

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2362 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Chris Kannady _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2362

By: Kannady

7
8 PROPOSED COMMITTEE SUBSTITUTE

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

1 capacities; providing for investigation and
2 disposition of matters pertaining to the fitness of
3 military judges; listing rights of victims of certain
4 offense; defining term; construing section;
5 authorizing victim petition for certain appeal or
6 relief; defining term; authorizing apprehension of
7 persons reasonably believed to have committed certain
8 offenses; authorizing issuance of warrant of arrest;
9 providing warrant of arrest content requirements;
10 directing warrant of arrest to certain peace
11 officers; defining terms; authorizing orders of
12 arrest and confinement; authorizing certain offenders
13 be ordered into arrest or confinement; providing
14 place of confinement; prohibiting refusal of
15 committed prisoners; requiring report of certain
16 prisoner information; prohibiting confinement in
17 immediate association with certain other prisoners;
18 prohibiting certain punishment before trial;
19 authorizing delivery of certain offenders to civil
20 authorities; directing return of certain offender
21 under certain conditions; authorizing nonjudicial
22 punishments; limiting or withholding certain
23 authority; delegating powers; listing nonjudicial
24 punishments authorized to be imposed by certain
authorities; limiting duration of nonjudicial
punishments; providing right to certain trial;
mitigating 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;
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;

1 providing certain counsel for general and special
2 courts-martial; providing selection and
3 qualifications for certain counsel; providing for
4 court reporters and interpreters for courts-martial;
5 assembling courts-martial with members; providing
6 certain membership requirements; providing for
7 certain alternate members; requiring certain amount
8 of members under certain circumstances; providing for
9 charges and specifications; providing certain writing
10 contents; requiring certain notice and determination;
11 prohibiting compulsory self-incrimination; requiring
12 disclosure of certain rights; prohibiting immaterial
13 or degrading statements or evidence; requiring
14 preliminary hearing before referral to general court-
15 martial; requiring preliminary hearing be conducted
16 by an impartial hearing officer; requiring submission
17 of certain written report; requiring disclosure of
18 certain rights; requiring preliminary hearing be
19 recorded; providing effect of evidence of uncharged
20 offense; providing effect of certain violation;
21 defining victim; requiring disposition of certain
22 guidance; requiring certain advice to convening
23 authority and consultations before referral for
24 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;
authorizing certain challenges; establishing
challenges procedures; requiring certain military
officials take an oath; establishing statute of
limitations for military offences; 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

1 defense of lack of mental responsibility; requiring
2 certain voting and rulings on military proceedings;
3 requiring votes for conviction, sentencing and other
4 matters; requiring announcement of certain findings
5 and sentencing; authorizing certain plea agreements;
6 requiring separate record of certain proceedings;
7 dispersing copies of proceedings; prohibiting cruel
8 and unusual punishments; providing certain sentencing
9 guidelines; establishing effective dates of
10 sentences; providing for execution of confinement;
11 reducing member pay grade under certain
12 circumstances; forfeiting pay and allowances during
13 confinement; authorizing enforcement of fines or
14 adjudication of pecuniary liability; prohibiting
15 finding of sentence on the ground of error of law;
16 authorizing a finding of a lesser included offense;
17 providing posttrial processing requirements in
18 general and special courts-martial; limiting
19 authority to act on sentence in specified posttrial
20 circumstances; authorizing posttrial actions in
21 summary courts-martial and certain general and
22 special courts-martial; authorizing entry of judgment
23 and providing content requirements; authorizing
24 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; 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

1 charged offenses; defining term; making an attempt a
2 punishable offense; making a conspiracy a punishable
3 offense; making soliciting others to commit an
4 offense a punishable offense; making malingering a
5 punishable offense; making a breach of medical
6 quarantine a punishable offense; making desertion a
7 punishable offense; making certain absences a
8 punishable offense; making missing the movement of or
9 jumping from certain vessels a punishable offense;
10 making certain actions of resistance, flight, breach
11 of arrest, and escape punishable offenses; making use
12 of contemptuous words against officials a punishable
13 offense; making certain actions towards a superior
14 commissioned officer a punishable offense; making
15 willful disobedience of a superior commissioned
16 officer a punishable offense; making certain
17 insubordinate conduct a punishable offense; making
18 failure to obey an order or regulation a punishable
19 offense; making cruelty and maltreatment a punishable
20 offense; making certain activities with military
21 recruit or trainee a punishable offense; making
22 mutiny or sedition a punishable offense; making
23 certain actions of a sentinel or lookout a punishable
24 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;
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

1 related to nonmilitary property a punishable offense;
2 making improper hazarding of vessel or aircraft a
3 punishable offense; making drunkenness and
4 incapacitation a punishable offense; making certain
5 actions related to controlled substances a punishable
6 offense; making certain actions related to
7 endangerment a punishable offense; making riot and
8 breach of peace a punishable offense; making
9 provoking speeches or gestures a punishable offense;
10 making wrongful broadcast or distribution of intimate
11 images a punishable offense; making sexual assault a
12 punishable offense; providing certain defenses;
13 making other sexual misconduct a punishable offense;
14 making fraternization a punishable offense; making
15 larceny and wrongful appropriation a punishable
16 offense; making actions of fraud against the
17 government a punishable offense; making assault a
18 punishable offense; making stalking a punishable
19 offense; making perjury a punishable offense; making
20 subornation of perjury a punishable offense; making
21 obstructing justice a punishable offense; making
22 concealing a serious offense a punishable offense;
23 making wrongful refusal to testify a punishable
24 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;
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 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

1 of the Civil Air Patrol and certain judges;
2 authorizing all appropriate means necessary to
3 protect national security; amending 44 O.S. 2011,
4 Sections 241, 242, 243, 244, 247 and 248, which
5 relate to the State Guard Act; updating citations;
6 modifying rule-making authority; providing
7 applicability; requiring certain executive order;
8 updating gender-neutral references; eliminating
9 certain jurisdiction; renaming act; amending 21 O.S.
10 2011, Section 133, which relates to military
11 punishment; modifying applicability; amending 75 O.S.
12 2011, Sections 250.4, as last amended by Section 12,
13 Chapter 430, O.S.L. 2014, 251, as amended by Section
14 1, Chapter 252, O.S.L. 2016, 255 and 256 (75 O.S.
15 Supp. 2018, Sections 250.4 and 251), which relate to
16 the Administrative Procedures Act; exempting military
17 publications from certain provisions of the act;
18 directing the Secretary of State to publish military
19 publications; determining certain numberings;
20 modifying contents of Oklahoma Register; providing
21 for codification of military publications in the
22 Oklahoma Administrative Code; establishing deadline
23 for certain publications; repealing 44 O.S. 2011,
24 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, 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.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

5 The Adjutant General or the Adjutant General's designee may
6 request from a district attorney or law enforcement agency
7 confidential criminal justice information relating to the member of
8 the National Guard for use in an administrative or court-martial
9 action. Unless the district attorney or law enforcement agency
10 determines that dissemination of the requested confidential criminal
11 justice information would jeopardize a pending investigation or
12 other pending criminal proceeding, the district attorney or the
13 investigating law enforcement agency shall disseminate the requested
14 information to the Adjutant General or the Adjutant General's
15 designee.

16 SECTION 2. AMENDATORY 44 O.S. 2011, Section 21, is
17 amended to read as follows:

18 Section 21. The Military Department of the State of Oklahoma is
19 hereby established and shall be ~~administered and controlled by~~ under
20 the command and control of the Governor as Commander in Chief, with
21 the Adjutant General as the executive and administrative head
22 thereof. The Military Department shall be constituted of the state
23 military forces, as defined by Section 4101 of this title, and is
24 hereby organized into a joint headquarters ~~with separate branches~~

1 ~~for the~~ which shall be identified as the joint forces headquarters.
2 The joint forces headquarters shall be jointly staffed by Army
3 National Guard and ~~the~~ Air National Guard, ~~and there~~ personnel who,
4 under the authority and direction of the Adjutant General, shall
5 support and assist the Adjutant General in the exercise of command
6 and control over state military forces when not activated for
7 federal duty under Title 10 of the United States Code. There shall
8 be assigned to ~~each~~ the joint force headquarters, officers, enlisted
9 men personnel and civilian employees as may be considered necessary
10 by the Governor as Commander in Chief and as may be authorized by
11 law and Army National Guard regulations and Air National Guard
12 regulations.

13 SECTION 3. AMENDATORY 44 O.S. 2011, Section 212, is
14 amended to read as follows:

15 Section 212. A. If a suit or proceeding shall be commenced in
16 any court by any person against any ~~officer or enlisted person~~
17 member of the military forces for any act done by ~~such officer or~~
18 ~~enlisted person~~ the member in his or her official capacity in the
19 discharge of any duty under Sections 1 through 117, 208 through
20 ~~235.2~~ 237, or 241 through 250, or 4100 through 4246 of this title,
21 or against any ~~soldier~~ member of the state military forces as
22 defined in Section 4101 of this title acting under the authority or
23 order of any such officer, or by virtue of any warrant issued by him
24

1 or her pursuant to law, it shall be the duty of the Attorney General
2 or Judge Advocate to defend such person.

3 The actual court costs of such a defense shall be a legal charge
4 against the state and shall be submitted to the Legislature for
5 payment. Before any suit or proceeding shall be filed or maintained
6 against any ~~officer or soldier~~ member of state military forces as
7 herein provided, the plaintiff shall be required to give security,
8 to be approved by the court in a sum not less than One Hundred
9 Dollars (\$100.00), to secure the costs. If the plaintiff fails to
10 recover judgment such costs shall be taxed and judgment rendered
11 therefor against him or her and his or her sureties.

12 B. Any officer or enlisted person of the state military forces
13 acting in his or her official capacity in the discharge of any duty
14 under Sections 1 through 117, 208 through 235.3, or 241 through 250
15 of this title, or any member of state military forces acting under
16 the authority or order of any such officer, or by virtue of any
17 warrant issued by him or her pursuant to law, shall be immune from
18 personal liability for any acts that include the use of deadly force
19 in self-defense or in defense of another person from what the member
20 reasonably believes is the imminent use of unlawful deadly force.

21 PART I.

22 GENERAL PROVISIONS

23
24

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4100 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 Sections 4100 through 4246 of this title shall be known and may
5 be cited as the "Oklahoma Uniform Code of Military Justice". With
6 the Oklahoma Uniform Code of Military Justice, good order and
7 discipline shall be established and safeguarded within state
8 military forces pursuant to Section 40 of Article V of the Oklahoma
9 Constitution.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4101 of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

13 ARTICLE 1. Definitions.

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

16 1. "Accuser" means a person who signs and swears to charges,
17 any person who directs that charges nominally be signed and sworn to
18 by another, and any other person who has an interest other than an
19 official interest in the prosecution of the accused;

20 2. "Adjutant General" means the commander and most senior
21 military officer of the Oklahoma National Guard appointed by the
22 Governor with the advice and consent of the Senate. The Adjutant
23 General exercises command and control over the Oklahoma National
24 Guard when it is not activated for federal duty under Title 10 of

1 the United States Code. The Adjutant General serves as the
2 executive and administrative head of the Military Department of the
3 State of Oklahoma as provided for in Section 21 of this title;

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

14 4. "Allowance" means an amount of money provided to members of
15 the state military forces when adequate services or facilities are
16 not provided by the military. Allowances are usually provided tax-
17 free for basic housing, basic subsistence, cost of living, clothing
18 expenses and separation from family members;

19 5. "Arrest in quarters" means moral restraint, as opposed to
20 physical restraint, limiting the liberty of an officer. The limits
21 of arrest in quarters are set by the authority imposing nonjudicial
22 punishment and may extend beyond the physical quarters of an
23 officer;

24

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

11 7. "Cadet" or "officer candidate" means a person who is
12 enrolled in or attending a state military academy, a regional
13 training institute, or any other formal education program for the
14 purpose of becoming a commissioned officer in the state military
15 forces;

16 8. "Classified information" means:

17 a. any information or material that has been determined
18 pursuant to federal law, by an Executive Order issued
19 by the President in execution of federal law, or a
20 lawfully promulgated federal regulation, to require
21 protection against unauthorized disclosure for reasons
22 of national security and that is so designated, and
23
24

1 b. any restricted data, as defined in Section 11(y) of
2 the Atomic Energy Act of 1954 (42 U.S.C., Section
3 2014(y));

4 9. "Code" means the Oklahoma Uniform Code of Military Justice
5 (OUCMJ);

6 10. "Command authority" means the authority that a commander
7 lawfully exercises over subordinates by virtue of rank or
8 assignment. Disciplinary authority under the OUCMJ is inherent to
9 command authority;

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

13 12. "Commanding officer" includes only commissioned officers of
14 the state military forces and shall include officers in charge only
15 when administering nonjudicial punishment under Section 4115
16 (Article 15) of this title. "Commander" has the same meaning as
17 "commanding officer" unless the context otherwise requires;

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

22 14. "Confidential information" means any information or
23 material that shall be designated as confidential pursuant to
24 Section 24A.27 of Title 51 of the Oklahoma Statutes and any

1 information or material that may be kept confidential pursuant to
2 Section 24A.28 of Title 51 of the Oklahoma Statutes that has not
3 previously been released by an appropriate authority;

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

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

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

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

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

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

23 21. "Fine" means a type of punishment that makes a member
24 pecuniarily liable to the State of Oklahoma for the amounts

1 specified by nonjudicial punishment or adjudged by a court-martial.
2 A fine may be paid in cash by a member, collected by deduction from
3 the current pay of a member or collected by deduction on settlement
4 of the pay account of a member upon discharge;

5 22. "Forfeiture" means a loss of monetary compensation provided
6 to members of the Oklahoma National Guard or Oklahoma State Guard
7 for performance of military duties as a result of nonjudicial
8 punishment or as adjudged by a court-martial. A forfeiture is
9 applicable to basic pay and allowances if total forfeitures of pay
10 and allowances are specifically adjudged by a general court-martial;
11 provided, that forfeitures other than total forfeitures shall not
12 apply to special pay, other than hardship duty pay, or proficiency
13 or incentive pay;

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

17 24. "Installation commander" means a commissioned officer
18 responsible for the protection of assigned forces and assets,
19 lodging, dining and administrative reporting, regardless of the
20 command relations of the various types of forces present on the
21 installation. For purposes of this definition, an installation is
22 an Armed Forces Reserve Center, air base, armory, camp, post,
23 readiness center, office building, the joint forces headquarters or
24

1 other facility, location, structure or property so designated as an
2 "installation" by the Adjutant General;

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

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

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

13 28. "Military court" means a court-martial or a court of
14 inquiry;

15 29. "Military Court of Appeals" means the intermediate
16 appellate court of record established in Section 4166 of this title
17 (Article 66) and charged with conducting an appellate review of
18 questions of law arising from general and special courts-martial
19 proceedings conducted by the state military forces and, when
20 necessary in furtherance of its jurisdiction, reviewing all
21 petitions for extraordinary relief properly brought before it;

22 30. "Military department" means the administrative agency
23 established in Section 21 of this title charged with coordinating
24 and supervising state military forces. The military department

1 consists of a joint forces headquarters, an army component and an
2 air force component under the command and control of the Adjutant
3 General when not activated for federal duty under Title 10 of the
4 United States Code;

5 31. "Military judge" means a judicial officer who presides over
6 a general or special court-martial and is detailed in accordance
7 with Section 4126 of this title (Article 26);

8 32. "Military offenses" means those offenses designated as
9 punitive articles under Sections 4177 (Article 77, Principals), 4178
10 (Article 78, Accessory after the fact), 4179 (Article 79, Conviction
11 of offense charged, lesser included offenses, and attempts), 4180
12 (Article 80, Attempts), 4181 (Article 81, Conspiracy), 4182 (Article
13 82, Soliciting commission of offenses), 4183 (Article 83,
14 Malingering), 4184 (Article 84, Breach of medical quarantine), 4185
15 (Article 85, Desertion), 4186 (Article 86, Absence without leave),
16 4187 (Article 87, Missing movement; jumping from vessel), 4187A
17 (Article 87A, Resistance, flight, breach of arrest, and escape),
18 4188 (Article 88, Contempt toward officials), 4189 (Article 89,
19 Disrespect toward superior commissioned officer; assault of superior
20 commissioned officer), 4190 (Article 90, Willfully disobeying
21 superior commissioned officer), 4191 (Article 91, Insubordinate
22 conduct toward warrant officer, or noncommissioned officer), 4192
23 (Article 92, Failure to obey order or regulation), 4193 (Article 93,
24 Cruelty and maltreatment), 4193A (Article 93A, Prohibited activities

1 with military recruit or trainee by person in position of special
2 trust), 4194, (Article 94, Mutiny or sedition), 4195 (Article 95,
3 Offenses by sentinel or lookout), 4195A (Article 95A, Disrespect
4 toward sentinel or lookout), 4196 (Article 96, Release of prisoner
5 without authority; drinking with prisoner), 4197 (Article 97,
6 Unlawful detention), 4198 (Article 98, Misconduct as prisoner), 4199
7 (Article 99, Misbehavior before the enemy), 4200 (Article 100,
8 Subordinate compelling surrender), 4201 (Article 101, Improper use
9 of countersign), 4202 (Article 102, Forcing a safeguard), 4203B
10 (Article 103B, Aiding the enemy), 4203C (Article 103C, Unlawful
11 disclosure of confidential information), 4204 (Article 104, Public
12 records offenses), 4204A (Article 104A, Fraudulent enlistment,
13 appointment, or separation), 4204B (Article 104B, Unlawful
14 enlistment, appointment, or separation), 4205A (Article 105A, False
15 or unauthorized pass offenses), 4206A (Article 106A, Wearing
16 unauthorized insignia, decoration, badge, ribbon, device, or lapel
17 button), 4207 (Article 107, False official statements; false
18 swearing), 4208 (Article 108, Military property-loss, damage,
19 destruction, or wrongful disposition), 4208A (Article 108A, Captured
20 or abandoned property), 4209 (Article 109, Property other than
21 military property-waste, spoilage, or destruction), 4210 (Article
22 110, Improper hazarding of vessel or aircraft), 4212 (Article 112,
23 Drunkenness and other incapacitation offenses), 4212A (Article 112A,
24 Wrongful use, possession, etc., of controlled substances), 4214

1 (Article 114, Endangerment offenses), 4216 (Article 116, Riot or
2 breach of peace), 4217 (Article 117, Provoking speeches or
3 gestures), 4217A (Article 117A, Wrongful broadcast or distribution
4 of intimate visual images), 4220 (Article 120, Sexual assault
5 generally), 4220C (Article 120C, Other sexual misconduct), 4220D
6 (Article 120D, Fraternization), 4221 (Article 121, Larceny and
7 wrongful appropriation), 4224 (Article 124, Frauds against the
8 government), 4228 (Article 128, Assault), 4230 (Article 130,
9 Stalking), 4231 (Article 131, Perjury), 4231A (Article 131A,
10 Subornation of perjury), 4231B (Article 131B, Obstructing justice),
11 4231C (Article 131C, Misprision of serious offense), 4231D (Article
12 131D, Wrongful refusal to testify), 4231F (Article 131F,
13 Noncompliance with procedural rules), 4231G (Article 131G, Wrongful
14 interference with adverse administrative proceeding), 4232 (Article
15 132, Retaliation), 4233 (Article 133, Conduct unbecoming an officer
16 and a gentleman), 4234 (Article 134, General article) of this title;

17 33. "Military publication" means a written publication of an
18 administrative nature such as a regulation, instruction, pamphlet,
19 circular, permanent or general order, numbered adjutant general
20 policy memorandum or blank form promulgated or published by or under
21 the authority of the Adjutant General. An order or directive issued
22 by the Adjutant General that is operational in nature or issued in
23 execution of a military mission shall not be included within the
24 meaning of military publication. Rules of procedure published by

1 the State Judge Advocate for the Military Court of Appeals are
2 included in the meaning of military publication;

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

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

7 36. "Nexus" means the appearance of a connection between a
8 nonmilitary offense and the state military forces which brings
9 discredit or dishonor to the state military forces due to
10 representations of membership in the state military forces by a
11 member. Such representations may be made directly or indirectly,
12 including but not limited to publication on social media or other
13 electronic communication platforms;

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

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

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

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

23 41. "Pay" means monetary compensation provided to members of
24 the state military forces in exchange for performance of military

1 duties carried out pursuant to a lawful order or otherwise under the
2 authority of law, including basic pay, special pay, proficiency pay
3 and incentive pay. "Pay" shall not mean allowances as defined in
4 this section;

5 42. "Rank" means the order of precedence among members of the
6 state military forces;

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

9 a. an official written transcript, written summary, or
10 other writing relating to the proceedings, or

11 b. an official audiotape, videotape, digital image or
12 file, or similar material from which sound, or sound
13 and visual images, depicting the proceedings may be
14 reproduced;

15 44. "Regulation" means a written, administrative expression of
16 executive authority issued by an executive branch officer which
17 carries with it the force and effect of law due to inherent command
18 authority or express delegation of authority by the legislative
19 branch; regulations provided for in the Code are published and
20 indexed in the Oklahoma Administrative Code;

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

23 46. "Restriction" means moral restraint, as opposed to physical
24 restraint, limiting access to physical places or participation in

1 certain activities. In comparison to arrest in quarters,
2 "restriction" is a lesser punishment;

3 47. "Senior Assistant Adjutant General" means an Assistant
4 Adjutant General who either possesses the most time in grade or has
5 been designated in writing by the Adjutant General as the Senior
6 Assistant Adjutant General for his or her force component
7 irrespective of time in grade;

8 48. "Senior force component judge advocate" means the judge
9 advocate assigned as chief legal advisor to the Senior Assistant
10 Adjutant General of the same component of the state military forces
11 as the accused. Unless there is a conflict of interest, a senior
12 force component judge advocate may also serve as legal counsel to
13 the Adjutant General and may be designated as the State Judge
14 Advocate. The customary duty station of a senior force component
15 judge advocate is joint forces headquarters;

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

17 50. "State" means one of the several states, the District of
18 Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin
19 Islands;

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

24

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

5 53. "State military forces" means the National Guard of the
6 State of Oklahoma, which includes an army component and an air force
7 component, as defined in Title 32, United States Code, and Section
8 41 of this title; the Oklahoma State Guard, organized pursuant to
9 Section 109 of Title 32, United States Code, and established
10 pursuant to the Oklahoma State Guard Act; and any other military
11 force organized under the Constitution and laws of the State of
12 Oklahoma when not in a status placing them under exclusive federal
13 jurisdiction pursuant to Chapter 47 of Title 10, United States Code.
14 Unless otherwise established by Oklahoma law, the unorganized
15 militia, as provided for in Section 41 of this title, or any other
16 state military force that does not meet this definition shall not be
17 considered part of the "state military forces" under the Code;

18 54. "Superior commissioned officer" means a commissioned
19 officer superior in rank or command;

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

22 56. "Title 32 active duty" means training or other duty, other
23 than inactive duty, performed by a member of the Army National Guard
24 of the United States or the Air National Guard of the United States

1 in the member's status as a member of the Oklahoma National Guard
2 pursuant to Section 316, 502, 503, 504 or 505 of Title 32 of the
3 United States Code for which the member is entitled to pay from the
4 United States or for which the member has waived pay from the United
5 States.

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

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

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4102 of Title 44, unless there
16 is created a duplication in numbering, reads as follows:

17 ARTICLE 2. Persons subject to the Oklahoma Uniform Code of
18 Military Justice.

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

23 B. Subject matter jurisdiction is established if more likely
24 than not a nexus exists between an offense, either military or

1 nonmilitary, and the state military forces. Courts-martial shall
2 have primary jurisdiction over military offenses as defined in the
3 Code.

4 C. The civilian courts shall have primary jurisdiction over
5 nonmilitary offenses when an act or omission violates both the Code
6 and local criminal law. In such a case, a court-martial may be
7 initiated only after the civilian authority has declined to
8 prosecute or has dismissed the charge, provided jeopardy has not
9 attached. When a member is not in a duty status under Title 32 of
10 the United States Code or on state active duty orders, there shall
11 be a rebuttable presumption that subject matter jurisdiction does
12 not exist under the Code. The Governor or Adjutant General may
13 promulgate additional regulations prescribing how a convening
14 authority shall determine the existence of a nexus between a
15 nonmilitary offense and state military forces.

16 D. Jurisdiction over attempted crimes, conspiracy crimes,
17 solicitation and accessory crimes shall be determined by the
18 underlying offense.

19 E. If a commander or officer in charge determines that a nexus
20 exists between a nonmilitary offense and the state military forces,
21 for purposes of administrative action, the commander or officer in
22 charge may impose nonjudicial punishment regardless of whether
23 courts-martial jurisdiction is then possessed or later acquired by
24 the state military forces.

1 SECTION 7. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4103 of Title 44, unless there
3 is 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 4204A 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 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4104 of Title 44, unless there
20 is created a duplication in numbering, reads as follows:

21 RESERVED.

22 SECTION 9. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4105 of Title 44, unless there
24 is 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 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4106 of Title 44, unless there
11 is 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 11. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4106A 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 12. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4106B 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 4132 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, unless such
16 notice may endanger the safety of any person;

17 3. The right not to be excluded from any public hearing or
18 proceeding described in paragraph 2 of this subsection unless the
19 military judge or preliminary hearing officer, as applicable, after
20 receiving clear and convincing evidence, determines that testimony
21 by the victim of an offense under the Code would be materially
22 altered if the victim heard other testimony at that hearing or
23 proceeding;

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

- 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 4132 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 4132 (Article 32) of the Code,

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- 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 13. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4107 of Title 44, unless there
14 is 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 14. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4108 of Title 44, unless there
9 is 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 15. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4109 of Title 44, unless there
11 is 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.

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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 16. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4110 of Title 44, unless there
14 is 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 4132 of this title (Article 32).

11 SECTION 17. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4111 of Title 44, unless there
13 is 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 18. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4112 of Title 44, unless there
13 is 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.

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1 SECTION 19. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4113 of Title 44, unless there
3 is 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 20. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4114 of Title 44, unless there
14 is 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 21. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4115 of Title 44, unless there
9 is 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
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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. The right to demand trial by court-martial in lieu of
17 nonjudicial punishment shall arise only when arrest in quarters or
18 restriction will be considered as punishments. If the commanding
19 officer determines that arrest in quarters or restriction will be
20 considered as punishments, prior to the offer of nonjudicial
21 punishment, the accused shall be notified in writing of the right to
22 demand trial by court-martial. Should the commanding officer
23 determine that the punishment options will not include arrest in
24 quarters or restriction, the accused shall be notified that there is

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

6 I. The officer who imposes the punishment, or the successor in
7 command, may, at any time, suspend, set aside, mitigate, or remit
8 any part or amount of the punishment and restore all rights,
9 privileges, and property affected. The officer also may:

- 10 1. Mitigate reduction in grade to forfeiture of pay;
- 11 2. Mitigate arrest in quarters to restriction; or
- 12 3. Mitigate extra duties to restriction.

13 The mitigated punishment shall not be for a greater period than the
14 punishment mitigated. When mitigating reduction in grade to
15 forfeiture of pay, the amount of the forfeiture shall not be greater
16 than the amount that could have been imposed initially under this
17 section by the officer who imposed the punishment mitigated.

18 J. A person punished under this section who considers the
19 punishment unjust or disproportionate to the offense may, through
20 his or her chain of command, appeal to the Senior Assistant Adjutant
21 General of the same component of the state military forces as the
22 accused within fifteen (15) days after the punishment is announced
23 to the accused. The officer exercising appellate authority may, at
24 his or her discretion, extend the deadline for an appeal. The

1 appeal shall be promptly forwarded and decided, and the member shall
2 not be punished until the appeal is decided. The Senior Assistant
3 Adjutant General exercising appellate authority may exercise the
4 same powers with respect to the punishment imposed as may be
5 exercised under subsection I of this section by the officer who
6 imposed the punishment. Before acting on an appeal from a
7 punishment, the Senior Assistant Adjutant General shall refer the
8 case to a judge advocate for consideration and advice.

9 K. Except for nonjudicial punishment imposed by the Governor or
10 the Adjutant General, the final appellate authority for nonjudicial
11 punishment imposed within state military forces is the Adjutant
12 General. A person punished under this article whose appeal was
13 previously denied by a Senior Assistant Adjutant General may lodge
14 an additional appeal with the Adjutant General within five (5) days
15 after the appeal is denied. In the event the officer imposing
16 nonjudicial punishment is the Senior Assistant Adjutant General, an
17 appeal thereof shall be addressed directly to the Adjutant General.
18 In the event the officer imposing nonjudicial punishment is the
19 Adjutant General, an appeal thereof shall be addressed directly to
20 the Governor. An appeal offered pursuant to this subsection shall
21 be made only in writing. Neither the Governor nor the Adjutant
22 General shall delegate their duties as an appellate authority under
23 this subsection.

24

1 L. Whenever nonjudicial punishment is imposed under this
2 article:

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

7 a. excuse the accused from attendance at scheduled unit
8 training assemblies, or

9 b. arrange for the accused to drill on alternate dates
10 and in alternate locations; or

11 2. If necessary to maintain good order and discipline within
12 the unit, the commander or officer in charge who imposed the
13 nonjudicial punishment may order the accused to drill on alternate
14 dates and in alternate locations. The order shall be reduced to
15 writing and shall become part of the record of nonjudicial
16 punishment.

17 M. The imposition and enforcement of disciplinary punishment
18 under this section for any act or omission shall not be a bar to
19 trial by court-martial or a civilian court of competent jurisdiction
20 for a crime or offense arising out of the same act or omission; but
21 the fact that a disciplinary punishment has been enforced may be
22 demonstrated by the accused upon trial and, when so demonstrated, it
23 shall be considered in determining the measure of punishment to be
24 adjudged in the event of a finding or verdict of guilty.

1 Nonjudicial punishment shall not be imposed for an offense
2 previously tried by a civilian court unless so authorized by
3 regulations promulgated by the Adjutant General.

4 N. When nonjudicial punishment has been imposed for an offense,
5 punishment shall not again be imposed for the same offense under
6 this section. Once nonjudicial punishment has been imposed, it may
7 not be increased, upon appeal or otherwise. When a commander or
8 officer in charge determines that nonjudicial punishment is
9 appropriate for a particular member, all known offenses determined
10 to be appropriate for disposition by nonjudicial punishment and
11 ready to be considered at that time, including all offenses arising
12 from a single incident or course of conduct, shall be considered
13 together and shall not be made the basis for multiple punishments.
14 This subsection shall in no way restrict the right of a commander to
15 prefer court-martial charges for an offense previously punished
16 under the provisions of this article.

17 O. In accordance with subsection B of Section 4143 of this
18 title (Article 43, subsection B), a person accused of an offense is
19 not liable to be punished under this section if the offense was
20 committed more than two (2) years before the imposition of
21 punishment. Periods in which the accused is absent without
22 authority shall be excluded in computing the period of limitation
23 prescribed in this section.

24

1 P. Whenever a punishment of forfeiture of pay is imposed under
2 this section, the forfeiture shall not apply to pay accruing before
3 the date that punishment is imposed, but only pay accruing on or
4 after the date that punishment is imposed.

5 Q. The Adjutant General may promulgate regulations prescribing
6 the type and form of records to be kept of proceedings conducted
7 pursuant to this section. The Adjutant General may promulgate any
8 other regulations necessary to carry out the provisions of this
9 section.

10 PART IV.

11 COURTS-MARTIAL JURISDICTION

12 SECTION 22. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4116 of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 ARTICLE 16. Courts-martial classified.

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

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

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

22 3. Summary courts-martial, as described in subsection D of this
23 section.

24

1 B. General courts-martial. General courts-martial are of the
2 following three types:

3 1. A general court-martial consisting of a military judge and
4 eight members, subject to paragraph 3 of subsection E of Section
5 4125 and Section 4129 of this title (Article 25, subsection E,
6 paragraph 3, and Article 29); and

7 2. A general court-martial consisting of a military judge
8 alone, if, before the court is assembled, the accused, knowing the
9 identity of the military judge and after consultation with defense
10 counsel, requests, orally on the record or in writing, a court
11 composed of a military judge alone and the military judge approves
12 the request.

13 C. Special courts-martial. Special courts-martial are of the
14 following two types:

15 1. A special court-martial consisting of a military judge and
16 four members, subject to paragraph 3 of subsection E of Section 4125
17 and Section 4129 of this title (Article 25, subsection E, paragraph
18 3, and Article 29); and

19 2. A special court-martial consisting of a military judge
20 alone:

21 a. if the case is so referred by the convening authority,
22 subject to Section 4119 of this title (Article 19) and
23 such limitations as may be prescribed by regulations
24 promulgated by the Adjutant General, or

1 b. if the case is referred under paragraph 1 of this
2 subsection and, before the court is assembled, the
3 accused, knowing the identity of the military judge
4 and after consultation with defense counsel, requests,
5 orally on the record or in writing, a court composed
6 of a military judge alone and the military judge
7 approves the request.

8 D. Summary court-martial. A summary court-martial consists of
9 one commissioned officer.

10 SECTION 23. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4117 of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

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

14 A. Each force component shall have court-martial jurisdiction
15 over all persons subject to the Oklahoma Uniform Code of Military
16 Justice. The exercise of jurisdiction by one force component over
17 personnel of the other force component shall be in accordance with
18 regulations promulgated by the Adjutant General.

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

1 SECTION 24. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4118 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE 18. General courts-martial.

5 Subject to Section 4117 of this title (Article 17), general
6 courts-martial shall have jurisdiction to try persons subject to the
7 Oklahoma Uniform Code of Military Justice for any offense made
8 punishable by the Code and may, under such limitations as the
9 Governor or Adjutant General may prescribe by regulation, adjudge
10 any punishment not forbidden by the Code.

11 SECTION 25. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4119 of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

14 ARTICLE 19. Jurisdiction of special courts-martial.

15 A. Subject to Section 4117 of this title (Article 17), special
16 courts-martial have jurisdiction to try persons subject to the
17 Oklahoma Uniform Code of Military Justice for any offense made
18 punishable by the Code and may, under such limitations prescribed by
19 regulation promulgated by the Governor or Adjutant General, adjudge
20 any punishment not forbidden by the Code except dishonorable
21 discharge, dismissal, confinement for more than one (1) year,
22 forfeiture of pay exceeding two-thirds (2/3) pay per month, or
23 forfeiture of pay for more than one (1) year.

24

1 B. Neither confinement for more than six (6) months, nor
2 forfeiture of pay for more than six (6) months may be adjudged if
3 charges and specifications are referred to a special court-martial
4 consisting of a military judge alone under subparagraph a of
5 paragraph 2 of subsection C of Section 4116 of this title (Article
6 16, subsection C, paragraph 2, subparagraph a).

7 SECTION 26. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4120 of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

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

11 A. Subject to Section 4117 of this title (Article 17), summary
12 courts-martial have jurisdiction to try persons subject to the
13 Oklahoma Uniform Code of Military Justice, except officers, cadets
14 and officer candidates for any offense made punishable by the Code
15 under such limitations as may be prescribed by regulation
16 promulgated by the Governor or Adjutant General. No person with
17 respect to whom summary courts-martial have jurisdiction shall be
18 brought to trial before a summary court-martial if he or she objects
19 thereto. If objection to trial by summary court-martial is made by
20 an accused, trial may be ordered by special or general court-martial
21 as may be appropriate. Summary courts-martial may, under such
22 limitations as may be prescribed by regulation promulgated by the
23 Governor or Adjutant General, adjudge any punishment not forbidden
24 by the Code except dismissal, dishonorable or bad-conduct discharge,

1 confinement for more than one (1) month, hard labor without
2 confinement for more than forty-five (45) days, restriction to
3 specified limits for more than two (2) months, or forfeiture of more
4 than two-thirds (2/3) of one (1) month's pay.

5 B. A summary court-martial is a noncriminal forum. A finding
6 of guilty at a summary court-martial does not constitute a criminal
7 conviction.

8 C. Regular appeals. A person found guilty at a summary court-
9 martial who considers the punishment unjust or disproportionate to
10 the offense may appeal to the Senior Assistant Adjutant General of
11 the same component of the state military forces as the accused
12 within thirty (30) calendar days after the date the accused receives
13 written notice from the convening authority that the convening
14 authority has complied with the requirements of subsection B of
15 Section 860C of this title (Article 860C, subsection B). Before
16 acting on an appeal submitted pursuant to this subsection, the
17 Senior Assistant Adjutant General shall refer the case to a judge
18 advocate for consideration and advice.

19 D. Appeals in certain instances. Except for summary courts-
20 martial convened by the Governor or the Adjutant General, the final
21 appellate authority for summary courts-martial convened pursuant to
22 this Code shall be the Adjutant General. A person found guilty at a
23 summary court-martial whose appeal was previously denied by the
24 Senior Assistant Adjutant General may lodge an additional appeal

1 with the Adjutant General within fifteen (15) calendar days after
2 the appeal is denied. In the event the officer who convened the
3 summary court-martial is the Senior Assistant Adjutant General, an
4 appeal thereof shall be addressed directly to the Adjutant General.
5 In the event the officer who convened the summary court-martial is
6 the Adjutant General, an appeal thereof shall be addressed directly
7 to the Governor. An appeal offered pursuant to this subsection
8 shall be made only in writing. Neither the Governor nor the
9 Adjutant General shall delegate their duties as an appellate
10 authority under this subsection.

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

14 SECTION 27. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4121 of Title 44, unless there
16 is created a duplication in numbering, reads as follows:

17 RESERVED.

18 PART V.

19 COMPOSITION OF COURTS-MARTIAL

20 SECTION 28. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 4122 of Title 44, unless there
22 is created a duplication in numbering, reads as follows:

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

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

- 1 1. The Governor;
- 2 2. The Adjutant General;
- 3 3. Any other commanding officer in the state military forces
- 4 designated by the Adjutant General; or
- 5 4. Any other commanding officer in the state military forces
- 6 designated by the Governor.

7 B. If any such officer is an accuser, the court shall be
8 convened by superior competent authority, and may in any case be
9 convened by such authority if considered desirable by that superior
10 authority.

11 SECTION 29. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4123 of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

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

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

- 16 1. Any person who may convene a general court-martial;
- 17 2. The Senior Assistant Adjutant General of the same component
- 18 of the state military forces as the accused;
- 19 3. The officer designated as the army land component commander
- 20 when the accused is a member of the army component of state military
- 21 forces;
- 22 4. The officer designated as the air component commander when
- 23 the accused is a member of the air component of state military
- 24 forces;

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

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

5 7. Any other commanding officer designated by the Adjutant
6 General.

7 B. If any such officer is an accuser, the court shall be
8 convened by superior competent authority, and may in any case be
9 convened by such authority if considered desirable by that superior
10 authority.

11 SECTION 30. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4124 of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

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

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

16 1. Any person who may convene a general or special court-
17 martial;

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

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

22 4. Any other commanding officer designated by the Adjutant
23 General.

24

1 B. If any such officer is an accuser, the court shall be
2 convened by superior competent authority, and may in any case be
3 convened by such authority if considered desirable by that superior
4 authority.

5 SECTION 31. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4125 of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

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

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

13 B. Any warrant officer who is a member of the same force
14 component as the accused is eligible to serve on general and special
15 courts-martial for the trial of any person, other than a
16 commissioned officer, who may lawfully be brought before such courts
17 for trial.

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

21 2. Before a court-martial with a military judge and members is
22 assembled for trial, an enlisted member who is an accused may
23 personally request, orally on the record or in writing, that:
24

1 a. the membership of the court-martial be comprised
2 entirely of officers, or

3 b. enlisted members comprise at least one-third of the
4 membership of the court-martial, regardless of whether
5 enlisted members have been detailed to the court-
6 martial.

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

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

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

17 2. When convening a court-martial, the convening authority
18 shall detail as members thereof such members of the same force
19 component as the accused as, in his or her opinion, are best
20 qualified for the duty by reason of age, education, training,
21 experience, length of service, and judicial temperament. No member
22 of the state military force is eligible to serve as a member of a
23 general or special court-martial when he or she is the accuser or a
24

1 witness or has acted as preliminary hearing officer or as counsel in
2 the same case.

3 3. The convening authority shall detail not less than the
4 number of members necessary to impanel the court-martial under
5 Section 4129 of this title (Article 29).

6 F. Before a court-martial is assembled for the trial of a case,
7 the convening authority may excuse a member of the court from
8 participating in the case. Under regulations promulgated by the
9 Adjutant General, the convening authority may delegate his or her
10 authority under this subsection to his or her staff judge advocate,
11 to an assistant staff judge advocate or to any other principal
12 assistant.

13 SECTION 32. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4126 of Title 44, unless there
15 is created a duplication in numbering, reads as follows:

16 ARTICLE 26. Military judge of a general or special court-
17 martial.

18 A. A military judge shall be detailed to each general and
19 special court-martial. The Adjutant General shall promulgate
20 regulations prescribing the manner of selection, certification and
21 detailing of military judges for such general and special courts-
22 martial. The military judge shall preside over each open session of
23 the court-martial to which he or she has been detailed.

24

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

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

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

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

14 3. A judge advocate in any department of the Armed Forces of
15 the United States serving on active duty within the meaning of Title
16 10 of the United States Code who is certified to be qualified for
17 duty as a military judge by the Judge Advocate General of the armed
18 force of which such military judge is a member;

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

24

1 5. A retired judge or justice who served in any judicial
2 capacity within the judicial department of the State of Oklahoma and
3 who previously served as a judge advocate in any department of the
4 Armed Forces of the United States, to include reserve components of
5 the same;

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

11 7. A retired federal district court judge or retired federal
12 appellate court judge who previously served as a judge advocate in
13 any department of the Armed Forces of the United States, to include
14 reserve components of the same.

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

20 2. Neither the convening authority nor any member of the staff
21 of the convening authority shall prepare or review any report
22 concerning the effectiveness, fitness, or efficiency of the military
23 judge so detailed, which relates to the military judge's performance
24 of duty as a military judge.

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

4 a. may perform such duties only when the officer is
5 assigned and directly responsible to the senior force
6 component judge advocate of the force component of
7 which the military judge is a member, and

8 b. may perform duties of a judicial or nonjudicial nature
9 other than those relating to the officer's primary
10 duty as a military judge of a general court-martial
11 only when such duties are assigned to the officer by
12 or with the approval of that senior force component
13 judge advocate.

14 4. A commissioned officer of any department of the Armed Forces
15 of the United States serving on active duty within the meaning of
16 Title 10 of the United States Code who, pursuant to the Oklahoma
17 Uniform Code of Military Justice and the regulations promulgated
18 pursuant to subsection A of this section, is certified to be
19 qualified for duty as a military judge of a general court-martial
20 shall not be assigned other duties of a judicial or nonjudicial
21 nature other than those relating to the officer's primary duty as a
22 military judge of a general court-martial, except when such duties
23 are assigned to the officer by or with the approval of the Judge
24

1 Advocate General of the armed force of which the military judge is a
2 member.

3 5. In accordance with regulations promulgated by the Adjutant
4 General, assignments of military judges under this Article who are
5 members of the state military forces shall be for appropriate
6 minimum periods, subject to such exceptions as may be authorized in
7 the regulations.

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

11 F. The military judge of a court-martial may not consult with
12 the members of the court except in the presence of the accused,
13 trial counsel, and defense counsel, nor may he or she vote with the
14 members of the court.

15 G. A military judge who is a commissioned officer in the state
16 military forces may be detailed under subsection A of this section
17 to a court-martial or a proceeding under subsection A of Section
18 4130 of this title (Article 30, subsection A) that is convened in a
19 different force component of the state military forces, when so
20 permitted by the senior force component judge advocate of the force
21 component of which the military judge is a member.

22 SECTION 33. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4126 of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 RESERVED.

2 SECTION 34. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 4127 of Title 44, unless there
4 is created a duplication in numbering, reads as follows:

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

6 A. 1. Trial counsel and defense counsel shall be detailed for
7 each general and special court-martial. Assistant trial counsel and
8 assistant and associate defense counsel may be detailed for each
9 general and special court-martial. The Adjutant General shall
10 promulgate regulations providing for the manner in which counsel are
11 detailed for such courts-martial and for the persons who are
12 authorized to detail counsel for such courts-martial.

13 2. No person who, with respect to a case, has served as a
14 preliminary hearing officer, court member, military judge, military
15 magistrate, or appellate judge, may later serve as trial counsel,
16 assistant trial counsel, or, unless expressly requested by the
17 accused, as defense counsel or assistant or associate defense
18 counsel in the same case. No person who has acted for the
19 prosecution may act later in the same case for the defense, nor may
20 any person who has acted for the defense act later in the same case
21 for the prosecution.

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

24

1 1. Shall be a judge advocate who is a graduate of an accredited
2 law school or is a member of the bar of a federal court or of the
3 highest court of a state; or shall be a member of the bar of a
4 federal court or of the highest court of a state; and

5 2. Shall be certified as competent to perform such duties by
6 the senior force component judge advocate of the same force
7 component of the state military forces of which he or she is a
8 member.

9 SECTION 35. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4128 of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 28. Detail or employment of reporters and interpreters.
13 Under such regulations as the Adjutant General may prescribe,
14 the convening authority of a court-martial or court of inquiry shall
15 detail or employ qualified court reporters, who shall record the
16 proceedings of and testimony taken before that court. Under like
17 regulations the convening authority of a court-martial or court of
18 inquiry may detail or employ interpreters who shall interpret for
19 the court.

20 SECTION 36. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 4129 of Title 44, unless there
22 is created a duplication in numbering, reads as follows:

23 ARTICLE 29. Assembly and impaneling of members; detail of new
24 members and military judges.

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

4 1. As a result of a challenge;

5 2. Under subparagraph b of paragraph 1 of subsection B of this
6 section; or

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

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

12 a. after determination of challenges, impanel the court-
13 martial, and

14 b. excuse the members who, having been assembled, are not
15 impaneled.

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

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

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

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

- 1 a. fewer than six members with respect to a general
2 court-martial, or
3 b. fewer than four members with respect to a special
4 court-martial,

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

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

- 11 a. at least six but not more than eight members with
12 respect to a general court-martial, and
13 b. four members with respect to a special court-martial.

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

17 F. 1. In the case of new members detailed under subsection D
18 of this section, the trial may proceed with the new members present
19 after the evidence previously introduced is read or, in the case of
20 audiotape, videotape, or similar recording, is played, in the
21 presence of the new members, the military judge, the accused, and
22 counsel for both sides.

23 2. In the case of a new military judge under subsection E of
24 this section, the trial shall proceed as if no evidence had been

1 introduced, unless the evidence previously introduced is read or, in
2 the case of audiotape, videotape, or similar recording, is played,
3 in the presence of the new military judge, the accused, and counsel
4 for both sides.

5 PART VI.

6 PRETRIAL PROCEDURE

7 SECTION 37. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4130 of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 30. Charges and specifications.

11 A. Charges and specifications:

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

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

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

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

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

23

24

1 C. When charges and specifications are preferred under
2 subsection A of this section, the proper authority shall, as soon as
3 practicable:

4 1. Inform the person accused of the charges and specifications;
5 and

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

8 SECTION 38. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4131 of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 ARTICLE 31. Compulsory self-incrimination prohibited.

12 A. No person subject to the Oklahoma Uniform Code of Military
13 Justice shall compel any person to incriminate himself or herself or
14 to answer any question the answer to which may tend to incriminate
15 him or her.

16 B. No person subject to the Code shall interrogate or request
17 any statement from an accused or a person suspected of an offense
18 without first informing that person of the nature of the accusation
19 and advising that person that the person does not have to make any
20 statement regarding the offense of which the person is accused or
21 suspected and that any statement made by the person may be used as
22 evidence against the person in an administrative board proceeding,
23 in nonjudicial punishment, or in a trial by court-martial.

24

1 C. No person subject to the Code shall compel any person to
2 make a statement or produce evidence in the course of an
3 administrative board proceeding, nonjudicial punishment or before
4 any military court if the statement or evidence is not material to
5 the issue and may tend to degrade the person.

6 D. No statement obtained from any person in violation of this
7 section or through the use of coercion, unlawful influence, or
8 unlawful inducement may be received in evidence against the person
9 in an administrative board proceeding, in nonjudicial punishment or
10 in a trial by court-martial.

11 SECTION 39. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4132 of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

14 ARTICLE 32. Preliminary hearing required before referral to
15 general court-martial.

16 A. In general.

17 1. a. Except as provided in subparagraph b of this
18 paragraph, a preliminary hearing shall be held before
19 referral of charges and specifications for trial by
20 general court-martial. The preliminary hearing shall
21 be conducted by an impartial hearing officer, detailed
22 by the convening authority in accordance with
23 subsection B of this section.

24

1 b. Under regulations promulgated by the Adjutant General,
2 a preliminary hearing need not be held if the accused
3 submits a written waiver to the convening authority
4 and the convening authority determines that a hearing
5 is not required.

6 2. The purpose of the preliminary hearing shall be limited to
7 determining the following:

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

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

12 c. whether or not the convening authority has court-
13 martial jurisdiction over the accused and over the
14 offense, and

15 d. a recommendation as to the disposition that should be
16 made of the case.

17 B. Hearing officer.

18 1. A preliminary hearing under this section shall be conducted
19 by an impartial hearing officer, who shall be a judge advocate who
20 is certified under paragraph 2 of subsection B of Section 4127 of
21 this title (Article 27, subsection B, paragraph 2).

22 2. Whenever practicable, the hearing officer shall be equal in
23 grade or senior in grade to military counsel who are detailed to
24 represent the accused or the Government at the preliminary hearing.

1 C. Report to convening authority. After a preliminary hearing
2 under this section, the hearing officer shall submit to the
3 convening authority a written report, accompanied by a recording of
4 the preliminary hearing as required under subsection E of this
5 section, that includes the following:

6 1. For each specification, a statement of the reasoning and
7 conclusions of the hearing officer with respect to determinations
8 under paragraph 2 of subsection A of this section, including a
9 summary of relevant witness testimony and documentary evidence
10 presented at the hearing and any observations of the hearing officer
11 concerning the testimony of witnesses and the availability and
12 admissibility of evidence at trial;

13 2. Recommendations for any necessary modifications to the form
14 of the charges or specifications;

15 3. An analysis of any additional information submitted after
16 the hearing by the parties or by a victim of an offense that, under
17 such rules as the Adjutant General may promulgate, is relevant to
18 disposition under Sections 4130 and 4134 of this title (Articles 30
19 and 34); and

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

22 D. Rights of accused and victim.

23 1. The accused shall be advised of the charges against the
24 accused and of the accused's right to be represented by counsel at

1 the preliminary hearing under this section. The accused has the
2 right to be represented at the preliminary hearing as provided in
3 Section 4138 of this title (Article 38) and in regulations
4 prescribed under that article.

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

9 3. The presentation of evidence and examination, including
10 cross-examination, of witnesses at a preliminary hearing shall be
11 limited to the matters relevant to determinations under paragraph 2
12 of subsection A of this section.

13 E. Effect of evidence of uncharged offense. If evidence
14 adduced in a preliminary hearing conducted under subsection A of
15 this section indicates that the accused committed an uncharged
16 offense, the hearing officer may consider the subject matter of that
17 offense without the accused having first been charged with the
18 offense if the accused:

19 1. Is present at the preliminary hearing;

20 2. Is informed of the nature of each uncharged offense
21 considered; and

22 3. Is afforded the opportunities for representation, cross-
23 examination, and presentation consistent with subsection D of this
24 section.

1 F. Effect of violation. The requirements of this section are
2 binding on all persons administering the Code, but failure to follow
3 the requirements does not constitute jurisdictional error. A defect
4 in a report under subsection C of this section is not a basis for
5 relief if the report is in substantial compliance with subsection C
6 of this section.

7 G. Victim defined. In this article, the term "victim" means a
8 person who:

9 1. Is alleged to have suffered a direct physical, emotional, or
10 pecuniary harm as a result of the matters set forth in a charge or
11 specification being considered; and

12 2. Is named in one of the specifications.

13 SECTION 40. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4133 of Title 44, unless there
15 is created a duplication in numbering, reads as follows:

16 ARTICLE 33. Disposition guidance.

17 The Adjutant General shall issue nonbinding guidance regarding
18 factors that commanders, convening authorities, staff judge
19 advocates, and judge advocates should take into account when
20 exercising their duties with respect to disposition of charges and
21 specifications in the interest of justice and discipline under
22 Sections 4130 and 4134 of this title (Articles 30 and 34). Such
23 guidance shall take into account, with appropriate consideration of
24 military requirements, the principles contained in official guidance

1 of the United States Attorney General to attorneys for the
2 government with respect to disposition of federal criminal cases in
3 accordance with the principle of fair and evenhanded administration
4 of federal criminal law.

5 SECTION 41. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4134 of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 ARTICLE 34. Advice to convening authority before referral for
9 trial.

10 A. General court-martial.

11 1. Staff judge advocate advice required before referral.

12 Before referral of charges and specifications to a general court-
13 martial for trial, the convening authority shall submit the matter
14 to the staff judge advocate for advice, which the staff judge
15 advocate shall provide to the convening authority in writing. The
16 convening authority may not refer a specification under a charge to
17 a general court-martial unless the staff judge advocate advises the
18 convening authority in writing that:

19 a. the specification alleges an offense under this
20 section,

21 b. there is probable cause to believe that the accused
22 committed the offense charged, and

23 c. a court-martial would have jurisdiction over the
24 accused and the offense.

1 2. Staff judge advocate recommendation as to disposition.
2 Together with the written advice provided under paragraph 1 of this
3 subsection, the staff judge advocate shall provide a written
4 recommendation to the convening authority as to the disposition that
5 should be made of the specification in the interest of justice and
6 discipline.

7 3. Staff judge advocate advice and recommendation to accompany
8 referral. When a convening authority makes a referral for trial by
9 general court-martial, the written advice of the staff judge
10 advocate under paragraph 1 of this subsection and the written
11 recommendation of the staff judge advocate under paragraph 2 of this
12 subsection with respect to each specification shall accompany the
13 referral.

14 B. Special court-martial; convening authority consultation with
15 judge advocate. Before referral of charges and specifications to a
16 special court-martial for trial, the convening authority shall
17 consult a judge advocate on relevant legal issues.

18 C. General and special courts-martial; correction of charges
19 and specifications before referral. Before referral for trial by
20 general court-martial or special court-martial, changes may be made
21 to charges and specifications:

22 1. To correct errors in form; and
23
24

1 2. When applicable, to conform to the substance of the evidence
2 contained in a report under subsection C of Section 4132 of this
3 title (Article 32, subsection C).

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

8 SECTION 42. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4135 of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

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

12 A. In general. Trial counsel detailed for a court-martial
13 under Section 4127 of this title (Article 27) shall cause to be
14 served upon the accused a copy of the charges and specifications
15 referred for trial.

16 B. Commencement of trial.

17 1. Subject to paragraph 2 of this subsection, no trial or other
18 proceeding of a general court-martial or a special court-martial,
19 including any session under subsection A of Section 4139 of this
20 title (Article 39, subsection A) may be held over the objection of
21 the accused:

22 a. with respect to a general court-martial, from the time
23 of service through the fifth day after the date of
24 service, or

1 b. with respect to a special court-martial, from the time
2 of service through the third day after the date of
3 service.

4 2. An objection under paragraph 1 of this subsection may be
5 raised only at the first session of the trial or other proceeding
6 and only if the first session occurs before the end of the
7 applicable periods under subparagraph a or b of paragraph 1 of this
8 subsection. If the first session occurs before the end of the
9 applicable period, the military judge shall, at that session,
10 inquire as to whether the defense objects under this subsection.

11 C. Continuances. Upon a showing of good cause, the military
12 judge in a general or special court-martial may grant a continuance
13 of any hearing in which the presence of the accused is required.

14 PART VII.

15 TRIAL PROCEDURE

16 SECTION 43. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4136 of Title 44, unless there
18 is created a duplication in numbering, reads as follows:

19 ARTICLE 36. Procedure for courts-martial.

20 A. The procedure, in all cases tried by courts-martial under
21 the Oklahoma Uniform Code of Military Justice, shall be the federal
22 Rules for Courts-Martial, as prescribed in the most recent edition
23 of the Manual for Courts-Martial, United States, including all
24

1 amendments thereto adopted from time to time, except when such rules
2 are contrary to or inconsistent with the Code.

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

9 C. The Governor or Adjutant General may promulgate additional
10 regulations applicable to courts-martial procedure. All regulations
11 made under this article shall be uniform insofar as practicable.

12 SECTION 44. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4137 of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 ARTICLE 37. Unlawfully influencing action of court.

16 A. No authority convening a general, special, or summary court-
17 martial nor any other commanding officer, or officer serving on the
18 staff thereof, shall censure, reprimand, or admonish the court or
19 any member, military judge, or counsel thereof, with respect to the
20 findings or sentence adjudged by the court, or with respect to any
21 other exercise of its or his or her functions in the conduct of the
22 proceeding. No person subject to the Oklahoma Uniform Code of
23 Military Justice shall attempt to coerce or, by an unauthorized
24 means, influence the action of the court-martial or any other

1 military tribunal or any member thereof, in reaching the findings or
2 sentence in any case, or the action of any convening, approving, or
3 reviewing authority with respect to his or her judicial acts. The
4 foregoing provisions of this subsection shall not apply with respect
5 to:

6 1. General instructional or informational courses in military
7 justice if such courses are designed solely for the purpose of
8 instructing members of a command in the substantive and procedural
9 aspects of courts-martial; or

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

12 B. In the preparation of an effectiveness, fitness, or
13 efficiency report or any other report or document used in whole or
14 in part for the purpose of determining whether a member of the state
15 military forces is qualified to be advanced in grade, or in
16 determining the assignment or transfer of a member of the state
17 military force, or in determining whether a member of the state
18 military forces should be retained, no person subject to the Code
19 may, in preparing any such report:

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

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

1 SECTION 45. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4138 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

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

5 A. The trial counsel of a general or special court-martial
6 shall prosecute in the name of the State of Oklahoma, and shall,
7 under the direction of the court, prepare the record of the
8 proceedings.

9 B. 1. The accused has the right to be represented in his or
10 her defense before a general or special court-martial or at a
11 preliminary hearing under Section 4132 of this title (Article 32) as
12 provided in this subsection.

13 2. The accused may be represented by civilian counsel if
14 provided by the accused.

15 3. The accused may be represented:

- 16 a. by military counsel detailed under Section 4127 of
- 17 this title (Article 27), or
- 18 b. by military counsel of his or her own selection if
- 19 that counsel is reasonably available as determined
- 20 under regulations prescribed under paragraph 7 of this
- 21 subsection.

22 4. If the accused is represented by civilian counsel, military
23 counsel detailed or selected under paragraph 3 of this subsection

24

1 shall act as associate counsel unless excused at the request of the
2 accused.

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

8 6. The accused is not entitled to be represented by more than
9 one military counsel. However, the person authorized under
10 regulations prescribed under Section 4127 of this title (Article 27)
11 to detail counsel, in his or her sole discretion:

12 a. may detail additional military counsel as assistant
13 defense counsel, and

14 b. if the accused is represented by military counsel of
15 his or her own selection under subparagraph b of
16 paragraph 3 of this subsection, may approve a request
17 from the accused that military counsel detailed under
18 subparagraph a of paragraph 3 of this subsection, act
19 as associate defense counsel.

20 7. The Adjutant General shall, by regulation, define
21 "reasonably available" for the purpose of subparagraph b of
22 paragraph 3 of this subsection, and establish procedures for
23 determining whether the military counsel selected by an accused
24 under that paragraph is reasonably available. Such regulations may

1 not prescribe any limitation based on the reasonable availability of
2 counsel solely on the grounds that the counsel selected by the
3 accused is from a force component other than the one of which the
4 accused is a member. To the maximum extent practicable, such
5 regulations shall establish uniform policies between the force
6 components of the state military forces while recognizing the
7 differences in the circumstances and needs of both force components.

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

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

14 2. May assist the accused in the submission of any matter under
15 Section 4160, 4160A or 4160B of this title (Article 60, 60A or 60B);
16 and

17 3. May take other action authorized by the Oklahoma Uniform
18 Code of Military Justice.

19 D. An assistant trial counsel of a general court-martial may,
20 under the direction of the trial counsel or when he or she is
21 qualified to be a trial counsel as required by Section 4127 of this
22 title (Article 27), perform any duty imposed by law, regulation, or
23 the custom of the service upon the trial counsel of the court. An
24

1 assistant trial counsel of a special court-martial may perform any
2 duty of the trial counsel.

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

6 SECTION 46. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 4139 of Title 44, unless there
8 is created a duplication in numbering, reads as follows:

9 ARTICLE 39. Sessions.

10 A. At any time after the service of charges which have been
11 referred for trial to a court-martial composed of a military judge
12 and members, the military judge may, subject to Section 4135 of this
13 title (Article 35), call the court into session without the presence
14 of the members for the purpose of:

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

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

22 3. Holding the arraignment and receiving the pleas of the
23 accused;

24

1 4. Conducting a sentencing proceeding and sentencing the
2 accused under paragraph 1 of subsection B of Section 4153 of this
3 title (Article 53, subsection B, paragraph 1); and

4 5. Performing any other procedural function which may be
5 performed by the military judge under the Code or under rules
6 prescribed pursuant to Section 4136 of this title (Article 36) and
7 which does not require the presence of the members of the court.

8 B. Proceedings under subsection A of this section shall be
9 conducted in the presence of the accused, the defense counsel, and
10 the trial counsel and shall be made a part of the record. These
11 proceedings may be conducted notwithstanding the number of members
12 of the court and without regard to Section 4129 of this title
13 (Article 29). If authorized by regulations promulgated by the
14 Adjutant General, and if at least one defense counsel is physically
15 in the presence of the accused, the presence required by this
16 subsection may otherwise be established by audiovisual technology,
17 such as videoteleconferencing technology.

18 C. When the members of a court-martial deliberate or vote, only
19 the members may be present. All other proceedings, including any
20 other consultation of the members of the court with counsel or the
21 military judge, shall be made a part of the record and shall be in
22 the presence of the accused, the defense counsel, the trial counsel,
23 and the military judge.

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

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

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

8 SECTION 47. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4140 of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 ARTICLE 40. Continuances.

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

15 SECTION 48. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4141 of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 41. Challenges.

19 A. 1. The military judge and members of a general or special
20 court-martial may be challenged by the accused or the trial counsel
21 for cause stated to the court. The military judge shall determine
22 the relevancy and validity of challenges for cause, and may not
23 receive a challenge to more than one person at a time. Challenges
24

1 by the trial counsel shall ordinarily be presented and decided
2 before those by the accused are offered.

3 2. If exercise of a challenge for cause reduces the court below
4 the number of members required by Section 4116 of this title
5 (Article 16), all parties shall, notwithstanding Section 4129 of
6 this title (Article 29), either exercise or waive any challenge for
7 cause then apparent against the remaining members of the court
8 before additional members are detailed to the court. However,
9 peremptory challenges shall not be exercised at that time.

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

13 2. If exercise of a peremptory challenge reduces the court
14 below the number of members required by Section 4116 of this title
15 (Article 16), the parties shall, notwithstanding Section 4129 of
16 this title (Article 29), either exercise or waive any remaining
17 peremptory challenge (not previously waived) against the remaining
18 members of the court before additional members are detailed to the
19 court.

20 C. Whenever additional members are detailed to the court, and
21 after any challenges for cause against such additional members are
22 presented and decided, each accused and the trial counsel are
23 entitled to one peremptory challenge against members not previously
24 subject to peremptory challenge.

1 SECTION 49. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4142 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE 42. Oaths.

5 A. Before performing their respective duties, military judges,
6 members of general and special courts-martial, trial counsel,
7 assistant trial counsel, defense counsel, assistant or associate
8 defense counsel, reporters, and interpreters shall take an oath to
9 perform their duties faithfully. The form of the oath, the time and
10 place of the taking thereof, the manner of recording the same, and
11 whether the oath shall be taken for all cases in which these duties
12 are to be performed or for a particular case, shall be as prescribed
13 in regulations promulgated by the Adjutant General. These
14 regulations may provide that an oath to perform faithfully duties as
15 a military judge, trial counsel, assistant trial counsel, defense
16 counsel, or assistant or associate defense counsel may be taken at
17 any time by any judge advocate or other person certified to be
18 qualified or competent for the duty, and if such an oath is taken it
19 need not again be taken at the time the judge advocate, or other
20 person is detailed to that duty.

21 B. Each witness before a court-martial shall be examined on
22 oath.

23
24

1 SECTION 50. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4143 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE 43. Statute of limitations.

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

10 B. A person accused of an offense is not liable to be punished
11 under Section 4115 of this title (Article 15) if the offense was
12 committed more than two (2) years before the imposition of
13 punishment.

14 C. Periods in which the accused is absent without authority or
15 fleeing from justice shall be excluded in computing the period of
16 limitation prescribed in this article.

17 D. Periods in which the accused was absent from territory in
18 which the State of Oklahoma has the authority to apprehend him or
19 her, or in the custody of civil authorities, or on active duty
20 within the meaning of Title 10 of the United States Code, or in the
21 hands of the enemy, shall be excluded in computing the periods of
22 limitation prescribed in this article.

23

24

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

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

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

10 3. Committed in connection with the negotiation, procurement,
11 award, performance, payment, interim financing, cancellation, or
12 other termination or settlement, of any contract, subcontract, or
13 purchase order which is connected with or related to the prosecution
14 of the war, or with any disposition of termination inventory by any
15 war contractor or government agency,
16 is suspended until three (3) years after the termination of
17 hostilities as proclaimed by the President of the United States or
18 by a joint resolution of Congress.

19 F. Defective or insufficient charges.

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

23 a. has expired, or
24

1 b. will expire within one hundred eighty (180) days after
2 the date of dismissal of the charges and
3 specifications,
4 trial and punishment under new charges and specifications are not
5 barred by the statute of limitations if the conditions specified in
6 paragraph 2 of this subsection are met.

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

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

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

17 G. A person charged with fraudulent enlistment or fraudulent
18 appointment under Section 4204A of this title (Article 104A) may be
19 tried by court-martial if the sworn charges and specifications are
20 received by an officer exercising summary court-martial jurisdiction
21 with respect to that person, as follows:

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

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

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

10 SECTION 51. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4144 of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

13 ARTICLE 44. Former jeopardy.

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

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

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

- 22 a. after introduction of evidence, and
- 23 b. before announcement of findings under Section 4153 of
- 24 this title (Article 53),

1 the case is dismissed or terminated by the convening authority or on
2 motion of the prosecution for failure of available evidence or
3 witnesses.

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

6 a. after the members, having taken an oath as members
7 under Section 4142 of this title (Article 42) and
8 after completion of challenges under Section 4141 of
9 this title (Article 41), are impaneled, and

10 b. before announcement of findings under Section 4153 of
11 this title (Article 53),

12 the case is dismissed or terminated by the convening authority or on
13 motion of the prosecution for failure of available evidence or
14 witnesses.

15 SECTION 52. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4145 of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 ARTICLE 45. Pleas of the accused.

19 A. Irregular and similar pleas. If an accused after
20 arraignment makes an irregular pleading, or after a plea of guilty
21 sets up matter inconsistent with the plea, or if it appears that he
22 or she has entered the plea of guilty improvidently or through lack
23 of understanding of its meaning and effect, or if he or she fails or
24 refuses to plead, a plea of not guilty shall be entered in the

1 record, and the court shall proceed as though he or she had pleaded
2 not guilty.

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

11 C. Harmless error. A variance from the requirements of this
12 article is harmless error if the variance does not materially
13 prejudice the substantial rights of the accused.

14 SECTION 53. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4146 of Title 44, unless there
16 is created a duplication in numbering, reads as follows:

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

19 A. Opportunity to obtain witnesses and other evidence. In a
20 case referred for trial by court-martial, the trial counsel, the
21 defense counsel, and the court-martial shall have equal opportunity
22 to obtain witnesses and other evidence in accordance with such
23 regulations as may be promulgated by the Adjutant General.

24

1 B. Subpoena and other process generally. Any subpoena or other
2 process issued under this section:

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

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

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

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

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

13 2. At a deposition under Section 4149 of this title (Article
14 49); or

15 3. As otherwise authorized under the Oklahoma Uniform Code Of
16 Military Justice.

17 D. Subpoena and other process for evidence.

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

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

21 b. for a deposition under Section 4149 of this title
22 (Article 49),

23 c. for an investigation of an offense under the Code, or

24 d. as otherwise authorized under the Code.

1 2. Investigative subpoena. An investigative subpoena under
2 subparagraph c of paragraph 1 of this subsection may be issued
3 before referral of charges to a court-martial only if a general
4 court-martial convening authority has authorized counsel for the
5 government to issue such a subpoena or a military judge issues such
6 a subpoena pursuant to subsection A of Section 4130 of this title
7 (Article 30, subsection A).

8 3. Warrant or order for wire or electronic communications.
9 With respect to an investigation of an offense under the Code, a
10 military judge detailed in accordance with Section 4126 or
11 subsection A of Section 4130 of this title (Article 26 or Article
12 30, subsection A) may issue warrants or court orders for the
13 contents of, and records concerning, wire or electronic
14 communications in the same manner as such warrants and orders may be
15 issued by a district court of the State of Oklahoma under the
16 provisions of Title 22 of the Oklahoma Statutes, subject to such
17 limitations as may be prescribed by regulations promulgated by the
18 Adjutant General.

19 E. Request for relief from subpoena or other process. If a
20 person requests relief from a subpoena or other process under this
21 section (article) on grounds that compliance is unreasonable or
22 oppressive or is prohibited by law, a military judge detailed in
23 accordance with Section 4126 or subsection A of Section 4130 of this
24

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 4147 of Title 44, unless there
9 is 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 4146 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 4146 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 article. Upon conviction,
18 such a person shall be punished by the imposition of a fine in a sum
19 not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in
20 the county jail not exceeding six (6) months, or by both, at the
21 discretion of the district court.

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

23 1. Any civilian witness, who is not a federal employee,
24 appearing in obedience to an order, subpoena, or other lawful

1 compulsion at any stage of a general or special court-martial or
2 court of inquiry where the party seeking the attendance of the
3 witness is the trial counsel, the defense counsel or the defendant
4 appearing pro se, shall be paid from any monies available in the
5 Military Justice Fund established in Section 4241 of Title 44 of the
6 Oklahoma Statutes, the fees and mileage at the rate prescribed by
7 Section 81 of Title 28 of the Oklahoma Statutes;

8 2. Any witness appearing in obedience to an order, subpoena, or
9 other lawful compulsion at any stage of a court-martial for which no
10 provision in this subsection is applicable, shall be paid at the
11 discretion of the military judge presiding over a general or special
12 court-martial proceeding from any monies available in the Military
13 Justice Fund established in Section 4241 of Title 44 of the Oklahoma
14 Statutes, the fees and mileage at the rate prescribed by Section 81
15 of Title 28 of the Oklahoma Statutes;

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

22 4. The Adjutant General may promulgate additional regulations
23 governing the method and process for payment of fees and mileage to
24 a civilian witness, who is not a federal employee, appearing in

1 obedience to an order, subpoena, or other lawful compulsion at any
2 stage of a general, special or summary court-martial or court of
3 inquiry.

4 SECTION 55. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4148 of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 48. Contempt.

8 A. Authority to punish.

9 1. With respect to any proceeding under the Oklahoma Uniform
10 Code of Military Justice, a judicial officer specified in paragraph
11 2 of this subsection may punish for contempt any person who:

12 a. uses any menacing word, sign, or gesture in the
13 presence of the judicial officer during the
14 proceeding,

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

16 c. willfully disobeys a lawful writ, process, order,
17 rule, decree, or command issued with respect to the
18 proceeding.

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

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

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

23 c. the president of a court of inquiry.
24

1 B. Opportunity to be heard and warning. A judicial officer, as
2 specified in paragraph 2 of subsection A of this section, may punish
3 a person cited for contempt after an opportunity to be heard has
4 been given. Censure shall be imposed by the judicial officer only
5 if:

6 1. It is clear from the identity of the offender and the
7 character of his or her acts that disruptive conduct is willfully
8 contemptuous; or

9 2. The conduct warranting the sanction is preceded by a clear
10 warning that the conduct is impermissible and that specified
11 sanctions may be imposed for its repetition.

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

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

21 E. Imposition of sanctions. The judicial officer before whom
22 the misconduct occurs may impose appropriate sanctions including
23 punishment for contempt.

24

1 F. Punishment. The punishment for contempt under subsection A
2 of this section may not exceed a fine of Five Hundred Dollars
3 (\$500.00) or imprisonment in the county jail for more than six (6)
4 months, or by both, at the discretion of the judicial officer.

5 G. Review. A punishment under this section:

6 1. If imposed by a military judge, may be reviewed by the
7 Military Court of Appeals in accordance with the uniform rules of
8 procedure for the Military Court of Appeals under subsection M of
9 Section 4166 of this title (Article 66, subsection M);

10 2. If imposed by the chief judge of the Military Court of
11 Appeals, shall constitute a judgment of the court, subject to review
12 under the applicable provisions of Section 4167 of this title
13 (Article 67); and

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

17 SECTION 56. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4149 of Title 44, unless there
19 is created a duplication in numbering, reads as follows:

20 ARTICLE 49. Depositions.

21 A. In general.

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

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

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

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

11 a. whenever practicable, by an impartial judge advocate
12 certified under subsection B of Section 4127 of this
13 title (Article 27, subsection B), and

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

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

17 (2) the laws of the place where the deposition is
18 taken.

19 B. Representation by counsel. Representation of the parties
20 with respect to a deposition shall be by counsel detailed in the
21 same manner as trial counsel and defense counsel are detailed under
22 Section 4127 of this title (Article 27). In addition, the accused
23 shall have the right to be represented by civilian or military
24 counsel in the same manner as such counsel is provided for in

1 subsection B of Section 4138 of this title (Article 38, subsection
2 B).

3 C. Admissibility and use as evidence. A deposition order under
4 subsection A of this section does not control the admissibility of
5 the deposition in a court-martial or other proceeding under the
6 Oklahoma Uniform Code of Military Justice. A party may use all or
7 part of a deposition as provided by the federal Military Rules of
8 Evidence.

9 SECTION 57. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4150 of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 50. Admissibility of sworn testimony from records of
13 courts of inquiry.

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

22 B. Use as evidence by defense. Such testimony may be read in
23 evidence only by the defense in cases extending to the dismissal of
24 a commissioned officer.

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

4 D. Audiotape or videotape. Sworn testimony that:

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

6 2. Is contained in the duly authenticated record of proceedings
7 of a court of inquiry,

8 shall be admissible before a court-martial, court of inquiry, or

9 military board, to the same extent as sworn testimony may be read in

10 evidence before any such body under this section.

11 SECTION 58. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 4150A of Title 44, unless there
13 is created a duplication in numbering, reads as follows:

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

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

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

23 C. Whenever lack of mental responsibility of the accused with
24 respect to an offense is properly at issue, the military judge shall

1 instruct the members of the court as to the defense of lack of
2 mental responsibility under this article and shall charge them to
3 find the accused:

- 4 1. Guilty;
- 5 2. Not guilty; or
- 6 3. Not guilty only by reason of lack of mental responsibility.

7 D. Subsection C of this section does not apply to a court-
8 martial composed of a military judge only. In the case of a court-
9 martial composed of a military judge only, whenever lack of mental
10 responsibility of the accused with respect to an offense is properly
11 at issue, the military judge shall find the accused:

- 12 1. Guilty;
- 13 2. Not guilty; or
- 14 3. Not guilty only by reason of lack of mental responsibility.

15 E. Notwithstanding the provisions of Section 4152 of this title
16 (Article 52), the accused shall be found not guilty only by reason
17 of lack of mental responsibility if:

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

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

24

1 SECTION 59. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4151 of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 ARTICLE 51. Voting and rulings.

5 A. Voting by members of a general or special court-martial on
6 the findings and on the sentence shall be by secret written ballot.
7 The junior member of the court shall count the votes. The count
8 shall be checked by the president, who shall forthwith announce the
9 result of the ballot to the members of the court.

10 B. The military judge shall rule upon all questions of law and
11 all interlocutory questions arising during the proceedings. Any
12 such ruling made by the military judge upon any question of law or
13 any interlocutory question other than the factual issue of mental
14 responsibility of the accused is final and constitutes the ruling of
15 the court, except that the military judge may change a ruling at any
16 time during trial.

17 C. Before a vote is taken on the findings, the military judge
18 shall, in the presence of the accused and counsel, instruct the
19 members of the court as to the elements of the offense and charge
20 them:

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

24

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

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

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

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

17 SECTION 60. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4152 of Title 44, unless there
19 is created a duplication in numbering, reads as follows:

20 ARTICLE 52. Votes required for conviction, sentencing and other
21 matters.

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

24

1 1. After a plea of guilty under subsection B of Section 4145 of
2 this title (Article 45, subsection B);

3 2. By a military judge in a court-martial with a military judge
4 alone, under Section 4116 of this title (Article 16); or

5 3. In a court-martial with members under Section 4116 of this
6 title (Article 16), by the concurrence of at least three-fourths of
7 the members present when the vote is taken.

8 B. Level of concurrence required.

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

17 2. Sentencing. All sentences imposed by members under the
18 Oklahoma Uniform Code of Military Justice shall be determined by the
19 concurrence of at least three-fourths of the members present when
20 the vote is taken.

21 SECTION 61. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4153 of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 ARTICLE 53. Findings and sentencing.

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

3 B. Sentencing generally.

4 1. General and special courts-martial.

5 a. Sentencing by military judge. Except as provided in
6 subparagraph b of this paragraph, if the accused is
7 convicted of an offense in a trial by general or
8 special court-martial, the military judge shall
9 sentence the accused.

10 b. Sentencing by members. If the accused is convicted of
11 an offense by general or special court-martial
12 consisting of a military judge and members and the
13 accused elects sentencing by members under Section
14 4125 of this title (Article 25), the members shall
15 sentence the accused.

16 c. Sentence of the accused. The sentence determined
17 pursuant to this paragraph constitutes the sentence of
18 the accused.

19 2. Summary courts-martial. If the accused is convicted of an
20 offense in a trial by summary court-martial, the court-martial shall
21 sentence the accused.

22 SECTION 62. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4153A of Title 44, unless there
24 is created a duplication in numbering, reads as follows:

1 ARTICLE 53A. Plea agreements.

2 A. In general.

3 1. At any time before the announcement of findings under
4 Section 4153 of this title (Article 53), the convening authority and
5 the accused may enter into a plea agreement with respect to such
6 matters as:

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

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

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

- 17 1. Contains a provision that has not been accepted by both
18 parties;
19 2. Contains a provision that is not understood by the accused;
20 3. Except as provided in subsection C of this section, contains
21 a provision for a sentence that is less than the mandatory minimum
22 sentence applicable to an offense referred to in paragraph 2 of
23 subsection B of Section 4156 of this title (Article 56, subsection
24 B, paragraph 2); and is prohibited by law; or is contrary to, or is

1 inconsistent with, a regulation prescribed by the Adjutant General
2 with respect to terms, conditions, or other aspects of plea
3 agreements.

4 C. Limited conditions for acceptance of plea agreement for
5 sentence below mandatory minimum for certain offenses. With respect
6 to an offense referred to in paragraph 2 of subsection B of Section
7 4156 of this title (Article 56, subsection B, paragraph 2):

8 1. The military judge may accept a plea agreement that provides
9 for a sentence of bad conduct discharge; and

10 2. Upon recommendation of the trial counsel, in exchange for
11 substantial assistance by the accused in the investigation or
12 prosecution of another person who has committed an offense, the
13 military judge may accept a plea agreement that provides for a
14 sentence that is less than the mandatory minimum sentence for the
15 offense charged.

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

19 SECTION 63. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4154 of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 ARTICLE 54. Record of trial.

23 A. General and special courts-martial. Each general or special
24 court-martial shall keep a separate record of the proceedings in

1 each case brought before it. The record shall be certified by a
2 court-reporter, except that in the case of death, disability, or
3 absence of a court reporter, the record shall be certified by an
4 official selected as the Adjutant General may prescribe by
5 regulation.

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

10 C. Contents of record.

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

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

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

22 E. Copy to victim. In the case of a general or special court-
23 martial upon request, a copy of all prepared records of the
24 proceedings of the court-martial shall be given to the victim of the

1 offense if the victim testified during the proceedings. The record
2 of the proceedings shall be provided without charge and as soon as
3 the records are certified. The victim shall be notified of the
4 opportunity to receive the records of the proceedings.

5 PART VIII.

6 SENTENCES

7 SECTION 64. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4155 of Title 44, unless there
9 is created a duplication in numbering, reads as follows:

10 ARTICLE 55. Cruel and unusual punishments prohibited.

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

17 SECTION 65. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4156 of Title 44, unless there
19 is created a duplication in numbering, reads as follows:

20 ARTICLE 56. Sentencing.

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

24 B. Imposition of sentence.

1 1. In general. In sentencing an accused under Section 4153 of
2 this title (Article 53), a court-martial shall impose punishment
3 that is sufficient, but not greater than necessary, to promote
4 justice and to maintain good order and discipline in the state
5 military forces, taking into consideration:

6 a. the nature and circumstances of the offense and the
7 history and characteristics of the accused,

8 b. the impact of the offense on:

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

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

14 c. the need for the sentence:

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

16 (2) to promote respect for the law,

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

18 (4) to promote adequate deterrence of misconduct,

19 (5) to protect others from further crimes by the
20 accused,

21 (6) to rehabilitate the accused, and

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

1 d. the sentences available under this chapter.

2 2. Sentencing by military judge. In announcing the sentence in
3 a general or special court-martial in which the accused is sentenced
4 by a military judge alone under Section 4153 of this title (Article
5 53), the military judge shall, with respect to each offense of which
6 the accused is found guilty, specify the term of confinement, if
7 any, and the amount of the fine, if any. If the accused is
8 sentenced to confinement for more than one offense, the military
9 judge shall specify whether the terms of confinement are to run
10 consecutively or concurrently.

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

15 . Appeal of sentence by the State of Oklahoma.

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

20 a. the sentence violates the law, or

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

1 2. An appeal under this subsection shall be filed within sixty
2 (60) days after the date on which the judgment of a court-martial is
3 entered into the record under Section 4160C of this title (Article
4 60C).

5 SECTION 66. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4157 of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 ARTICLE 57. Effective date of sentences.

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

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

16 a. the date that is fourteen (14) days after the date on
17 which the sentence is adjudged, or

18 b. in the case of a summary court-martial, the date on
19 which the sentence is approved by the convening
20 authority;

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

1 in computing the service of the term of confinement;

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

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

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

1 effective when the convening authority acts on the sentence.

2 B. Deferral of sentences.

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

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

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

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 4167 of this title
14 subsection A of (Article 67) is pending, the Adjutant General may
15 defer further service of the sentence to confinement while that
16 review is pending.

17 C. Appellate review.

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

20 a. a review under Section 4165 of this title (Article 65)
21 is completed, or

22 b. a review under Section 4166 of this title (Article 66)
23 is completed by the Military Court of Appeals and:
24

- 1 (1) the time for the accused to file a petition for
2 review by the Court of Criminal Appeals has
3 expired and the accused has not filed a timely
4 petition for such review and the case is not
5 otherwise under review by that Court,
6 (2) such a petition is rejected by the Court of
7 Criminal Appeals, or
8 (3) review is completed in accordance with the
9 judgment of the Court of Criminal Appeals.

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

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

13 SECTION 67. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4158 of Title 44, unless there
15 is created a duplication in numbering, reads as follows:

16 ARTICLE 58. Execution of confinement.

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

1 penal or correctional institution not under the control of the state
2 military forces are subject to the same discipline and treatment as
3 persons confined or committed by the courts of this state.

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

6 SECTION 68. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 4158A of Title 44, unless there
8 is created a duplication in numbering, reads as follows:

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

10 A. A court-martial sentence of an enlisted member in a pay
11 grade above E-1, as set forth in the judgment of the court-martial
12 entered into the record under Section 4160C of this title (Article
13 60C), that includes:

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

15 2. Confinement,

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

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

1 shall be restored to him or her and he or she is entitled to the pay
2 and allowances to which he or she would have been entitled, for the
3 period the reduction was in effect, had he or she not been so
4 reduced.

5 SECTION 69. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4158B of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

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

10 A. 1. A court-martial sentence described in paragraph 2 of
11 this subsection shall result in the forfeiture of pay, or of pay and
12 allowances, due that member during any period of confinement or
13 parole. The forfeiture pursuant to this article shall take effect
14 on the date determined under Section 4157 of this title (Article 57)
15 and may be deferred as provided in that article. The pay and
16 allowances forfeited, in the case of a general court-martial, shall
17 be all pay and allowances due that member during such period and, in
18 the case of a special court-martial, shall be two-thirds of all pay
19 due that member during such period.

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

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

1 B. In a case involving an accused who has dependents, the
2 convening authority or other person acting under Section 4160A or
3 4160B 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 4158C 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 district
6 court Statutes in which the court martial was held or in the
7 district court judicial district, where nonjudicial punishment was
8 decided or district court judicial district of residence of the
9 accused or person against whom the pecuniary charge was raised in
10 the same manner as a money judgment in a civil case or by the
11 withholding of any funds due the accused from the state or any of
12 its agencies in accordance with regulations prescribed by the
13 Adjutant General. To the extent not prohibited by federal law or
14 regulation, a fine may be enforced by withholding federal funds due
15 the accused.

16 PART IX.

17 POSTTRIAL PROCEDURE AND REVIEW OF COURTS-MARTIAL

18 SECTION 71. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4159 of Title 44, unless there
20 is created a duplication in numbering, reads as follows:

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

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

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 4160 of Title 44, unless there
6 is 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 in
7 the Oklahoma Statutes as Section 4160A of Title 44, unless there is
8 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 4156 of this title (Article
22 56, subsection A) for any offense of which the accused
23 is 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 section, the
17 convening authority may not reduce, commute, or suspend any of the
18 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 4160B 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 4160A of this title (Article 60A, subsection
23 A, paragraph 2), the convening authority may:

- 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 4160A of this title ((Article 60A, subsection D, paragraph 2). Such action shall be forwarded to the

1 military judge, who shall ensure appropriate modification to the
2 entry of judgment and shall transmit the entry of judgment to the
3 State Judge 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 4160A 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 4160C 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 4160 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 4160B 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 4161 of Title 44, unless there
17 is 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 4166 of
23 this 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 4166 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 4162 of Title 44, unless there
9 is 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 4130A 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 4144 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 4163 of Title 44, unless there
16 is 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 4153A 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 4156 of this title (subsection C of Article 56), the
15 sentence adjudged is set aside and a rehearing on sentence is
16 ordered by the Military Court of Appeals or Court of Criminal
17 Appeals, the court-martial may impose any sentence that is in
18 accordance with the order or ruling setting aside the adjudged
19 sentence, subject to such limitations as the Adjutant General may
20 prescribe by regulation.

21 SECTION 79. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4164 of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24

1 ARTICLE 64. Judge advocate review of finding of guilty in
2 summary court-martial.

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

11 1. Conclusions as to whether:

- 12 a. the court had jurisdiction over the accused and the
13 offense,
- 14 b. the charge and specification stated an offense, and
- 15 c. the sentence was within the limits prescribed as a
16 matter of law;

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

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

23 B. Record. The record of trial and related documents in each
24 case reviewed under subsection A of this section shall be sent for

1 action to the person exercising general court-martial jurisdiction
2 over the accused at the time the court was convened (or to that
3 person's successor in command) if:

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

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

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

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

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

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

17 d. dismiss the charges.

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

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

1 the record of trial and action thereon shall be sent to the State
2 Judge Advocate for review under Section 4169 of this title (Article
3 69).

4 SECTION 80. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4165 of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 ARTICLE 65. Transmittal and review of records.

8 A. Transmittal of records.

9 1. Finding of guilty in general or special court-martial. If
10 the judgment of a general or special court-martial entered under
11 Section 4160C of this title (Article 60C) includes a finding of
12 guilty, the record shall be transmitted to the State Judge Advocate.

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

16 B. Cases for direct appeal.

17 1. Automatic review. If the judgment includes a sentence of
18 dismissal of a commissioned officer, or cadet, dishonorable
19 discharge or bad-conduct discharge, or confinement for two (2) years
20 or more, the State Judge Advocate shall forward the record of trial
21 to the Military Court of Appeals for review under paragraph 3 of
22 subsection F of Section 4166 of this title (Article 66, subsection
23 F, paragraph 3).

24 2. Cases eligible for direct appeal review.

1 a. In general. If the case is eligible for direct review
2 under paragraph 1 of subsection F of Section 4166 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 4161 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 4166 of this title (Article 66, subsection
24 F, paragraph 1) by means of depositing in the United States mails

1 for delivery by first class certified mail to the accused at an
2 address provided by the accused or, if no such address has been
3 provided by the accused, at the latest address listed for the
4 accused in the 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 4161 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 4166 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 4161 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 4166 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 4144 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 4166 of Title 44, unless there
3 is 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 4167 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 C. Qualifications. An appellate military judge who is
12 appointed to the Military Court of Appeals shall be a licensed
13 practicing attorney or judge of a court of record, or both, in
14 Oklahoma for one year preceding his or her appointment and shall
15 continue to be a duly licensed attorney while in office to be
16 eligible to hold the office. No appellate military judge shall be
17 appointed to the Military Court of Appeals who did not previously
18 serve as a judge advocate in any department of the Armed Forces of
19 the United States, to include reserve components of the same. The
20 Military Court of Appeals shall include at least one appellate
21 military judge who previously served in the United States Army or a
22 reserve component of the same. The Military Court of Appeals shall
23 include at least one appellate military judge who previously served
24 in the United States Air Force or a reserve component of the same.

1 D. Term of office and causes for removal or retirement. Each
2 appellate military judge appointed pursuant to this section shall,
3 unless removed for cause, serve out the term for which he or she is
4 appointed. Appellate military judges appointed pursuant to this
5 section shall serve for fixed terms of office of appropriate minimum
6 periods which shall be prescribed by regulations promulgated by the
7 Adjutant General. The appellate military judges of the Military
8 Court of Appeals, exercising judicial power under the provisions of
9 the Oklahoma Uniform Code of Military Justice shall be subject to
10 removal from office, or to compulsory retirement from office, by
11 proceedings in the Court on the Judiciary, for the:

12 1. Gross neglect of duty; corruption in office; habitual
13 drunkenness; commission while in office of any offense involving
14 moral turpitude; gross partiality in office; oppression in office;

15 2. Mental or physical disability preventing the proper
16 performance of official duty or incompetence to perform the duties
17 of the office; or

18 3. Other reasons arising from military customs and practices
19 defined in regulations promulgated by the Adjutant General. In
20 subsections (b) and (c) of Section 1 of Article 7A of the Oklahoma
21 Constitution.

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 4160C 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 4162 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 4156 of this title (Article 56, C),
- 23 d. in a case in which the accused filed an application
24 for review with the Court under subparagraph b of

1 paragraph 1 of subsection D of Section 4169 of this
2 title (Article 69, subsection D, paragraph 1,
3 subparagraph b) and the application has been granted
4 by the Court.

5 2. Review of certain sentences. The Military Court of Appeals
6 shall have jurisdiction over all cases that the State Judge Advocate
7 orders sent to the Court for review under subsection C of Section
8 4156 of this title (Article 56, subsection C).

9 3. Automatic review. The Military Court of Appeals shall have
10 jurisdiction over a court-martial in which the judgment entered into
11 the record under Section 4160C of this title (Article 60C) includes
12 a sentence of dismissal of a commissioned officer, cadet,
13 dishonorable discharge or bad-conduct discharge, or confinement for
14 two (2) years or more.

15 G. Timeliness. An appeal under paragraph 1 of subsection F of
16 this section is timely if it is filed as follows:

17 1. In the case of an appeal by the accused under subparagraph a
18 or b of paragraph 1 of subsection F of this section, if filed before
19 the later of:

20 a. the end of the ninety-day period beginning on the date
21 the accused is provided notice of appellate rights
22 under subsection C of Section 4165 of this title
23 (Article 65, subsection C), or
24

1 b. the date set by the Military Court of Appeals by rule
2 or order; and

3 2. In the case of an appeal by the accused under paragraph 1 of
4 subsection C of Section 4165 of this title (Article 65, subsection
5 C, paragraph 1), if filed before the later of:

6 a. the end of the ninety-day period beginning on the date
7 the accused is notified that the application for
8 review has been granted by letter placed in the United
9 States mails for delivery by first class certified
10 mail to the accused at an address provided by the
11 accused or, if no such address has been provided by
12 the accused, at the latest address listed for the
13 accused in his or her official service record, or

14 b. the date set by the Military Court of Appeals by rule
15 or order.

16 H. Duties.

17 1. Cases appealed by accused. In any case before the Military
18 Court of Appeals under subsection F of this section, the Court may
19 act only with respect to the findings and sentence as entered into
20 the record under Section 4160C of this title (Article 60C). The
21 Court may affirm only such findings of guilty, and the sentence or
22 such part or amount of the sentence, as the Court finds correct on
23 the basis of applicable law.

1 2. Error or excessive delay. In any case before the Military
2 Court of Appeals under subsection F of this section, the Court may
3 provide appropriate relief if the accused demonstrates error or
4 excessive delay in the processing of the court-martial after the
5 judgment was entered into the record under Section 4160C of this
6 title (Article 60C).

7 I. Consideration of appeal of sentence by the State of
8 Oklahoma.

9 1. In general. In considering a sentence on appeal or review
10 as provided in subsection C of Section 4156 of this title (Article
11 56, subsection C), the Military Court of Appeals may consider:

12 a. whether the sentence violates the law, and

13 b. whether the sentence is plainly unreasonable.

14 2. Record on appeal or review. In an appeal or review under
15 this subsection or subsection C of Section 4156 of this title
16 (Article 56, subsection C), the record on appeal or review shall
17 consist of:

18 a. any portion of the record in the case that is
19 designated as pertinent by either of the parties,

20 b. the information submitted during the sentencing
21 proceeding, and

22 c. any information required by regulations promulgated by
23 the Adjutant General or by rule or order of the
24 Military Court of Appeals.

1 J. Limits of authority.

2 1. Set aside of findings.

3 a. In general. If the Military Court of Appeals sets
4 aside the findings, the Court:

5 (1) may affirm any lesser included offense, and

6 (2) may, except when prohibited by Section 4144 of
7 this title (Article 44), order a rehearing.

8 b. Dismissal when no rehearing ordered. If the Military
9 Court of Appeals sets aside the findings and does not
10 order a rehearing, the Court shall order that the
11 charges be dismissed.

12 c. Dismissal when rehearing impracticable. If the
13 Military Court of Appeals orders a rehearing on a
14 charge and the convening authority finds a rehearing
15 impracticable, the convening authority may dismiss the
16 charge.

17 2. Set aside of sentence. If the Military Court of Appeals
18 sets aside the sentence, the Court may:

19 a. modify the sentence to a lesser sentence, or

20 b. order a rehearing.

21 3. Additional proceedings. If the Military Court of Appeals
22 determines that additional proceedings are warranted, the Court may
23 order a hearing as may be necessary to address a substantial issue,
24

1 subject to such limitations as the Court may direct and under such
2 regulations as the Adjutant General may prescribe.

3 K. Action in accordance with decisions of courts. The State
4 Judge Advocate shall, unless there is to be further action by the
5 Governor, the Adjutant General, or the Oklahoma Court of Criminal
6 Appeals, instruct the appropriate authority to take action in
7 accordance with the decision of the Military Court of Appeals.

8 L. Rules of procedure and designation of chief judge. The
9 State Judge Advocate shall prescribe uniform rules of procedure for
10 the Military Court of Appeals which shall be published as a military
11 publication and shall meet periodically to formulate policies and
12 procedure in regard to review of court-martial cases in the office
13 of the State Judge Advocate and by the Military Court of Appeals.
14 The State Judge Advocate shall designate as chief judge one of the
15 appellate military judges of the Military Court of Appeals.

16 M. Prohibition on evaluation of other members of courts. No
17 member of the Military Court of Appeals shall be required, or on his
18 or her own initiative be permitted, to prepare, approve, disapprove,
19 review, or submit, with respect to any other member of the Military
20 Court of Appeals, an effectiveness, fitness, or efficiency report,
21 or any other report or document used in whole or in part for the
22 purpose of determining whether a member of the state military forces
23 is qualified to be advanced in grade, or in determining the
24 assignment or transfer of a member of the state military forces, or

1 in determining whether a member of the state military forces should
2 be retained as a member of the state military forces.

3 N. Ineligibility of members of courts to review records of
4 cases involving certain prior member service. No member of the
5 Military Court of Appeals shall be eligible to review the record of
6 any trial if such member served as investigating officer in the case
7 or served as a member of the court-martial before which such trial
8 was conducted, or served as military judge, trial or defense
9 counsel, or reviewing officer of such trial.

10 SECTION 82. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4167 of Title 44, unless there
12 is created a duplication in numbering, reads as follows:

13 ARTICLE 67. Review by the Oklahoma Court of Criminal Appeals.

14 A. Powers as court of last resort. The Oklahoma Court of
15 Criminal Appeals shall be the court of last resort for all general
16 and special courts-martial convened by the state military forces.
17 In reviewing petitions or appeals granted pursuant to this section,
18 the Oklahoma Court of Criminal Appeals shall have and shall exercise
19 all powers granted to the Court under the Oklahoma statutes and the
20 Oklahoma Constitution.

21 B. Petition for Review. Except as provided in subsection C for
22 appeals arising from a guilty plea, a decision of the Military Court
23 of Appeals may be reviewed by the Oklahoma Court of Criminal Appeals
24 upon the filing of an appeal in the form of a Petition for Review if

1 a majority of judges on the Oklahoma Court of Criminal Appeals
2 directs that such Petition for Review shall be granted. Decisions
3 of the Military Court of Appeals shall be final unless a Petition
4 for Review is granted by the Oklahoma Court of Criminal Appeals or a
5 writ of certiorari is granted pursuant to subsection C of this
6 section.

7 C. Appeals arising from guilty plea. All appeals taken from
8 any conviction on a plea of guilty shall first be decided by the
9 Military Court of Appeals. In the event the conviction arising from
10 a plea of guilty is upheld by the Court of Military Appeals, an
11 appeal may be taken by petition for writ of certiorari to the
12 Oklahoma Court of Criminal Appeals, as provided in subsection D of
13 this section, provided, such petition must be filed within ninety
14 (90) days from the date of said conviction. The Oklahoma Court of
15 Criminal Appeals may take jurisdiction of any case for the purpose
16 of correcting the appeal records when the same do not disclose
17 judgment and sentence; such jurisdiction shall be for the sole
18 purpose of correcting such defect or defects.

19 D. Procedures established by court rules. The procedures for
20 filing a Petition for Review or appeal made pursuant to subsections
21 B or C of this section shall be as provided in the Rules of the
22 Court of Criminal Appeals; and the Oklahoma Court of Criminal
23 Appeals shall provide by court rules, which shall have the force of
24 statute:

1 1. The procedure to be followed by the courts-martial in the
2 preparation and authentication of transcripts and records in cases
3 appealed under this Code;

4 2. The procedure to be followed by the Court of Military
5 Appeals in the preparation of the record in cases brought up on
6 appeal to the Oklahoma Court of Criminal Appeals under this Code;

7 3. The procedure to be followed for the completion and
8 submission of the Petition for Review or such other appeals lodged
9 pursuant to this Code; and

10 4. The procedure to be followed for filing a petition for and
11 the issuance of a writ of certiorari.

12 E. Scope of Review on certiorari. The scope of review to be
13 afforded on certiorari shall be prescribed by the Oklahoma Court of
14 Criminal Appeals.

15 F. Additional proceedings. If the Oklahoma Court of Criminal
16 Appeals determines that additional proceedings are warranted, the
17 Oklahoma Court of Criminal Appeals may order a hearing, rehearing or
18 other proceedings in accordance with the Rules of the Court of
19 Criminal Appeals.

20 G. Action in accordance with decisions of the Oklahoma Court of
21 Criminal Appeals. The State Judge Advocate shall instruct the
22 appropriate authority to take action in accordance with the decision
23 of the Oklahoma Court of Criminal Appeals.

1 SECTION 83. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4167A of Title 44, unless there
3 is created a duplication in numbering, reads as follows:

4 RESERVED.

5 SECTION 84. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4168 of Title 44, unless there
7 is created a duplication in numbering, reads as follows:

8 RESERVED

9 SECTION 85. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4169 of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 ARTICLE 69. Review by State Judge Advocate.

13 A. In general. Upon application by the accused and subject to
14 subsections B, C and D of this section, the State Judge Advocate may
15 modify or set aside, in whole or in part, the findings and sentence
16 in a court-martial that is not reviewed under Section 4166 of this
17 title (Article 66).

18 B. Timing. To qualify for consideration, an application under
19 subsection A of this section shall be submitted to the State Judge
20 Advocate not later than one (1) year after the date of completion of
21 review under Section 4164 or 4165 of this title (Article 64 or 65),
22 as the case may be. The State Judge Advocate may, for good cause
23 shown, extend the period for submission of an application, but may
24

1 not consider an application submitted more than three (3) years
2 after such completion date.

3 C. Scope.

4 1. a. In a case reviewed under Section 4164 or subsection B
5 of Section 4165 of this title (Article 64 or Article
6 65, subsection B), the State Judge Advocate may set
7 aside the findings or sentence, in whole or in part,
8 on the grounds of newly discovered evidence, fraud on
9 the court, lack of jurisdiction over the accused or
10 the offense, error prejudicial to the substantial
11 rights of the accused, or the appropriateness of the
12 sentence.

13 b. In setting aside findings or sentence, the State Judge
14 Advocate may order a rehearing, except that a
15 rehearing may not be ordered in violation of Section
16 4144 of this title (Article 44).

17 c. If the State Judge Advocate sets aside findings and
18 sentence and does not order a rehearing, the State
19 Judge Advocate shall dismiss the charges.

20 d. If the State Judge Advocate sets aside findings and
21 orders a rehearing and the convening authority
22 determines that a rehearing would be impractical, the
23 convening authority shall dismiss the charges.

24

1 2. In a case reviewed under subsection B of Section 4165 of
2 this 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 mails 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 4170 of this title (Article 70, subsection C, paragraph 1).

13 E. Action only on matters of law. Notwithstanding Section 4166
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 86. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 4170 of Title 44, unless there
19 is 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 4127
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 87. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4171 of Title 44, unless there
23 is created a duplication in numbering, reads as follows:

24 RESERVED.

1 SECTION 88. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4172 of Title 44, unless there
3 is 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 4127 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 4157 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 89. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4173 of Title 44, unless there
3 is 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 4160C 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 90. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4174 of Title 44, unless there
15 is 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 91. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4175 of Title 44, unless there
3 is 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 92. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4176 of Title 44, unless there
3 is 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 4173 of this title (Article 73) and to action by
16 the Adjutant General as provided in Section 4174 of this title
17 (Article 74) and the authority of the Governor.

18 SECTION 93. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4176A 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 4160C 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 94. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4176B 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 95. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 4177 of Title 44, unless there
4 is 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 96. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4178 of Title 44, unless there
16 is 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.
23
24

1 SECTION 97. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4179 of Title 44, unless there
3 is 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 98. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4180 of Title 44, unless there
24 is 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 99. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4181 of Title 44, unless there
14 is 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 100. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4182 of Title 44, unless there
23 is 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 4185 of this title (Article 85),
9 Section 4194 of this title (Article 94), or Section 4199 of this
10 title (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 101. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4183 of Title 44, unless there
18 is 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 102. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 4184 of Title 44, unless there
4 is 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 103. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4185 of Title 44, unless there
16 is 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 104. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4186 of Title 44, unless there
21 is 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 105. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4187 of Title 44, unless there
10 is 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 106. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4187A 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 107. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4187B of Title 44, unless there
10 is created a duplication in numbering, reads as follows:

11 RESERVED.

12 SECTION 108. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4188 of Title 44, unless there
14 is 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 109. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4189 of Title 44, unless there
23 is 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 110. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4190 of Title 44, unless there
17 is 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 111. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4191 of Title 44, unless there
5 is 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 112. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4192 of Title 44, unless there
20 is 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 113. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4193 of Title 44, unless there
10 is 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 114. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4193A 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 115. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4194 of Title 44, unless there
15 is 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 116. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4195 of Title 44, unless there
14 is 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 117. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4195A 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 118. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 4196 of Title 44, unless there
23 is 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 119. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4197 of Title 44, unless there
14 is 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 120. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4198 of Title 44, unless there
21 is 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 121. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4199 of Title 44, unless there
10 is 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 122. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4200 of Title 44, unless there
15 is 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 123. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4201 of Title 44, unless there
3 is 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 124. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4202 of Title 44, unless there
14 is 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 125. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4203 of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 RESERVED.
23
24

1 SECTION 126. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4203A 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 4203B 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 4203C 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 4204 of Title 44, unless there
5 is 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 4204A 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 4204B 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 4205 of Title 44, unless there
19 is 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 4205A 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 4206 of Title 44, unless there
20 is 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 4206A 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 4207 of Title 44, unless there
13 is 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:

- 1 a. is administered in a matter in which such oath is
2 required or authorized by law, and
3 b. is administered by a person with authority to do so;
4 and

5 2. Who, upon such oath, makes or subscribes to a statement,
6 if the statement is false and at the time of taking the oath, the
7 person does not believe the statement to be true,
8 shall be punished as a court-martial may direct.

9 SECTION 137. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4207A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 RESERVED.

13 SECTION 138. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4208 of Title 44, unless there
15 is created a duplication in numbering, reads as follows:

16 ARTICLE 108. Military property-loss, damage, destruction, or
17 wrongful disposition.

18 Any person subject to the Oklahoma Uniform Code of Military
19 Justice who, without proper authority:

- 20 1. Sells or otherwise disposes of;
21 2. Willfully or through neglect damages, destroys, or loses; or
22 3. Willfully or through neglect suffers to be lost, damaged,
23 destroyed, sold, or wrongfully disposed of,
24

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 139. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4208A 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 140. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4209 of Title 44, unless there
24 is 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 141. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4209A of Title 44, unless there
11 is created a duplication in numbering, reads as follows:

12 RESERVED.

13 SECTION 142. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4210 of Title 44, unless there
15 is 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 143. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 4211 of Title 44, unless there
6 is created a duplication in numbering, reads as follows:

7 RESERVED.

8 SECTION 144. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 4212 of Title 44, unless there
10 is 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 145. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 4212A 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 146. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4213 of Title 44, unless there
5 is created a duplication in numbering, reads as follows:

6 RESERVED.

7 SECTION 147. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4214 of Title 44, unless there
9 is 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 148. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 4215 of Title 44, unless there
14 is created a duplication in numbering, reads as follows:

15 RESERVED.

16 SECTION 149. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4216 of Title 44, unless there
18 is 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.

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1 SECTION 150. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4217 of Title 44, unless there
3 is 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 151. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 4217A 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;

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 152. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 4218 of Title 44, unless there
17 is created a duplication in numbering, reads as follows:

18 RESERVED.

19 SECTION 153. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 4219 of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 RESERVED.

1 SECTION 154. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4219A 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 4219B 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 4220 of Title 44, unless there
11 is 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 subsection A, paragraph 1,
- 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 4220A 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 4220B 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 4220C 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:

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 4220 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 4220D 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 4221 of Title 44, unless there
3 is 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 4221A of Title 44, unless there
21 is created a duplication in numbering, reads as follows:

22 RESERVED.
23
24

1 SECTION 163. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4221B 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 4222 of Title 44, unless there
7 is 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 4222A 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 4223 of Title 44, unless there
15 is 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 4223A 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 4224 of Title 44, unless there
23 is 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 4224A 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 4224B 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 4225 of Title 44, unless there
21 is 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 4226 of Title 44, unless there
3 is 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 4227 of Title 44, unless there
7 is 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 4228 of Title 44, unless there
11 is 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 175. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4228A 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 4228B 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 4229 of Title 44, unless there
11 is 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 4229A 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 4230 of Title 44, unless there
19 is 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 threat, 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 4231 of Title 44, unless there
3 is 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 4231A 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 182. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 4231B 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 4231C 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 4231D 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 4231E 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 4231F 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 4231G 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 4232 of Title 44, unless there
11 is 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 4233 of Title 44, unless there
3 is 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 4234 of Title 44, unless there
10 is 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 4102 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 4235 of Title 44, unless there
4 is 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.

24

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 4236 of Title 44, unless there
20 is 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 4237 of Title 44, unless there
6 is 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 4102, 4103,
18 4107-4115, 4125, 4127, 4131, 4137, 4138, 4155, 4177-4234, and 4237-
19 4239 of this title (Articles 2, 3, 7-15, 25, 27, 31, 37, 38, 55, 77-
20 134, and 137-139).

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 4238 of Title 44, unless there
3 is 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 4239 of Title 44, unless there
18 is 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 4240 of Title 44, unless there
21 is 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 4122 and subsection K of Section 4115 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 197. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 4240A 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 4240B 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 199. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 4242 of Title 44, unless there
7 is 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 200. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4243 of Title 44, unless there
3 is 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 4244 of Title 44, unless there
11 is 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 4245 of Title 44, unless there
20 is 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 4246 of Title 44, unless there
13 is 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 4101 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 4101 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 published by the Adjutant General as a military
21 publication as defined in Section 4101 of this title.

22 SECTION 206. 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 4100 through 4246 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 4101 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 4101 of this title
22 and shall be subject to the Oklahoma Uniform Code of Military
23 Justice.

24

1 C. When prescribing the rules and regulations governing
2 enlistment, organization, administration, equipment, discipline and
3 discharge of the personnel of the Oklahoma State Guard, the Governor
4 shall issue such rules and regulations in the form of an executive
5 order or in a series of such orders which shall be published in the
6 Oklahoma Administrative Code. For purposes of the Administrative
7 Procedures Act, the executive order prescribing the rules and
8 regulations governing enlistment, organization, administration,
9 equipment, discipline and discharge of the personnel of the Oklahoma
10 State Guard shall be considered a military publication and shall be
11 published and indexed as part of the Oklahoma Administrative Code.

12 SECTION 209. AMENDATORY 44 O.S. 2011, Section 244, is
13 amended to read as follows:

14 Section 244. Nothing in ~~this act~~ the Oklahoma State Guard Act
15 shall be construed as authorizing such forces, or any part thereof
16 to be called, ordered or in any manner drafted, as such into the
17 military service of the United States, but no person shall by reason
18 of his or her enlistment or commission in any such forces be
19 exempted from military service under any law of the United States.

20 SECTION 210. AMENDATORY 44 O.S. 2011, Section 247, is
21 amended to read as follows:

22 Section 247. No person shall be enlisted for more than one (1)
23 year, but such enlistment may be renewed. The oath to be taken upon
24 enlistment in such forces shall be substantially in the form

1 prescribed for enlisted ~~men~~ members of the National Guard,
2 substituting the words "Oklahoma State Guard" where necessary.

3 SECTION 211. AMENDATORY 44 O.S. 2011, Section 248, is
4 amended to read as follows:

5 Section 248. ~~(a) Whenever such forces or any part thereof~~
6 ~~shall be ordered out for active service the Articles of War of the~~
7 ~~United States applicable to members of the National Guard of this~~
8 ~~state in relation to courts-martial, their jurisdiction and the~~
9 ~~limits of punishment and the rules and regulations prescribed~~
10 ~~thereunder shall be in full force and effect with respect to "the~~
11 ~~Oklahoma State Guard."~~

12 ~~(b)~~ No officer or enlisted ~~man~~ person of ~~such forces~~ the
13 Oklahoma State Guard shall be arrested on any warrant, except for
14 treason or felony, while going to, remaining at, or returning from a
15 place where he or she is ordered to attend for military duty. Every
16 officer and enlisted ~~man~~ members of such forces shall, during his or
17 her service therein, be exempt from service upon any posse comitatus
18 and from jury duty.

19 SECTION 212. AMENDATORY 44 O.S. 2011, Section 250, is
20 amended to read as follows:

21 Section 250. This act may be cited as the Oklahoma State Guard
22 Act.

23 SECTION 213. AMENDATORY 21 O.S. 2011, Section 133, is
24 amended to read as follows:

1 Section 133. This chapter~~7~~ does not affect any power conferred
2 by law upon any court martial or other military authority or officer
3 to impose or inflict punishment upon offenders; nor any power
4 conferred by law upon any public body, tribunal, or officer, to
5 impose or inflict punishment for a contempt; nor any provisions of
6 the laws relating to apprentices, ~~bastards,~~ disorderly ~~persons,~~
7 ~~Indians and vagrants~~ behavior or vagrancy.

8 SECTION 214. AMENDATORY 75 O.S. 2011, Section 250.4, as
9 last amended by Section 12, Chapter 430, O.S.L. 2014 (75 O.S. Supp.
10 2018, Section 250.4), is amended to read as follows:

11 Section 250.4 A. 1. Except as is otherwise specifically
12 provided in this subsection, each agency is required to comply with
13 Article I of the Administrative Procedures Act.

14 2. The Corporation Commission shall be required to comply with
15 the provisions of Article I of the Administrative Procedures Act
16 except for subsections A, B, C and E of Section 303 of this title
17 and Section 306 of this title. To the extent of any conflict or
18 inconsistency with Article I of the Administrative Procedures Act,
19 pursuant to Section 35 of Article IX of the Oklahoma Constitution,
20 it is expressly declared that Article I of the Administrative
21 Procedures Act is an amendment to and alteration of Sections 18
22 through 34 of Article IX of the Oklahoma Constitution.

23 3. The Oklahoma Military Department shall be exempt from the
24 provisions of Article I of the Administrative Procedures Act to the

1 extent it exercises its responsibility for military affairs.
2 Military publications, as defined in Section 4101 of Title 44 of the
3 Oklahoma Statutes, shall be exempt from the provisions of Article I
4 and Article II of the Administrative Procedures Act, except as
5 provided in Section 251 of this title.

6 4. The Oklahoma Ordnance Works Authority, the Northeast
7 Oklahoma Public Facilities Authority, the Oklahoma Office of
8 Homeland Security and the Board of Trustees of the Oklahoma College
9 Savings Plan shall be exempt from Article I of the Administrative
10 Procedures Act.

11 5. The Transportation Commission and the Department of
12 Transportation shall be exempt from Article I of the Administrative
13 Procedures Act to the extent they exercise their authority in
14 adopting standard specifications, special provisions, plans, design
15 standards, testing procedures, federally imposed requirements and
16 generally recognized standards, project planning and programming,
17 and the operation and control of the State Highway System.

18 6. The Oklahoma State Regents for Higher Education shall be
19 exempt from Article I of the Administrative Procedures Act with
20 respect to:

- 21 a. prescribing standards of higher education,
- 22 b. prescribing functions and courses of study in each
- 23 institution to conform to the standards,
- 24

- c. granting of degrees and other forms of academic recognition for completion of the prescribed courses,
- d. allocation of state-appropriated funds, and
- e. fees within the limits prescribed by the Legislature.

7. Institutional governing boards within The Oklahoma State System of Higher Education shall be exempt from Article I of the Administrative Procedures Act.

8. a. The Commissioner of Public Safety shall be exempt from Sections 303.1, 304, 307.1, 308 and 308.1 of this title insofar as it is necessary to promulgate rules pursuant to the Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act, to maintain a current incorporation of federal motor carrier safety and hazardous material regulations, or pursuant to Chapter 6 of Title 47 of the Oklahoma Statutes, to maintain a current incorporation of federal commercial driver license regulations, for which the Commissioner has no discretion when the state is mandated to promulgate rules identical to federal rules and regulations.

b. Such rules may be adopted by the Commissioner and shall be deemed promulgated twenty (20) days after notice of adoption is published in "The Oklahoma Register". Such publication need not set forth the

1 full text of the rule but may incorporate the federal
2 rules and regulations by reference.

3 c. Such copies of promulgated rules shall be filed with
4 the Secretary as required by Section 251 of this
5 title.

6 d. For any rules for which the Commissioner has
7 discretion to allow variances, tolerances or
8 modifications from the federal rules and regulations,
9 the Commissioner shall fully comply with Article I of
10 the Administrative Procedures Act.

11 9. The Council on Judicial Complaints shall be exempt from
12 Section 306 of Article I of the Administrative Procedures Act, with
13 respect to review of the validity or applicability of a rule by an
14 action for declaratory judgment, or any other relief based upon the
15 validity or applicability of a rule, in the district court or by an
16 appellate court. A party aggrieved by the validity or applicability
17 of a rule made by the Council on Judicial Complaints may petition
18 the Court on the Judiciary to review the rules and issue opinions
19 based upon them.

20 10. The Department of Corrections, State Board of Corrections,
21 county sheriffs and managers of city jails shall be exempt from
22 Article I of the Administrative Procedures Act with respect to:

23 a. prescribing internal management procedures for the
24 management of the state prisons, county jails and city

1 jails and for the management, supervision and control
2 of all incarcerated prisoners, and

3 b. prescribing internal management procedures for the
4 management of the probation and parole unit of the
5 Department of Corrections and for the supervision of
6 probationers and parolees.

7 11. The State Board of Education shall be exempt from Article I
8 of the Administrative Procedures Act with respect to prescribing
9 subject matter standards as provided for in Section 11-103.6a of
10 Title 70 of the Oklahoma Statutes.

11 B. As specified, the following agencies or classes of agency
12 activities are not required to comply with the provisions of Article
13 II of the Administrative Procedures Act:

- 14 1. The Oklahoma Tax Commission;
- 15 2. The Commission for Human Services;
- 16 3. The Oklahoma Ordnance Works Authority;
- 17 4. The Corporation Commission;
- 18 5. The Pardon and Parole Board;
- 19 6. The Midwestern Oklahoma Development Authority;
- 20 7. The Grand River Dam Authority;
- 21 8. The Northeast Oklahoma Public Facilities Authority;
- 22 9. The Council on Judicial Complaints;
- 23 10. The Board of Trustees of the Oklahoma College Savings Plan;

1 11. The supervisory or administrative agency of any penal,
2 mental, medical or eleemosynary institution, only with respect to
3 the institutional supervision, custody, control, care or treatment
4 of inmates, prisoners or patients therein; provided, that the
5 provisions of Article II shall apply to and govern all
6 administrative actions of the Oklahoma Alcohol Prevention, Training,
7 Treatment and Rehabilitation Authority;

8 12. The Board of Regents or employees of any university,
9 college, or other institution of higher learning;

10 13. The Oklahoma Horse Racing Commission, its employees or
11 agents only with respect to hearing and notice requirements on the
12 following classes of violations which are an imminent peril to the
13 public health, safety and welfare:

- 14 a. any rule regarding the running of a race,
- 15 b. any violation of medication laws and rules,
- 16 c. any suspension or revocation of an occupation license
17 by any racing jurisdiction recognized by the
18 Commission,
- 19 d. any assault or other destructive acts within
20 Commission-licensed premises,
- 21 e. any violation of prohibited devices, laws and rules,
22 or
- 23 f. any filing of false information;

1 14. The Commissioner of Public Safety only with respect to
2 driver license hearings and hearings conducted pursuant to the
3 provisions of Section 2-115 of Title 47 of the Oklahoma Statutes;

4 15. The Administrator of the Department of Securities only with
5 respect to hearings conducted pursuant to provisions of the Oklahoma
6 Take-over Disclosure Act of 1985;

7 16. Hearings conducted by a public agency pursuant to Section
8 962 of Title 47 of the Oklahoma Statutes;

9 17. The Oklahoma Military Department;

10 18. The University Hospitals Authority, including all hospitals
11 or other institutions operated by the University Hospitals
12 Authority;

13 19. The Oklahoma Health Care Authority Board and the
14 Administrator of the Oklahoma Health Care Authority; and

15 20. The Oklahoma Office of Homeland Security.

16 SECTION 215. AMENDATORY 75 O.S. 2011, Section 251, as
17 amended by Section 1, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2018,
18 Section 251), is amended to read as follows:

19 Section 251. A. 1. Upon the request of the Secretary, each
20 agency shall furnish to the Office a complete set of its permanent
21 rules in such form as is required by the Secretary or as otherwise
22 provided by law.

23 2. The Secretary shall promulgate rules to ensure the effective
24 administration of the provisions of Article I of the Administrative

1 Procedures Act. The rules shall include, but are not limited to,
2 rules prescribing paper size, numbering system, and the format of
3 documents required to be filed pursuant to the provisions of the
4 Administrative Procedures Act or such other requirements as deemed
5 necessary by the Secretary to implement the provisions of the
6 Administrative Procedures Act.

7 B. 1. Each agency shall file the number of copies specified by
8 the Secretary of all new rules, and all amendments, revisions or
9 revocations of existing rules attested to by the agency, pursuant to
10 the provisions of Section 254 of this title, with the Office within
11 thirty (30) calendar days after they become finally adopted.

12 2. An agency filing rules pursuant to the provisions of this
13 subsection:

14 a. shall prepare the rules in plain language which can be
15 easily understood,

16 b. shall not unnecessarily repeat statutory language.
17 Whenever it is necessary to refer to statutory
18 language in order to effectively convey the meaning of
19 a rule interpreting that language, the reference shall
20 clearly indicate the portion of the language which is
21 statutory and the portion which is the agency's
22 amplification or interpretation of that language,

23 c. shall indicate whether a rule is new, amends an
24 existing permanent rule or repeals an existing

1 permanent rule. If a rule amends an existing rule,
2 the rule shall indicate the language to be deleted
3 typed with a line through the language and language to
4 be inserted typed with the new language underscored,
5 d. shall state if the rule supersedes an existing
6 emergency rule,
7 e. shall include a reference to any rule requiring a new
8 or revised form in a note to the rule. The Secretary
9 shall insert that reference in "The Oklahoma Register"
10 as a notation to the affected rule,
11 f. shall prepare, in plain language, a statement of the
12 gist of the rule and an analysis of new or amended
13 rules. The analysis shall include but not be limited
14 to a reference to any statute that the rule
15 interprets, any related statute or any related rule,
16 g. may include with its rules, brief notes,
17 illustrations, findings of facts, and references to
18 digests of Supreme Court cases, other court decisions,
19 or Attorney General's opinions, and other explanatory
20 material. Such material may be included if the
21 material is labeled or set forth in a manner which
22 clearly distinguishes it from the rules,
23 h. shall include other information, in such form and in
24 such manner as is required by the Secretary, and

1 i. may change the format of existing rules without any
2 rulemaking action by the agency in order to comply
3 with the standard provisions established by the
4 Secretary for "Code" and "The Oklahoma Register"
5 publication so long as there is no substantive change
6 to the rule.

7 C. The Secretary is authorized to determine a numbering system
8 and other standardized format for documents to be filed and may
9 refuse to accept for publication any document that does not
10 substantially conform to the promulgated rules of the Secretary.

11 D. In order to avoid unnecessary expense, an agency may use the
12 published standards established by organizations and technical
13 societies of recognized national standing, other state agencies, or
14 federal agencies by incorporating the standards or rules in its
15 rules or regulations by reference to the specific issue or issues of
16 publications in which the standards are published, without
17 reproducing the standards in full. The standards shall be readily
18 available to the public for examination at the administrative
19 offices of the agency. In addition, a copy of such standards shall
20 be kept and maintained by the agency pursuant to the provisions of
21 the Preservation of Essential Records Act.

22 E. The Secretary shall provide for the publication of all
23 Executive Orders received pursuant to the provisions of Section 664
24 of Title 74 of the Oklahoma Statutes.

1 F. The Secretary may authorize or require the filing of rules
2 or Executive Orders by or through electronic data or machine
3 readable equipment in such form and manner as is required by the
4 Secretary.

5 G. The Secretary shall provide for the publication of all
6 military publications received as defined in Section 4101 of Title
7 44 of the Oklahoma Statutes. This subsection shall only apply to
8 military publications promulgated after November 1, 2019.

9 H. In consultation with the Adjutant General, the Secretary is
10 authorized to determine a numbering system and other standardized
11 format for military documents to be filed and may authorize or
12 require the filing of military publications by or through electronic
13 data or machine-readable equipment in such form and manner as is
14 required by the Secretary.

15 SECTION 216. AMENDATORY 75 O.S. 2011, Section 255, is
16 amended to read as follows:

17 Section 255. A. 1. The Secretary is hereby authorized,
18 directed, and empowered to publish "The Oklahoma Register" not less
19 than monthly for the publication of new rules, any amendment,
20 revision or revocation of an existing rule, emergency rules, any
21 notices of such rulemaking process, military publications and
22 Executive Orders as are required by law to be published in "The
23 Oklahoma Register". Said rules or amendments, revisions, or
24 revocations of existing rules shall be published in the first issue

1 of "The Oklahoma Register" published pursuant to Sections 251, 253,
2 256, 303, 303.1, 303.2 and 308 of this title after the date of
3 acceptance by the Secretary.

4 2. The Secretary shall cause a copy of each publication of "The
5 Oklahoma Register" to be sent to those county clerks who request it,
6 to members of the Legislature upon request, and to such other
7 agencies, libraries, and officials as the Secretary may select. The
8 Secretary may charge recipients of the publication a cost sufficient
9 to defray the cost of publication and mailing.

10 3. The Secretary shall cause a copy of all rules, all new
11 rules, and all amendments, revisions, or revocations of existing
12 rules to be on file and available for public examination in the
13 Office during normal office hours.

14 4. The Secretary shall promulgate rules to systematize the
15 designations of rules. To establish said system or to preserve
16 uniformity of designations, the Secretary may require the agency to
17 change the title or numbering of any rule or any amendment,
18 revision, or revocation thereof.

19 B. The Secretary is authorized to provide for the publication
20 of rules in summary form when the rules are of such length that
21 publication of the full text would be too costly. The summary shall
22 be prepared by the agency submitting the rules and shall state where
23 the full text of the rule may be obtained.

24

1 C. The notice required pursuant to the provisions of Section
2 303 of this title shall be published in "The Oklahoma Register"
3 prior to the adoption of a new rule, or amendment, revision or
4 revocation of any existing rule. The notice shall include the
5 information required by Section 303 of this title.

6 SECTION 217. AMENDATORY 75 O.S. 2011, Section 256, is
7 amended to read as follows:

8 Section 256. A. 1. The Secretary shall provide for the
9 codification, compilation, indexing and publication of agency rules,
10 military publications, as defined by Section 4101 of Title 44 of the
11 Oklahoma Statutes and Executive Orders in a publication which shall
12 be known as the "Oklahoma Administrative Code" in the following
13 manner:

14 a. ~~On~~ on or before January 1, 1992, the Secretary shall
15 compile Executive Orders which are effective pursuant
16 to paragraph 3 of subsection B of this section, and
17 agency rules which have been submitted pursuant to the
18 agency schedule of compliance and have been accepted
19 as properly codified, as set forth in this section,
20 and rules promulgated by the Secretary. Such
21 compilation shall be maintained by the Office of
22 Administrative Rules and shall be updated by agencies,
23 in a manner prescribed by the Secretary, to reflect
24 subsequent permanent rulemaking. Prior to publication

1 of the first "Code", as set forth in subparagraph b of
2 this paragraph, the compilation shall constitute the
3 official permanent rules of the state. Effective
4 January 1, 1992, any permanent rule not included in
5 such compilation shall be void and of no effect.

6 b. ~~On~~ on or before December 1, 1992, the Secretary shall
7 have indexed and published the "Oklahoma
8 Administrative Code". To effectuate this provision,
9 the Secretary may contract for the publishing and
10 indexing, or both, of the "Oklahoma Administrative
11 Code". Any permanent rule not published in the "Code"
12 shall be void and of no effect. A finally adopted
13 rule filed and published in "The Oklahoma Register"
14 may be valid until publication of the next succeeding
15 "Code" or "Code" supplement following the date of its
16 final adoption. Provided, a permanent rule which is
17 finally adopted after the closing date for publication
18 in a "Code" or "Code" supplement as announced by the
19 Secretary may be valid until publication of the next
20 succeeding "Code" or "Code" supplement. A permanent
21 rule which is published in "The Oklahoma Register"
22 after the closing date for publication in the first
23 "Code", as announced by the Secretary, shall be void
24 and of no effect upon publication of the next

1 succeeding "Code" or "Code" supplement, if not
2 published in the "Code" or "Code" supplement, and
3 c. on or before January 1, 2021, the Secretary shall
4 compile, index and publish in the Oklahoma
5 Administrative Code the military publications provided
6 by the Adjutant General pursuant to the Oklahoma
7 Uniform Code of Military Justice and the Oklahoma
8 State Guard Act.

9 2. Compilations or revisions of the "Code" or any part thereof
10 shall be supplemented or revised annually. The "Code" shall be
11 organized by state agency and shall be arranged, indexed and printed
12 in a manner to permit separate publications of portions thereof
13 relating to individual agencies.

14 3. Annual supplements to the "Code" shall be cumulative.
15 Emergency rules shall not be published in the "Code" or in any
16 supplements thereto.

17 4. The "Code" and the supplements shall include a general
18 subject index and an agency index of all rules and Executive Orders
19 contained therein. "The Oklahoma Register" shall also include a
20 sections-affected index of the "Code". The "Code" and supplements
21 shall contain such notes, cross references and explanatory materials
22 as required by the Secretary.

23 5. The Secretary in preparing such rules for publication in the
24 "Code" or supplements shall omit all material shown in canceled

1 type. The Secretary shall not prepare any rule for publication in
2 the "Code" which amends or revises a rule unless the rule so
3 amending or revising conforms to the provisions of the
4 Administrative Procedures Act.

5 6. 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 B. 1. Rules submitted and accepted for publication in the
10 "Code" by August 15 of each year shall be published in the next
11 succeeding "Code" or supplement thereto.

12 2. As soon as possible after August 15 of each year, the
13 Secretary shall assemble all rules and Executive Orders, except
14 emergency rules, promulgated after the publication of the preceding
15 "Code" or "Code" supplement in accordance with the provisions of the
16 Administrative Procedures Act for publication in the "Oklahoma
17 Administrative Code". The "Code" or supplements thereto should be
18 published as soon as possible after August 30 of each year.

19 3. Executive Orders of previous gubernatorial administrations
20 shall terminate ninety (90) calendar days following the inauguration
21 of the next Governor unless otherwise terminated or continued during
22 that time by Executive Order. Copies of all Executive Orders shall
23 be published and indexed in the "Oklahoma Administrative Code". All
24 Executive Orders placing agencies or employees under the State Merit

1 System of Personnel Administration shall remain in effect unless
2 otherwise modified by action of the Legislature.

3 C. The Secretary is hereby authorized and empowered to publish
4 or to contract to publish the "Oklahoma Administrative Code", and to
5 publish or contract to publish such annual cumulative supplements so
6 as to keep the "Code" current. All such agreements shall provide
7 that the publisher shall make such publications in such form and
8 arrangement as shall be approved by the Secretary. The Secretary
9 may publish or authorize the publication of the "Code" in part.

10 D. The Secretary is authorized to correct spelling errors in
11 rules submitted for publication in the "Code" or any such
12 supplements or in "The Oklahoma Register". Any other errors in
13 rules submitted for publication in the "Code" may be noted in
14 editorial notes provided by the Secretary.

15 E. The Secretary shall make copies of the "Code" generally
16 available at a cost sufficient to defray the cost of publication and
17 mailing. Except as otherwise provided by Section 257.1 of this
18 title, the Secretary is authorized to sell or otherwise distribute
19 the "Code" and its supplements.

20 F. 1. The codification system, derivations, cross references,
21 notes of decisions, source notes, authority notes, numerical lists,
22 and codification guides, other than the actual text of rules,
23 indexes, tables and other aids relevant to the publication of the
24 "Oklahoma Administrative Code" and "The Oklahoma Register" shall be

1 the property of the state and may be reproduced only with the
2 written consent of the Secretary. The information which appears on
3 the same page with the text of a rule may be reproduced incidentally
4 with the reproduction of the rule, if the reproduction is for the
5 private use of the individual and not for resale. No person shall
6 attempt to copyright or publish the "Oklahoma Administrative Code"
7 or "The Oklahoma Register", in printed or electronic media, without
8 expressed written consent of the Secretary of State. The Secretary
9 shall notify the Speaker of the House of Representatives and the
10 President Pro Tempore of the Senate of any requests to copyright or
11 publish the "Oklahoma Administrative Code" or "The Oklahoma
12 Register", prior to consent by the Secretary.

13 2. The Secretary may provide for the electronic access to the
14 "Oklahoma Administrative Code" and "The Oklahoma Register" by:
15 a. subscription, or
16 b. an exclusive or a nonexclusive contract for public and
17 private access.

18 3. Publications of rules by agencies are not official
19 publications.

20 4. The sale or resale of the "Oklahoma Administrative Code" or
21 any part thereof by the Secretary of State shall be exempt from any
22 requirement mandating acquisition of a resale number and payment of
23 sales tax.

24

1 SECTION 218. RECODIFICATION 44 O.S. 2011, Section 3398,
2 shall be recodified as Section 4241 of Title 44 of the Oklahoma
3 Statutes, unless there is created a duplication in numbering.

4 SECTION 219. REPEALER 44 O.S. 2011, Sections 3200, 3201,
5 3202, 3203, 3204, 3205, 3206, 3207, 3211, 3212, 3213, 3214, 3215,
6 3216, 3217, 3218, 3221, 3231, 3232, 3233, 3234, 3235, 3236, 3241,
7 3242, 3243, 3244, 3245, 3246, 3247, 3248, 3249, 3251, 3252, 3253,
8 3254, 3255, 3256, 3261, 3262, 3263, 3264, 3265, 3266, 3267, 3268,
9 3269, 3270, 3271, 3272, 3273, 3274, 3275, 3276, 3277, 3278, 3279,
10 3280, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3301, 3302,
11 3303, 3304, 3305, 3306, 3307, 3308, 3309, 3310, 3311, 3312, 3313,
12 3314, 3315, 3316, 3317, 3318, 3319, 3320, 3321, 3331, 3332, 3333,
13 3334, 3335, 3336, 3337, 3338, 3339, 3340, 3341, 3342, 3343, 3344,
14 3345, 3346, 3347, 3348, 3349, 3350, 3351, 3352, 3353, 3354, 3355,
15 3356, 3357, 3358, 3359, 3360, 3361, 3362, 3363, 3364, 3365, 3366,
16 3367, 3368, 3369, 3370, 3371, 3372, 3373, 3374, 3375, 3376, 3377,
17 3378, 3379, 3380, 3381, 3382, 3383, 3384, 3385, 3386, 3387, 3388,
18 3389, 3390, 3391, 3392, 3393, 3394, 3395, 3396, 3397, 3399, 4000,
19 4001 and 4002, are hereby repealed.

20 SECTION 220. This act shall become effective November 1, 2019.

21

22 57-1-7769 AMM 02/21/19

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