of copies specified by
5 the Secretary of all new rules, and all amendments, revisions or
6 revocations of existing rules attested to by the agency, pursuant to
7 the provisions of Section 254 of this title, with the Office within
8 thirty (30) calendar days after they become finally adopted.

9 2. An agency filing rules pursuant to the provisions of this
10 subsection:

11 a. shall prepare the rules in plain language which can be
12 easily understood,

13 b. shall not unnecessarily repeat statutory language.
14 Whenever it is necessary to refer to statutory
15 language in order to effectively convey the meaning of
16 a rule interpreting that language, the reference shall
17 clearly indicate the portion of the language which is
18 statutory and the portion which is the agency's
19 amplification or interpretation of that language,

20 c. shall indicate whether a rule is new, amends an
21 existing permanent rule or repeals an existing
22 permanent rule. If a rule amends an existing rule,
23 the rule shall indicate the language to be deleted
24

- 1 typed with a line through the language and language to
2 be inserted typed with the new language underscored,
- 3 d. shall state if the rule supersedes an existing
4 emergency rule,
- 5 e. shall include a reference to any rule requiring a new
6 or revised form in a note to the rule. The Secretary
7 shall insert that reference in "The Oklahoma Register"
8 as a notation to the affected rule,
- 9 f. shall prepare, in plain language, a statement of the
10 gist of the rule and an analysis of new or amended
11 rules. The analysis shall include but not be limited
12 to a reference to any statute that the rule
13 interprets, any related statute or any related rule,
- 14 g. may include with its rules, brief notes,
15 illustrations, findings of facts, and references to
16 digests of Supreme Court cases, other court decisions,
17 or Attorney General's opinions, and other explanatory
18 material. Such material may be included if the
19 material is labeled or set forth in a manner which
20 clearly distinguishes it from the rules,
- 21 h. shall include other information, in such form and in
22 such manner as is required by the Secretary, and
- 23 i. may change the format of existing rules without any
24 rulemaking action by the agency in order to comply

1 with the standard provisions established by the
2 Secretary for "Code" and "The Oklahoma Register"
3 publication so long as there is no substantive change
4 to the rule.

5 C. The Secretary is authorized to determine a numbering system
6 and other standardized format for documents to be filed and may
7 refuse to accept for publication any document that does not
8 substantially conform to the promulgated rules of the Secretary.

9 D. In order to avoid unnecessary expense, an agency may use the
10 published standards established by organizations and technical
11 societies of recognized national standing, other state agencies, or
12 federal agencies by incorporating the standards or rules in its
13 rules or regulations by reference to the specific issue or issues of
14 publications in which the standards are published, without
15 reproducing the standards in full. The standards shall be readily
16 available to the public for examination at the administrative
17 offices of the agency. In addition, a copy of such standards shall
18 be kept and maintained by the agency pursuant to the provisions of
19 the Preservation of Essential Records Act.

20 E. The Secretary shall provide for the publication of all
21 Executive Orders received pursuant to the provisions of Section 664
22 of Title 74 of the Oklahoma Statutes.

23 F. The Secretary may authorize or require the filing of rules
24 or Executive Orders by or through electronic data or machine

1 readable equipment in such form and manner as is required by the
2 Secretary.

3 G. The Secretary shall provide for the publication of all
4 military publications received as defined in Section 801 of Title 44
5 of the Oklahoma Statutes. This subsection shall only apply to
6 military publications promulgated after November 1, 2019.

7 H. In consultation with the Adjutant General, the Secretary is
8 authorized to determine a numbering system and other standardized
9 format for military documents to be filed and may authorize or
10 require the filing of military publications by or through electronic
11 data or machine-readable equipment in such form and manner as is
12 required by the Secretary.

13 SECTION 434. AMENDATORY 75 O.S. 2011, Section 255, is
14 amended to read as follows:

15 Section 255. A. 1. The Secretary is hereby authorized,
16 directed, and empowered to publish "The Oklahoma Register" not less
17 than monthly for the publication of new rules, any amendment,
18 revision or revocation of an existing rule, emergency rules, any
19 notices of such rulemaking process, military publications and
20 Executive Orders as are required by law to be published in "The
21 Oklahoma Register". Said rules or amendments, revisions, or
22 revocations of existing rules shall be published in the first issue
23 of "The Oklahoma Register" published pursuant to Sections 251, 253,
24

1 256, 303, 303.1, 303.2 and 308 of this title after the date of
2 acceptance by the Secretary.

3 2. The Secretary shall cause a copy of each publication of "The
4 Oklahoma Register" to be sent to those county clerks who request it,
5 to members of the Legislature upon request, and to such other
6 agencies, libraries, and officials as the Secretary may select. The
7 Secretary may charge recipients of the publication a cost sufficient
8 to defray the cost of publication and mailing.

9 3. The Secretary shall cause a copy of all rules, all new
10 rules, and all amendments, revisions, or revocations of existing
11 rules to be on file and available for public examination in the
12 Office during normal office hours.

13 4. The Secretary shall promulgate rules to systematize the
14 designations of rules. To establish said system or to preserve
15 uniformity of designations, the Secretary may require the agency to
16 change the title or numbering of any rule or any amendment,
17 revision, or revocation thereof.

18 B. The Secretary is authorized to provide for the publication
19 of rules in summary form when the rules are of such length that
20 publication of the full text would be too costly. The summary shall
21 be prepared by the agency submitting the rules and shall state where
22 the full text of the rule may be obtained.

23 C. The notice required pursuant to the provisions of Section
24 303 of this title shall be published in "The Oklahoma Register"

1 prior to the adoption of a new rule, or amendment, revision or
2 revocation of any existing rule. The notice shall include the
3 information required by Section 303 of this title.

4 SECTION 435. AMENDATORY 75 O.S. 2011, Section 256, is
5 amended to read as follows:

6 Section 256. A. 1. The Secretary shall provide for the
7 codification, compilation, indexing and publication of agency rules,
8 military publications, as defined by Section 801 of Title 44 of the
9 Oklahoma Statutes, and Executive Orders in a publication which shall
10 be known as the "Oklahoma Administrative Code" in the following
11 manner:

12 a. ~~On~~ on or before January 1, 1992, the Secretary shall
13 compile Executive Orders which are effective pursuant
14 to paragraph 3 of subsection B of this section, and
15 agency rules which have been submitted pursuant to the
16 agency schedule of compliance and have been accepted
17 as properly codified, as set forth in this section,
18 and rules promulgated by the Secretary. Such
19 compilation shall be maintained by the Office of
20 Administrative Rules and shall be updated by agencies,
21 in a manner prescribed by the Secretary, to reflect
22 subsequent permanent rulemaking. Prior to publication
23 of the first "Code", as set forth in subparagraph b of
24 this paragraph, the compilation shall constitute the

1 official permanent rules of the state. Effective
2 January 1, 1992, any permanent rule not included in
3 such compilation shall be void and of no effect.

4 b. ~~On~~ on or before December 1, 1992, the Secretary shall
5 have indexed and published the "Oklahoma
6 Administrative Code". To effectuate this provision,
7 the Secretary may contract for the publishing and
8 indexing, or both, of the "Oklahoma Administrative
9 Code". Any permanent rule not published in the "Code"
10 shall be void and of no effect. A finally adopted
11 rule filed and published in "The Oklahoma Register"
12 may be valid until publication of the next succeeding
13 "Code" or "Code" supplement following the date of its
14 final adoption. Provided, a permanent rule which is
15 finally adopted after the closing date for publication
16 in a "Code" or "Code" supplement as announced by the
17 Secretary may be valid until publication of the next
18 succeeding "Code" or "Code" supplement. A permanent
19 rule which is published in "The Oklahoma Register"
20 after the closing date for publication in the first
21 "Code", as announced by the Secretary, shall be void
22 and of no effect upon publication of the next
23 succeeding "Code" or "Code" supplement, if not
24 published in the "Code" or "Code" supplement, and

1 c. on or before January 1, 2021, the Secretary shall
2 compile, index and publish in the Oklahoma
3 Administrative Code the military publications provided
4 by the Adjutant General pursuant to the Oklahoma
5 Uniform Code of Military Justice and the Oklahoma
6 State Guard Act.

7 2. Compilations or revisions of the "Code" or any part thereof
8 shall be supplemented or revised annually. The "Code" shall be
9 organized by state agency and shall be arranged, indexed and printed
10 in a manner to permit separate publications of portions thereof
11 relating to individual agencies.

12 3. Annual supplements to the "Code" shall be cumulative.
13 Emergency rules shall not be published in the "Code" or in any
14 supplements thereto.

15 4. The "Code" and the supplements shall include a general
16 subject index and an agency index of all rules and Executive Orders
17 contained therein. "The Oklahoma Register" shall also include a
18 sections-affected index of the "Code". The "Code" and supplements
19 shall contain such notes, cross references and explanatory materials
20 as required by the Secretary.

21 5. The Secretary in preparing such rules for publication in the
22 "Code" or supplements shall omit all material shown in canceled
23 type. The Secretary shall not prepare any rule for publication in
24 the "Code" which amends or revises a rule unless the rule so

1 amending or revising conforms to the provisions of the
2 Administrative Procedures Act.

3 6. The Secretary is authorized to determine a numbering system
4 and other standardized format for documents to be filed and may
5 refuse to accept for publication any document that does not
6 substantially conform to the promulgated rules of the Secretary.

7 B. 1. Rules submitted and accepted for publication in the
8 "Code" by August 15 of each year shall be published in the next
9 succeeding "Code" or supplement thereto.

10 2. As soon as possible after August 15 of each year, the
11 Secretary shall assemble all rules and Executive Orders, except
12 emergency rules, promulgated after the publication of the preceding
13 "Code" or "Code" supplement in accordance with the provisions of the
14 Administrative Procedures Act for publication in the "Oklahoma
15 Administrative Code". The "Code" or supplements thereto should be
16 published as soon as possible after August 30 of each year.

17 3. Executive Orders of previous gubernatorial administrations
18 shall terminate ninety (90) calendar days following the inauguration
19 of the next Governor unless otherwise terminated or continued during
20 that time by Executive Order. Copies of all Executive Orders shall
21 be published and indexed in the "Oklahoma Administrative Code". All
22 Executive Orders placing agencies or employees under the State Merit
23 System of Personnel Administration shall remain in effect unless
24 otherwise modified by action of the Legislature.

1 C. The Secretary is hereby authorized and empowered to publish
2 or to contract to publish the "Oklahoma Administrative Code", and to
3 publish or contract to publish such annual cumulative supplements so
4 as to keep the "Code" current. All such agreements shall provide
5 that the publisher shall make such publications in such form and
6 arrangement as shall be approved by the Secretary. The Secretary
7 may publish or authorize the publication of the "Code" in part.

8 D. The Secretary is authorized to correct spelling errors in
9 rules submitted for publication in the "Code" or any such
10 supplements or in "The Oklahoma Register". Any other errors in
11 rules submitted for publication in the "Code" may be noted in
12 editorial notes provided by the Secretary.

13 E. The Secretary shall make copies of the "Code" generally
14 available at a cost sufficient to defray the cost of publication and
15 mailing. Except as otherwise provided by Section 257.1 of this
16 title, the Secretary is authorized to sell or otherwise distribute
17 the "Code" and its supplements.

18 F. 1. The codification system, derivations, cross references,
19 notes of decisions, source notes, authority notes, numerical lists,
20 and codification guides, other than the actual text of rules,
21 indexes, tables and other aids relevant to the publication of the
22 "Oklahoma Administrative Code" and "The Oklahoma Register" shall be
23 the property of the state and may be reproduced only with the
24 written consent of the Secretary. The information which appears on

1 the same page with the text of a rule may be reproduced incidentally
2 with the reproduction of the rule, if the reproduction is for the
3 private use of the individual and not for resale. No person shall
4 attempt to copyright or publish the "Oklahoma Administrative Code"
5 or "The Oklahoma Register", in printed or electronic media, without
6 expressed written consent of the Secretary of State. The Secretary
7 shall notify the Speaker of the House of Representatives and the
8 President Pro Tempore of the Senate of any requests to copyright or
9 publish the "Oklahoma Administrative Code" or "The Oklahoma
10 Register", prior to consent by the Secretary.

11 2. The Secretary may provide for the electronic access to the
12 "Oklahoma Administrative Code" and "The Oklahoma Register" by:

- 13 a. subscription, or
- 14 b. an exclusive or a nonexclusive contract for public and
15 private access.

16 3. Publications of rules by agencies are not official
17 publications.

18 4. The sale or resale of the "Oklahoma Administrative Code" or
19 any part thereof by the Secretary of State shall be exempt from any
20 requirement mandating acquisition of a resale number and payment of
21 sales tax.

22 SECTION 436. RECODIFICATION 44 O.S. 2011, Section 3398,
23 shall be recodified as Section 941 of Title 44 of the Oklahoma
24 Statutes, unless there is created a duplication in numbering.

1 SECTION 437. REPEALER 44 O.S. 2011, Sections 3200, 3201,
2 3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213, 3214, 3215,
3 3216, 3217, 3218, 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241,
4 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252, 3253,
5 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268,
6 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279,
7 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3301, 3302,
8 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313,
9 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331, 3332, 3333,
10 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344,
11 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355,
12 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366,
13 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377,
14 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388,
15 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399, 4000,
16 4001 and 4002, are hereby repealed.

17 SECTION 438. This act shall become effective November 1, 2019.
18
19
20
21
22
23
24

1 Passed the House of Representatives the 7th day of March, 2019.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

6
7
8 _____
9 Presiding Officer of the Senate