

Headquarters  
United States Army Europe  
Wiesbaden, Germany

Army in Europe  
Regulation 27-10\*

Headquarters  
United States Army Installation Management Command,  
Europe Region  
Sembach, Germany

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## Legal Services

### Military Justice and Legal Operations

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**\*This regulation supersedes AE Regulation 27-10, 1 August 2008,  
and AE Regulation 27-1, 9 October 2008.**

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For the Commander:

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**Summary.** This regulation—

- Should be used with AR 27-10.
- Assigns responsibility for administering military justice in the European theater.
- Defines the area court-martial jurisdiction system in the European theater.
- Describes the Victim/Witness Assistance Program, including the Special Victim Counsel Program and provides format for the memorandums in English and German to be used in the program.

**Summary of Changes.** This revision—

- Removes references to the prohibition on random hair analyses to test for controlled substances.
- Removes references to an exception to area jurisdiction for units of not more than 10 Soldiers.
- Clarifies roles and responsibilities of legal personnel in Europe ([para 4](#)).
- Adds a notification requirement for commanders to notify the CG, USAREUR, regarding allegations of misconduct by officers and enlisted personnel in the grade of E-8 and above ([para 5a](#)).

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- Adds a limitation to exercising authority pertaining to misconduct and qualifying sexual assault offenses by officers and enlisted personnel in the grade of E-8 and above ([para 5a and b](#)).
- Clarifies how general court-martial convening authorities (GCMCAs) can release withheld cases and what actions are permissible by subordinate convening authorities for withheld cases ([para 5c and d](#)).
- Adds review criteria of GCMCA decisions not to refer qualifying sexual assault offenses ([para 5e](#)).
- Adds provisions regarding command investigations ([para 6](#)).
- Adds provisions regarding the suspension of favorable personnel actions ([para 7](#)).
- Adds provisions on standards for administrative restraint ([para 8a](#)).
- Changes the pretrial confinement authority from GCMCA to special court-martial convening authority with concurrence of the servicing staff judge advocate ([para 9a](#)).
- Authorizes area GCMCAs to allow Article 15, UCMJ, jurisdiction to follow command lines independent of GCMCA area jurisdiction ([para 10d](#)).
- Adds a justification for area jurisdiction ([para 10e](#)).
- Adds provisions for additional actions to be processed through area jurisdiction that require general officer approval authority ([para 10f](#)).
- Clarifies special considerations under area jurisdiction ([para 11](#)).
- Clarifies U.S. adverse action and criminal disposition authority regarding cases where the host nation has primary jurisdiction ([para 12](#)).
- Adds provisions on command procedures for pretrial confinement based on violation of host-nation laws ([para 13](#)).
- Adds provisions on required command actions after a Soldier receives a qualifying foreign court conviction ([para 14](#)).
- Clarifies the commander's responsibility regarding the presence of an accused or respondent at court-martial and administrative hearings ([para 16c](#)).
- Adds posttrial documentation requirements ([para 17](#)).
- Clarifies reports required by the USAREUR Judge Advocate ([para 18](#)).
- Adds guidance by the Secretary of the Army regarding the review of decisions not to refer charges of certain sex-related offenses for court-martial (Army Directive 2014-19) ([app B](#)).
- Provides the format for a memorandum for U.S. Victims ([app C](#)).
- Adds provisions for obtaining the assistance of expert medical witnesses or consultants and requesting a sanity board ([app I](#)).

**Applicability.** This regulation applies to commanders, judge advocates, and U.S. Army personnel under the disciplinary control and military-justice jurisdiction of the CG, USAREUR.

**Supplementation.** Organizations will not supplement this regulation without approval by the Judge Advocate, USAREUR.

**Forms.** This regulation prescribes [AE Form 27-10B](#) and [AE Form 27-10C](#). AE and higher level forms are available through the Army in Europe Library & Publishing System (AEPUBS).

**Suggested Improvements.** The proponent of this regulation is the Judge Advocate, USAREUR (mil 537-0635). Users may suggest improvements to this regulation by sending DA Form 2028 to the USAREUR JA (AEJA-MC), Unit 29351, APO AE 09014-9351.

**Distribution.** This publication is available only electronically and is posted in AEPUBS at <https://aepubs.army.mil/>.

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## Glossary

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### 1. PURPOSE

This regulation prescribes policy and procedures governing the administration of United States Army military justice and legal operations in the European theater.

### 2. REFERENCES

[Appendix A](#) lists references.

### 3. EXPLANATION OF ABBREVIATIONS

The [glossary](#) defines abbreviations.

### 4. UNITED STATES ARMY LEGAL PERSONNEL IN EUROPE

**a. General.** All judge advocates (JAs) assigned to USAREUR and its major subordinate commands (MSCs) fall under the technical supervision of the USAREUR JA except for JA officers assigned to the United States Army Trial Defense Services (TDS) and the United States Army Trial Judiciary. The USAREUR JA, in coordination with the Personnel, Plans, and Training Office (PPTO), United States Army Judge Advocate General's Corps, and the 27D Enlisted Assignment Branch, United States Army Human Resource Command (HRC), has overall responsibility for the proper utilization of all legal personnel under USAREUR's jurisdiction. This applies to all JAs, civilian attorneys, legal administrators, paralegal specialists, paralegal noncommissioned officers (NCOs), civilian paralegals, legal assistants, and court reporters, regardless of table of organization and equipment and table of distribution and allowances. The USAREUR JA, in coordination with PPTO and the 27D Enlisted Assignment Branch, has assignment authority over commissioned officers, civilian personnel, warrant officers, NCOs, and enlisted personnel serving in branch code or military occupational specialty 27. Commanders will not take any action affecting the status of these positions (for example downgrade, eliminate, transfer) without approval by the USAREUR JA.

**b. Training.** Staff judge advocates (SJAs), brigade judge advocates (BJAs), command judge advocates (CJAs), and regional defense counsel are responsible for the training of the legal personnel within their respective organizations. This responsibility includes planning, coordinating, and providing the budget for the training of their legal personnel. Subject to the availability of funding, the USAREUR JA will plan, coordinate, and fund training for events located in the USAREUR area of operation (AO). These training events include, but are not limited to, USAREUR-wide Continue Legal Education events and USAREUR-wide paralegal competitions.

**c. Command/Chief, Paralegal NCO Responsibility.** The Command/Chief Paralegal NCO, for each area jurisdiction, is responsible for military occupational specialty-related training of all paralegal specialists and NCOs, including those with the court-reporter skill identifier. Group and individual training will be conducted as directed or approved by the Command/Chief Paralegal NCO, USAREUR, and is mandatory for all paralegals. The Command/Chief Paralegal NCO, USAREUR, under the direction of the USAREUR JA and in coordination with the 27D Enlisted Assignment Branch has the overall responsibility for task organization of all enlisted Soldiers assigned or attached to for duty in USAREUR and its MSCs.

**d. BJA and CJAs.** JAs assigned to brigades within USAREUR will be rated in accordance with JAGC Publication 1-1. BJAs and CJAs will be rated and senior rated under the dual supervision provisions in AR 623-3. Although some variation may be necessary, all JAs assigned to brigades will, as a minimum, have a senior JA in his or her rating chain to ensure the rated JAs are receiving appropriate professional guidance on the practice of law. JAs assigned to brigades must be responsive and coordinate with the general court-martial convening authority (GCMCA) (hereafter referred to as the “area GCMCA”) office of the staff judge advocate (OSJA) where the brigade is located. The area GCMCA OSJA will provide technical guidance to the BJA and CJA. The operational law JA assigned to a brigade combat team will be supervised by the BJA during operational missions. In his or her function as trial counsel (TC), the operational law JA assigned to a brigade combat team will be supervised by the area GCMCA OSJA Chief of Military Justice during garrison operations.

**e. Consolidated Legal Centers.** Consolidated legal centers are located throughout Europe. The place of duty for all enlisted 27D Soldiers will be the consolidated legal center where they are geographically located in Europe, regardless of whether they are assigned to individual brigades, regiments, battalions, or squadrons. As an exception to this rule, the place of duty for enlisted 27D Soldiers may be at a battalion or brigade when a JA (27A) is assigned to a brigade and the place of duty, as determined by the responsible area GCMCA staff judge advocate (SJA), is at that battalion or brigade. The area GCMCA SJA, in coordination with the USAREUR Command/Chief Paralegal NCO may grant further exceptions to this rule if warranted.

**NOTE:** The chief paralegal of the consolidated legal center in the area GCMCA will coordinate with the Soldier’s assigned chain of command regarding the execution of administrative responsibilities (for example, leave or pass approval, administration of the army physical fitness test, weapons qualification, NCO evaluation report rating schemes).

**f. Use of Legal Personnel.** 27D Soldiers and 27A officers should perform only professional legal duties for which they are trained. They should not perform any nonlegal duties (for example, charge of quarters, staff duty, courtesy patrol, sexual assault prevention and response program unit victim advocate duties, other duties) that would interfere with their primary assigned legal duties. This does not prohibit administrative duties in legal offices, including hand-receipt holding duties, automation support, or other legal support duties directed by the responsible SJA. The area GCMCA SJA may grant exceptions to this rule if warranted.

**g. Special Victim Prosecutors (SVPs).** In accordance with TJAG Policy 14-06, an SVP will be notified and consulted in every sexual assault or Family violence case in the USAREUR AO over which the Army has jurisdiction. The Trial Counsel Assistance Program (TCAP) manages the operation of the SVP program, including case management between SVPs. SVPs will report their caseload to the Chief, TCAP, and will provide a copy to the supported OSJA as well as to the Military and Civil Law Division, Office of the Judge Advocate, HQ USAREUR. The SVP is responsible for training, mentoring, and developing all USAREUR TCs on effective prosecution techniques and procedures in sexual assault cases. The SVP is also responsible for developing and implementing a sexual assault and Family advocacy training program for investigators and TCs in their area of responsibility (AOR) using both civilian and military resources.

**h. Trial Counsel Responsibilities Regarding Sexual Assault Cases.** All TCs in the USAREUR AO are responsible for immediate notification and final disposition notice to their servicing SVPs and chief of justice of all sexual assault and domestic violence cases regardless of the case's disposition. TCs in USAREUR will update their servicing SVP and chief of justice regarding the status of all sexual assault investigations at least once a week. If a rape, rape or sexual assault of a child, sexual assault, forcible sodomy, or attempt of those offenses involves a disposition less than court-martial or lacks prosecutorial merit, the servicing TC must consult the SVP and his or her chief of justice and provide a memorandum for record for the command making a disposition decision as to the reason alternate disposition was recommended or the case lacked prosecutorial merit. This memorandum for record must be filed and kept in accordance with AR 25-400-2. Efforts should be made to have the victim acknowledge the alternate disposition.

**i. Special Victim Counsel (SVC).** In accordance with TJAG Policy 14-01, the primary duty of an SVC is to represent the client's interests throughout the military justice process within the ethical limitations of law practice and the boundaries of the SVC program. Section 1704 of the FY 14 National Defense Authorization Act (NDAA) requires defense counsel to make requests to interview a victim of an alleged sex-related offense through the TC. If requested by the victim, the interview will take place only in the presence of the TC, a counsel for the victim (including the SVC), or a sexual assault victim advocate. Section 1716(a)(1) of the FY 14 NDAA authorizes SVCs to attend interviews of the victim conducted by the Criminal Investigation Division (CID), United States Army Criminal Investigation Command, and communicate with prosecutors, defense counsel, and investigators on behalf of the client. For the purposes of this subparagraph and consistent with Sections 1704 and 1716 of the FY 14 NDAA, the term "alleged sex-related offense" means any allegation of a violation of Article 120, 120a, 120b, 120c, or 125, Uniform Code of Military Justice (UCMJ), or attempts thereof. This is a different definition than in [paragraph 5e](#).

(1) SVCs will represent the best interests of their clients even when those interests do not align with those of the Government of the United States. SVCs will empower victims by providing effective and timely advice, being available throughout the military justice process from initial investigation to convening authority action, and providing strong advocacy to assure afforded rights are fully realized.

(2) The victim advocate or other first responder (including law-enforcement personnel) will inform victims of their right to the services of an SVC. The SVC will inform the installation sexual assault response coordinator of this representation and notify CID, the TC, and TDS representing the accused of the attorney-client relationship. The SVC is also responsible for coordinating with victim advocates, social workers, and medical personnel on behalf of their client when appropriate while maintaining the confidentiality of all attorney-client communication. Once the SVC forms an attorney-client relationship with a victim, the SVC remains the counsel for the victim for all matters relating to the sexual assault until any of the following occur:

(a) The SVC is formally released by the victim.

(b) The case disposition is complete. A case disposition is complete for courts-martial when the convening authority has taken initial action.

(c) Earlier termination of charges.

(d) For nonjudicial punishment under Article 15, UCMJ, completion of any imposed punishment, or withdrawal is permitted or required under the attorney's state bar rules or other applicable licensing authority.

**j. IMCOM-Europe Attorney-Advisor.** The IMCOM-Europe Attorney-Advisor is the primary IMCOM-Europe staff legal advisor. The IMCOM-Europe Attorney-Advisor provides legal advice and support to the Director, IMCOM-Europe, and the HQ IMCOM-Europe staff; and helps the OJA, HQ USAREUR, and subordinate legal offices provide legal advice and support to United States Army garrison (USAG) commanders and USAG staff. The IMCOM-Europe Attorney-Advisor ensures that the legal support provided to IMCOM-Europe and the USAGs is consistent with legal policies and positions of the USAREUR JA and subordinate MSC legal offices whenever possible. When advising on strictly internal IMCOM regulations and policies, the IMCOM-Europe Attorney-Advisor resolves differences between IMCOM-Europe and USAREUR as needed. The USAREUR JA provides additional legal support for IMCOM-Europe in the absence of the IMCOM-Europe Attorney-Advisor and in specialized areas of law such as host nation (HN) law, SOFA implementation, contract and fiscal law, and employment law.

## **5. LIMITATIONS ON EXERCISE OF AUTHORITY**

**a. Misconduct by Officers and Enlisted Personnel Grade E-8 and Above.** In accordance with Rule for Courts-Martial (RCM) 306(a), RCM 401(c), the CG, USAREUR, withholds initial disposition authority from all commanders in USAREUR who do not have GCMCA over any alleged misconduct committed by commissioned officers, warrant officers, and NCOs in the grade of E-8 and above. Commanders are responsible for immediately informing the CG, USAREUR (courtesy-copying the USAREUR JA) of allegations of criminal misconduct or of any incident in which there is evidence of criminal misconduct by a commissioned officer in the grade of O-3 or above, warrant officer in the grade of CW3 or above, or NCOs in the grade of E-8 and above. This notification should occur as soon as possible after the alleged incident. This notification requirement is independent of any notification requirement that area GCMCAs may have.

**b. Sexual Assault.** In accordance with RCM 306(a) and 401(c), the CG, USAREUR, withholds initial disposition authority from all commanders in USAREUR who do not have GCMCA with respect to the following offenses:

(1) Rape, in violation of Article 120, UCMJ.

(2) Sexual assault, in violation of Article 120, UCMJ.

(3) Rape and sexual assault of a child, in violation of Article 120b, UCMJ.

(4) Forcible sodomy, in violation of Article 125, UCMJ.

(5) All attempts to commit the offenses listed in [subparagraphs \(1\) through \(4\)](#), in violation of Article 80, UCMJ. Additionally, this withholding applies to all other alleged offenses arising from or relating to the same incident, whether committed by the alleged perpetrator or the alleged victim of the rape, sexual assault, rape and sexual assault of a child, forcible sodomy, or the attempts thereof.

**c. Release of Withheld Cases.** If the area GCMCA deems it appropriate, he or she may release a withheld case to a subordinate special court-martial convening authority (SPCMA). GCMCAs must consult with their servicing SJAs in these instances and remain conscious of the risk of unlawful command influence. The GCMCA releasing a withheld case will make no recommendation as to the disposition of the case. SPCMCAs are free to take whatever action they deem appropriate, including taking no action.

**d. Permissible Actions of Subordinate Commanders in Withheld Cases.** Commanders subordinate to the GCMCA should make disposition recommendations to the GCMCA for withheld cases. However, any subordinate commander's initial disposition action for withheld cases is prohibited. The preferral of charges, appointing an Article 32, UCMJ, investigation (if so qualified), and forwarding the case to the GCMCA with a disposition recommendation are not considered initial disposition actions. Subordinate commanders may take other immediate administrative actions as required, including but not limited to the following:

- (1) Responding to victim requests for expedited transfer.
- (2) Providing for victim support.
- (3) Issuing military protective orders.
- (4) Approving search authorizations.
- (5) Providing investigative coordination.
- (6) Ordering restraints on liberty of an alleged accused.

**e. Special Considerations Regarding Sexual Assault Cases.**

**(1) General.** Section 1744 of the FY 14 NDAA requires a review of the GCMCA decision not to refer certain sex-related offenses for trial by court-martial. This review is required if SJA pretrial advice is required by Article 34, UCMJ, pursuant to a referral decision. For the purposes of this subparagraph and consistent with Section 1744 of the FY 14 NDAA, the term "sex-related offense" means any of the following: rape or sexual assault under Article 120, UCMJ; forcible sodomy under Article 125, UCMJ; or an attempt of those offenses. This is a different definition than in [paragraph 4i](#).

**(2) Cases not Referred to Trial Following SJA Recommendation to Refer for Trial.** In any case in which SJA pretrial advice, pursuant to Article 34 of the UCMJ, includes a recommendation that charges of a sex-related offense be referred for trial by court-martial and the GCMCA decides not to refer any charges to a court-martial, the GCMCA will forward the case file through the USAREUR JA to the Secretary of Army for review as a superior GCMCA.

**(3) Cases not Referred to Trial Following SJA Recommendation to Not Refer for Trial.** In any case in which SJA pretrial advice, pursuant to Article 34 of the UCMJ, includes a recommendation that charges of a sex-related offense not be referred for trial by court-martial and the area GCMCA decides not to refer any charges to a court-martial, the area GCMCA will forward the case file through the USAREUR JA to the USAREUR CG for review as a superior GCMCA.

**(4) Case File.** A case file forwarded to higher authority for review according to [\(2\)](#) and [\(3\)](#) above must include the following:

(a) All preferred charges and specifications.

(b) All reports of investigations of such charges, including the military criminal investigative organization investigation report and the report prepared under Article 32, UCMJ.

(c) A certification that the victim of the alleged sex-related offense was notified of the opportunity to express views on the victim's preferred disposition of the alleged offense for consideration by the convening authority.

(d) All statements of the victim provided to the military criminal investigative organization and to the victim's chain of command relating to the alleged sex-related offense and any statement provided by the victim to the convening authority expressing the victim's view on the victim's preferred disposition of the alleged offense.

(e) The written advice of the SJA to the convening authority pursuant to Article 34, UCMJ.

(f) A written statement explaining the reasons for the convening authority's decision not to refer any charges for trial by court-martial.

(g) A certification in writing that the victim of the alleged sex-related offense was informed of the convening authority's decision to forward the case to the competent superior authority.

**(5) Further Guidance.** Army Directive 2014-19 provides further guidance in regards to this issue (app B).

## **6. INVESTIGATIONS**

**a. General.** In accordance with RCM 303, investigations will be conducted when there is a potential violation of the UCMJ, when required by regulation, or when facts need to be discovered to identify system weaknesses and improve operations. AR 15-6 provides guidance on conducting formal boards of inquiry and informal administrative investigations.

**b. Purpose.** AR 15-6 investigations are extremely important in a variety of situations and often serve as the official Army response of record to complaints or concerns. Investigations provide commanders and senior leaders with a valuable tool for objectively determining the facts of a situation and preserving evidence. Administrative investigations often receive the scrutiny of both the public and senior leaders.

**c. Investigating Officers.** Appointing authorities must ensure that investigating officers have the requisite experience, subject-matter expertise, maturity, judgment, and objectivity to adequately gather and assess the evidence and provide thorough findings and practical recommendations. In addition, the investigating officer must execute this duty in a timely manner to preserve evidence and resolve issues that affect unit readiness.

**d. JA Responsibilities.** Appointing authorities will ensure they consult with their servicing TC or administrative law attorney before initiating an investigation in accordance with RCM 303 or AR 15-6. The legal advisor will provide advice to the appointing authority regarding investigating-officer qualifications, scope of the investigation, witness interviews, and physical evidence. The legal advisor will consult with the investigating officer during the course of the investigation and provide advice regarding the investigating officer's investigative plan. For AR 15-6 investigations, the legal advisor or another JA will provide a legal review of the final report. This legal review should summarize the allegations and findings, provide an opinion on the adequacy of the investigation, conclude whether the findings are supported by a preponderance of the evidence, and determine whether or not the recommendations are consistent with the findings.

## **7. FLAGS AND SUSPENSION OF SECURITY CLEARANCE**

Any Soldier who is being investigated for any form of misconduct through a commander's inquiry (that is, under the provision of AR 15-6, by military police, by civilian law-enforcement personnel, by the CID, by the Office of Special Investigations, or by the Naval Crime Investigative Service) will be flagged in accordance with AR 600-8-2. In accordance with AR 600-20, paragraph 8-5o(32), a Soldier's security clearance will be suspended if the Soldier is under charges, restraint, or investigation for a sexual assault offense. Flags will be monitored to ensure they are removed in a timely manner after final disposition of an action.

## **8. ADMINISTRATIVE RESTRAINTS AND PRETRIAL RESTRAINT OTHER THAN PRETRIAL CONFINEMENT**

**a. Administrative Restraint and Limitation.** Commanders at all levels possess a full range of authorities in dealing with Soldier indiscipline and misconduct. In addition to UCMJ actions and adverse administrative actions, commanders have several tools for addressing and limiting Soldier indiscipline and for imposing administrative restraint or limitations on Soldiers for operational or other military purposes independent of military justice. Examples of administrative restraints commanders may impose include, but are not limited to, the following:

- (1) Revocation of pass privileges.
- (2) Orders not to wear civilian clothes.
- (3) Orders not to consume alcohol.
- (4) Orders not to visit certain establishments.
- (5) No-contact orders.
- (6) Orders to sign-in at the change of quarters on a regular basis.

**b. Pretrial Restraint.** Pretrial restraint is the moral or physical restraint on a person's liberty that is imposed before and during the disposition of offenses. It may consist of placing restrictions on the individual's liberty, instead of arresting or confining the individual. Commanders will coordinate with their unit TC when imposing pretrial restraint on any Soldier suspected of having committed a criminal offense. Commanders will impose pretrial restraint on a Soldier only, when the Soldier is being investigated with the intent to conduct a court-martial. Normally, coordination with the unit TC will occur before the commander imposes the pretrial restraint. In cases, however, where a TC is not reasonably available, the commander may impose the restraint and contact the TC as soon as possible afterwards. Commanders who order pretrial restraint will do so in writing identifying the conditions of restraint and send a copy to the unit TC. The commander who imposes the pretrial restraint will review the conditions requiring the restraint at least every 2 weeks to ensure the conditions are still present.

## **9. STANDARDS FOR PRETRIAL CONFINEMENT**

**a. Authority to Approve Pretrial Confinement.** The authority to order pretrial confinement is prescribed in RCM 305(c). With the exception of confinement due to the apprehension or arrest by military police authorities, the approval of the Soldier's SPCMCA (as delineated in the area GCMCA jurisdiction memorandum) with concurrence of the servicing area GCMCA SJA, will be obtained before ordering a Soldier into pretrial confinement.

**b. Commander's Responsibilities.** At the time of initial pretrial confinement, the commander ordering pretrial confinement will comply with AR 190-47 and AE Regulation 190-47, and give the correction facility commander, the military magistrate, and the defense counsel the following:

(1) Completed DA Form 5112 (AR 27-10).

(2) Two completed copies of DD Form 2707. The form must show—

(a) The name, grade, and position of the person approving the pretrial confinement.

(b) The name and grade of the SJA notified.

(3) AE Form 27-10B completed by the advising counsel and signed by the counsel and the accused before confinement.

(4) Statements of witnesses and military police, CID reports, or other evidence establishing probable cause that the accused committed an offense triable by court-martial and that confinement is required by the circumstances.

(5) A copy of DD Form 458, if already prepared.

(6) Proper clothing and equipment for the accused and a completed personal-property inventory signed by the accused and his or her commander as required by AR 190-47 and [AE Regulation 190-47](#).

## **10. USAREUR COURT-MARTIAL JURISDICTION**

**a. USAREUR GCMCAs.** In the USAREUR AO, the prescribed GCMCAs are as follows:

(1) The CG, 21st Theater Sustainment Command (21st TSC).

(2) The CG, Seventh Army Joint Multinational Training Command (JMTC).

(3) The CG, USARAF/SETAF.

(4) The CG, USANATO (set to expire on 1 August 2015, unless extended by the Secretary of the Army).

**b. Jurisdictional Responsibilities.**

(1) As the Army senior commander in the USEUCOM AO, the CG, USAREUR, retains administrative control for military justice purposes over all active duty Army officers, NCOs, and enlisted Soldiers who are assigned, attached, and located in the USEUCOM AO. GCMCA jurisdictional responsibilities are listed in a jurisdictional memorandum approved by the CG, USAREUR, and issued by the USAREUR JA. This jurisdiction memorandum will be updated at least every 2 years by the USAREUR JA, even if the update includes no changes to the document. Failure to comply with this policy, however, does not invalidate an otherwise lawful exercise of jurisdiction. The jurisdictional memorandum lists specific geographic areas and responsibilities assigned to each GCMCA under the area-jurisdiction concept.

(2) Because of the area-jurisdiction concept, two commanders may have jurisdiction for military justice over a particular Soldier (for example, the commander of the unit to which the Soldier is assigned and the commander exercising area jurisdiction over the Soldier). Commanders exercising general court-martial (GCM) jurisdiction have supervisory authority for the administration of military justice in their prescribed geographic areas. Within these GCM areas, jurisdiction over inferior courts-martial and Article 15, UCMJ, proceedings are matters solely within the discretion of the area GCMCA. Area GCMCAs may permit complete command-line jurisdiction for SPCMCA and summary court-martial convening authorities within the area GCMCA's AO, provide, by attachment, for area-type jurisdiction, or combine the two. Area GCMCAs specifically have the authority to—

(a) Implement policy and procedures concerning the administration of military justice within their AO.

(b) Detail U.S. Army personnel, including personnel assigned to tenant units, within the GCMCA's prescribed geographic area to serve as court-martial panel members or administrative board members.

**c. Personal Jurisdiction.** The following personnel are attached for the administration of military justice to the command exercising GCM jurisdiction in the specific geographic area in which the personnel are stationed:

(1) Personnel assigned to HQ USAREUR.

(2) Personnel assigned to USAREUR MSCs, USAREUR specialized commands, and IMCOM-Europe.

(3) Individual U.S. Army personnel or personnel assigned to U.S. Army units, including United States Army National Guard (ARNG) and United States Army Reserve (USAR) units, attached to USAREUR or IMCOM-Europe. Units include brigades, battalions, companies, commands, platoons, squads, elements, detachments, teams, activities, agencies, field offices, branches, and crews, whether there is a designated commander, chief, officer in charge, or noncommissioned officer in charge. ARNG and USAR units in the European theater are under the disciplinary control and military-justice jurisdiction of the CG, USAREUR.

(4) Army personnel stationed in an area GCMCA jurisdiction who are attached for the administration of military justice to units, elements, or commands in (1), (2), or (3) above, or are otherwise present in the USEUCOM AOR, including personnel who are assigned or attached to—

(a) U.S. Army elements of military assistance advisory groups, missions, and similar units, including U.S. Army Soldiers assigned to a NATO organization.

(b) U.S. Army elements of Supreme Headquarters Allied Powers Europe and its subordinate units.

(c) U.S. Army elements of USEUCOM and its subordinate units.

(d) U.S. Army units, including units from the ARNG and the USAR.

**d. Area Jurisdiction Exceptions.**

(1) For units or unit elements of any size, GCMCAs may agree to allow Article 15, UCMJ, jurisdiction to follow command lines across GCMCA-area boundaries.

(2) For units or unit elements of any size, with the consent of the GCMCAs concerned, commanders exercising court-martial jurisdiction may agree to transfer court-martial jurisdiction in a particular case across GCMCA-area boundaries. When the Soldier to be transferred is not already assigned or attached to the gaining command, the gaining command may publish attachment orders.

(3) For units rotating into the USAREUR AO for training purposes and not assigned or attached to USAREUR or its MSCs, jurisdiction will remain with the parent unit unless specific orders attach or assign an individual Soldier or more than one Soldier from the rotational unit to USAREUR or its MSCs.

**NOTE:** In cases involving offenses investigated by or under the jurisdiction of the HN, the parent unit will coordinate with the area GCMCA OSJA before initiating any disciplinary proceedings. [Paragraph 12](#) refers to foreign criminal jurisdiction over U.S. personnel.

(4) Area-jurisdiction affiliations continue when Soldiers deploy outside their GCMCA jurisdictional area. During out-of-area deployments, military justice jurisdiction remains with the unit's permanent duty station GCMCA, unless otherwise agreed by the GCMCAs concerned or modified by the CG, USAREUR.

(5) All other exceptions to area jurisdiction besides those in [\(1\) through \(4\) above](#) must be referred to the CG, USAREUR, for review and approval.

**e. Justification for Area Jurisdiction.** In the USAREUR AO, area jurisdiction is practiced because of the geographic separation that exists between different echelons of command of units assigned or attached to USAREUR. Area jurisdiction enables the efficient processing of military justice and adverse administrative actions and promotes the good order and discipline where units from various commands are placed in different geographic communities. Area jurisdiction allows local commanders and law-enforcement authorities to form relationships with their local area GCMCA OSJA. Area jurisdiction allows local commanders to adjudicate uniform standards of military justice within a set geographic community. Without area jurisdiction, area GCMCAs would not have the ability to enforce uniform standards within their respective jurisdictions. Furthermore, without area jurisdiction, court-martial adjudication would become extremely time-consuming and expensive based on witness travel and panel travel considerations. For specialized commands supporting USAREUR such as the 66th Military Intelligence Brigade (66th MI Bde), 5th Signal Command (5th Sig Cmd), or the United States Army Europe Regional Medical Command (ERMC), courts-martial would be referred and adjudicated through the specialized command's parent command in CONUS if area jurisdiction were not practiced. Area jurisdiction takes priority in the USAREUR AO, but case-by-case flexibility is possible for units when required.

**f. Actions Disposed of Under Area Jurisdiction.** The administration of military justice according to area jurisdiction includes the following:

(1) Summary courts-martial, special courts-martial, and general courts-martial jurisdiction.

(2) Article 15, UCMJ, authority over officers and enlisted personnel.

(3) Discharge according to AR 635-200. This includes a specific delegation of authority by the CG, USAREUR, to GCMCAs specified in [paragraph 14a](#) to act in accordance with AR 635-200, paragraph 14-9.

(4) Retention beyond expiration of term of service in connection with court-martial charges or arrest initiated in accordance with AR 635-200.

(5) Elimination of officers initiated in accordance with AR 600-8-24 (including the elimination of officers who received a qualifying foreign conviction in accordance with AR 600-8-24, paragraph 5-13).

(6) Resignations and requests for discharge initiated in accordance with AR 600-8-24.

(7) Administrative reductions in grade of enlisted personnel processed in accordance with AR 600-8-19.

(8) Applications for discharge as a conscientious objector processed in accordance with AR 600-43.

(9) Release of military personnel to civil authorities in accordance with AR 190-9 and AR 630-10.

(10) Requests for military personnel to appear as witnesses before a foreign tribunal submitted in accordance with AR 27-40.

(11) Remission or cancellation of indebtedness requested in accordance with AR 600-4.

(12) Article 138, UCMJ, complaints submitted in accordance with AR 27-10.

(13) Claims processed in accordance with Article 139, UCMJ, and AR 27-20.

(14) Mandatory general officer memorandums of reprimand for driving while intoxicated ([AE Reg 190-1](#)), unless GCMCAs otherwise agree.

(15) Other actions, such as those in [\(a\) and \(b\) below](#), that Army regulations or other Army in Europe regulations require to be taken by persons exercising GCMCA or general officer approval authority.

(a) Equal opportunity complaint processing, adjudication, and appeal decisions that are conducted in accordance with AR 600-20 requiring general officer action.

(b) Formal line-of-duty determinations that are conducted in accordance with AR 600-8-4 requiring general officer action and qualitative management program appeals and bars to reenlistment that are conducted in accordance with AR 602-280 requiring general officer action.

## **11. SPECIAL CONSIDERATIONS INVOLVING AREA JURISDICTION**

**a. Investigations.** Investigations conducted in accordance with AR 15-6; equal opportunity investigations conducted in accordance with AR 600-20; and financial liability investigations conducted in accordance with AR 735-5 normally should be processed and approved through command channels. Investigation legal support is ultimately the responsibility of the legal office for the investigating unit's command-line chain of command. Individual cases, however, may also be processed and approved through area-jurisdiction channels upon agreement of the command-line SPCMCA and the area SPCMCA or the command-line GCMCA and the area GCMCA. SJAs managing an area jurisdiction are not prohibited by AE Regulation 1-7 from unilaterally informing commanders of units not assigned to that area GCMCA of available support and procedures to request support otherwise not provided. Bilateral legal support agreements must be coordinated with HQ USAREUR in accordance with [AE Regulation 1-7](#).

**b. Relief for Cause.** Final action to relieve an officer from any command position will not be taken until after obtaining the written approval of the first general officer (including a general officer frocked to the grade of brigadier general) in the chain of command of the officer being relieved. If a general officer (including a general officer frocked to the grade of brigadier general) is the relieving official, no further approval of the relief action is required. The first general officer in the chain of command is the first general officer in the rating chain of the officer being relieved.

**c. Transfer of Jurisdiction from USEUCOM to USAREUR.** In accordance with USEUCOM Instruction 5804.01, the Commander, USEUCOM, or Chief of Staff, HQ USEUCOM, may seek to transfer cases normally falling within USEUCOM jurisdiction to USAREUR. Such cases are normally accepted by USAREUR, unless the CG, USAREUR, specifically refuses to accept jurisdiction. Additionally, these cases are normally transferred to the area GCMCA exercising jurisdiction over the subject, suspect, or accused, in accordance with the area jurisdiction memorandum ([para 10b\(1\)](#)).

**d. Relationship with USAREUR Specialized Commands.** For USAREUR specialized commands such as 66th MI Bde, 5th Sig Cmd, ERMCA, 414th Support Brigade, and 5th Military Police Battalion (CID), which may have a CONUS-based GCMCA withholding policy or notification policy involving certain personnel (for example, officers, senior NCOs, or special agents), coordination will be made with the appropriate OCONUS CJA before taking adverse or judicial action.

**e. Funding Considerations.** As an Army service component command (ASCC), USAREUR has overall Title 10 responsibility to fund and support military-justice actions involving Army personnel assigned or attached to USAREUR, its MSCs, its specialized commands, and their eligible Family members located in the USEUCOM AOR. Military-justice actions involving Army personnel not assigned to USAREUR, its MSCs, or its specialized commands are not a USAREUR ASCC funding responsibility. In accordance with AR 27-10, paragraph 6-5b, area GCMCAs are responsible for the budgeting of funding costs associated with administering military justice within their respective geographic areas in the USAREUR AO. This includes all expenses associated with conducting judicial and administrative proceedings within their GCMCA area. Area GCMCAs execute this budgeting of funding costs through their servicing GCMCA G8. Furthermore, in accordance with AR 27-50, paragraph 2-3, area GCMCAs are responsible for the budgeting of funding costs associated with providing counsel and other expenses at foreign tribunals for Soldiers, civilians, and Family members within their GCMCA area. Area GCMCAs execute this budgeting of funding costs through their servicing GCMCA G8.

**f. Relationship with USARAF/SETAF.** USARAF/SETAF is a separate ASCC located in the USAREUR AO. USARAF/SETAF exercises GCMCA over units organic to USAREUR and USAREUR's MSCs and specialized commands located in the USEUCOM AOR through authority granted by the CG, USAREUR, as the senior Army commander in the USEUCOM AOR. Accordingly, USAREUR funds the costs associated with the administration of military justice and foreign criminal jurisdiction ([para 12](#)) when the accused, respondent, or criminal defendant is assigned or attached to a USAREUR unit (including its MSCs, its specialized commands, and any individual Soldier described in [para 10c\(4\)](#)) located in the USARAF/SETAF GCMCA area at the time of the incident. USARAF/SETAF remains responsible for the funding and processing of military justice and foreign criminal justice actions involving Soldiers, civilians, and Family members assigned to or attached to USARAF/SETAF. USARAF/SETAF has the responsibility to fund the Special Victim Counsel Program within its GCMCA subject to guidance from the SVC Program Manager, the SVC Handbook, and the victim's eligibility for SVC services. The USARAF/SETAF SVC will be available for representation of eligible victims located in the USARAF/SETAF GCMCA area regardless of whether the victim is assigned or attached to a USAREUR or USARAF/SETAF unit, and regardless of whether the victim is an eligible Family member of a sponsor who is assigned or attached to a USAREUR or USARAF/SETAF unit.

**g. ERMC Reporting Requirement.** Adverse actions, investigations, and reports pertaining to healthcare providers or personnel assigned to ERMC or its supported medical units must be reported to the OCJA, ERMC.

(1) In accordance with AR 40-68, paragraph 14-4a, the USAREUR Command Surgeon is responsible for reporting the following to the Healthcare Integrity and Protection Data Bank (HIPDB):

(a) UCMJ actions: Adverse convictions under the UCMJ as approved by the court-martial convening authority (or final nonjudicial punishment under the UCMJ) of a healthcare provider, supplier, or practitioner in a case in which the acts or omissions of the member convicted were related to the delivery of a healthcare item or service.

(b) Adverse personnel actions: Any administrative action resulting in separation, reduction in grade, involuntary military occupational specialty classification, or other administrative action.

(2) Inappropriate conduct of healthcare providers or personnel may warrant adverse privileging or practice actions in accordance with AR 40-68, chapter 6 or 10.

(3) Evidence of substance abuse or other emotional or physical impairment of healthcare providers or personnel may warrant referral to the military treatment facility's Impaired Healthcare Personnel Program in accordance with AR 40-68, chapter 11.

## **12. FOREIGN CRIMINAL JURISDICTION OVER U.S. PERSONNEL**

**a. General.** The U.S. has exclusive jurisdiction over members of the U.S. Forces, the U.S. civilian component, and Family members of U.S. personnel with respect to offences punishable by U.S. law, but not by the law of the HN. The U.S. has primary concurrent jurisdiction for all crimes committed by Soldiers solely against the property or security of the United States or solely against the person or property of another member of the U.S. Forces or are offenses arising from any act or omission of an action during the performance of official duty (regardless of whether the crime occurs on or off post). The HN has primary jurisdiction over all other crimes and de facto primary jurisdiction over all concurrent jurisdiction crimes committed by members of the U.S. Forces, the U.S. civilian component, and their Family members. The HN, however, may release jurisdiction to the U.S. based on established agreement and practice or when release of jurisdiction is specifically requested.

**b. Coordination with Local Legal-Liaison Authority.** In cases that are subject to the concurrent jurisdiction of the HN, the SJA of the command exercising general court-martial jurisdiction over the accused will coordinate activities regarding these cases with the local legal-liaison authority in Germany or the U.S. country representative outside Germany. Questions about particular cases should be directed to the SJA concerned.

**c. Investigations.** Subject to the provisions of international agreements ([AE Reg 550-50](#) and [AE Reg 550-56](#)), investigators and commanders will take expeditious action in cases subject to the UCMJ. Investigations of incidents involving personnel subject to the UCMJ will begin immediately. Commanders will not delay processing a case pending HN action on jurisdiction. Specifically in Germany, commanders will not delay processing a case pending expiration of the 21-day notification period ([AE Reg 550-56](#)). When charges are appropriate, they will be preferred and investigative procedures, including Article 32 investigations, if necessary, will be completed.

**d. Disposition.** In cases involving violations of HN law and the HN has primary or exclusive jurisdiction, no nonjudicial punishment will be imposed and no court-martial charges will be referred to trial until either—

(1) HN authorities deliver notification to the appropriate SJA Office in USAREUR that they have waived jurisdiction in the case.

(2) For cases in Germany, 21 calendar days (plus any extension validly requested by the German Government) have elapsed since the date a request for waiver of primary jurisdiction was delivered to German authorities without a response. The 21-day period (plus any valid extension) allows German authorities time to decide whether they will exercise jurisdiction in the case.

### **13. PRETRIAL CONFINEMENT INVOLVING FOREIGN JURISDICTION CASES**

**a. General.** The degree of custody required to meet any custodial obligations under the NATO SOFA is at the discretion of the commander of the Soldier under HN criminal charges. Such custody may include restriction to certain prescribed limits or confinement in a U.S. military confinement facility. Confinement in a U.S. military confinement facility will be authorized only when it is foreseeable that the accused will not appear at trial or other foreign criminal proceeding, or will engage in future serious criminal misconduct.

#### **b. Specific Procedures for Confinement Under the SOFA.**

(1) If pretrial confinement for violation of HN laws is pursued against a Soldier, the immediate commander may order the confinement. The SJA advising the area GCMCA in an accused Soldier's chain of command will then prepare a memorandum recommending confinement based on the fact probable cause makes confinement necessary to ensure the accused's presence at trial or other foreign criminal proceeding, or to avoid foreseeable future serious criminal misconduct by the accused within the host country. The SJA will then ensure that the accused receives a copy of the memorandum to afford the Soldier a reasonable opportunity to consult with a legal advisor and to respond. The SJA will forward his or her confinement recommendation, along with the accused's response, if any, to the area GCMCA. Under the authority granted in AR 27-10, paragraph 16-3, after receipt of the SJA's recommendation, the area GCMCA will then determine whether to authorize continued confinement of the accused. This authorization should occur within 7 calendar days after an accused has been confined, if no exigent circumstances exist.

(2) If the GCMCA orders continued pretrial SOFA confinement, a military magistrate will review the issue to determine whether or not cause exists to warrant confinement. This review should occur within 7 calendar days after an accused has been confined, if no exigent circumstances exist. The provisions of RCM 305 do not apply to the review of a SOFA confinement. Unless otherwise provided for under SOFA obligations, the military magistrate will not inquire into the issue of whether probable cause exists to believe that the accused has committed the offenses charged under foreign law. The military magistrate may recommend release from confinement if he or she determines that it is not necessary to ensure the accused's presence or that it is not foreseeable that the accused will engage in future serious criminal misconduct. If the military magistrate makes such a recommendation, this recommendation will be forwarded through the area GCMCA to the designated commanding officer (DCO) of the country where the Soldier is located. The CG, USAREUR, is the DCO for Austria, Belgium, France, and Germany. There are different DCOs for other countries in the European theater (AR 27-50). The DCO has the discretion to direct release from confinement or order other disposition as deemed appropriate.

(3) The requirement for continued pretrial confinement status will be reviewed every 90 days. The international law division at the OSJA advising the area GCMCA from which the case arises will inquire and receive a status report from the HN prosecution office in charge of the case. This will ensure that the HN is still planning on pursuing the case. The SJA advising the area GCMCA in the accused Soldier's chain of command will note any change of circumstances and submit a supplemental opinion to the area GCMCA. Unless the DCO has already acted, the area GCMCA will either authorize continued confinement or order release. If the DCO has acted, the supplemental opinion will be provided to the DCO for consideration.

#### **14. FOREIGN COURT CONVICTIONS**

**a. Delegation of Authority.** In accordance with AR 635-200, paragraph 14-9(a), the CG, USAREUR, delegates to the GCMCAs of 21st TSC, JMTC, USANATO, and USARAF/SETAF the ability to discharge Soldiers convicted by a foreign tribunal or court.

##### **b. Mandatory Separation Considerations.**

**(1) Enlisted Soldiers.** In accordance with AR 635-200, paragraph 14-5, when a foreign tribunal or court convicts an enlisted Soldier and a punitive discharge is authorized for the same or a closely related offense under the Manual for Courts-Martial or sentences the enlisted Soldier to 6 months or more confinement (without regard to suspension or probation of the sentence), the immediate commander of the Soldier must either initiate separation or forward a recommendation for retention through the chain of command to the appropriate area GCMCA within 14 calendar days after the foreign tribunal or court has issued the conviction. When the chain of command recommends retention, the action will be forwarded to the appropriate area GCMCA. The area GCMCA will either approve the recommendation for retention or return the recommendation through the chain of command to the Soldier's immediate commander for initiation of a separation action.

**(2) Officers.** In accordance with AR 600-8-24, paragraph 5-13, when a foreign tribunal or court sentences an officer to confinement for more than 6 months (without regard to suspension or probation of the sentence) or if an officer has been convicted of an offense for which the sentence of more than 6 months of confinement is authorized by the Manual for Courts-martial (regardless of the actual sentence imposed), the immediate commander will forward the following through the area GCMCA to the CG, USAREUR, for forwarding to HRC for decision:

- (a) A recommendation for administrative discharge or other disposition.
- (b) A copy of the official U.S. observer's report of trial or a transcript of the trial, if available.
- (c) The sentenced officer's name, grade, Social Security number (SSN), branch, and organizational assignment.
- (d) The alleged offense (including all pertinent facts and circumstances).
- (e) The name of the court, date, and place of trial.
- (f) The offense or offenses for which the officer was found guilty, the sentence that was imposed, and a statement as to whether the sentence was suspended.
- (g) Matters in mitigation, extenuation, or aggravation.

(h) Appellate action taken and results, if applicable.

(i) A statement as to whether further action is possible or recommended for the officer

**(3) Separation Considerations.** For both enlisted Soldiers and officers convicted by a foreign tribunal or court, the separation packet may be completed, but the actual separation may not be executed until HN judicial proceedings are complete and any term of confinement is served. The Secretary of the military department concerned may, in unusual cases, grant exceptions to this policy. Efforts should be made by commands to execute all pre-separation administrative processing before a foreign tribunal or court sentences a Soldier to confinement.

**(4) Self-Reporting of Criminal Convictions.** In accordance with Army Directive 2011-17, all U.S. Army commissioned officers and enlisted members above the grade of E-6 who are on active duty or active duty status must report (in writing) to their chain of command to inform them of any qualifying conviction of a violation of a criminal law of the United States that occurred on or after 1 March 2008, regardless of whether or not the member is on active duty or in active status at the time of the conduct that provides the basis for the conviction.

## **15. VICTIM/WITNESS ASSISTANCE PROGRAM**

a. AR 27-10 prescribes the Victim/Witness Assistance Program. In USAREUR, the USAREUR JA is responsible for the program. SJAs will comply with reporting and coordination requirements of AR 27-10 and those established by the USAREUR JA.

b. The following information memorandums will be used to implement the program in USAREUR:

- (1) Information memorandum for U.S. victims ([app C](#)).
- (2) Information memorandum for German victims ([app D](#)).
- (3) Information memorandum for U.S. witnesses ([app E](#)).
- (4) Information memorandum for German witnesses ([app F](#)).

**NOTE:** The memorandums in [\(1\) through \(4\) above](#) are for use in Germany. If used in another country, these memorandums must be modified and translated to meet the specific country's legal requirements.

c. SJAs will prepare an enclosure to attach to each of the memorandums in [b\(1\) through \(4\) above](#). The enclosure must include all of the following:

- (1) The name of the SJA.
- (2) The telephone number of the victim/witness assistance officer.
- (3) A list of people and agencies, including telephone numbers and locations, that are sources of assistance in the local area.

d. [Appendix G](#) prescribes how to pay civilian witnesses from the United States who testify at courts-martial in Europe. In addition to the information in [appendix E](#), U.S. civilian witnesses will receive a copy of the Witness Information Sheet for Civilian Witnesses from the United States Who Testify in Courts-Martial in Europe ([app G, fig G-1](#)).

## 16. ATTENDANCE OF WITNESSES AT ADMINISTRATIVE BOARDS, PRETRIAL HEARINGS, AND COURTS-MARTIAL

**a. Administrative Boards and Article 32 Hearings.** Board presidents and Article 32 investigative officers have the lawful authority to require U.S. Army Soldiers assigned to USAREUR to attend hearings when the immediate commander has determined that the Soldier is reasonably available and funding for travel has been authorized by the authority appointing the board or investigation. Article 32 investigative officers will comply with all provisions of the FY 14 NDAA.

**b. Courts-Martial.** Summary courts-martial officers and TCs detailed to special courts-martial and general courts-martial have the lawful authority to require all U.S. Army Soldiers and U.S. Army and HN appropriated fund (APF) and nonappropriated fund (NAF) employees to attend a court-martial.

**c. Accused or Respondent Presence.** An accused or respondent's commander is responsible for arranging for the accused's or respondent's appearance at an administrative board, pretrial hearing, or court-martial. The fact that an accused is in pretrial confinement does not relieve the accused Soldier's commander of this responsibility. If the accused is in pretrial confinement, the commander of the accused is also responsible for ensuring that the accused appears at any hearing or proceeding in the proper uniform with all authorized insignia, patches, badges, and awards.

### **d. Military Personnel.**

(1) Requests for military witnesses to attend a civil-court proceeding must comply with AR 27-40, AR 195-2, [AE Regulation 550-50](#), and [AE Regulation 550-56](#).

(2) In accordance with AE Regulation 190-47, the United States Regional Correctional Facility-Europe (USARCF-E) will help commands secure the presence of prisoners as witnesses. Commands requesting witnesses at courts-martial will—

(a) Send the following information to the USARCF-E using the quickest means available to ensure the facility gets the information at least 7 calendar days before the prisoner's presence is required:

1. Name of the prisoner.
2. Purpose for which the prisoner is needed.
3. Date the prisoner is required.
4. Date of the prisoner's return to the USARCF-E (approximate date if the specific date is not known).
5. Name and grade of the escort (all escorts will be unarmed NCOs).
6. Name, grade, and telephone number of the requesting command's OSJA POC.

(b) Provide and pay for escorts, including transportation and lodging. The requesting command will provide round-trip transportation tickets for the escort and one-way transportation tickets for the prisoner before they leave the USARCF-E. Travel reservations should remain open for the return trip to coordinate prisoner and escort travel. Commands must ensure escorts have sufficient funds to cover their expenses and those of the prisoner to include unexpected delays in travel. Escorts who arrive without proper tickets or fund citations may be delayed from leaving the USARCF-E. Prisoners will be billeted in local military confinement facilities while at the requesting command.

**e. Witnesses Not Subject to the UCMJ.** The following applies to witnesses who are not subject to the UCMJ:

**(1) Government Employees.** Requests for U.S. civilian and local national (LN) employees of the U.S. Government to appear as witnesses will be made to the employee's supervisor by the servicing TC. The supervisor will take action to ensure employees attend. Employees may not be ordered or directed to testify against their will. Employees, however, are subject to being subpoenaed to appear before courts-martial. Requests for USACIDC laboratory examiners to appear at legal proceedings must be made by priority message as soon as possible.

**(2) Family Members.** When appropriate, Family members will be asked to appear voluntarily as witnesses at a courts-martial. Appropriate arrangements will be made through their sponsors.

**(3) Expert Witnesses.** Expert witnesses will be employed according to the MCM, Defense Finance and Accounting Service-Indianapolis (DFAS-IN) Regulation 37-1, RCM 703, and [appendixes H and I](#) of this regulation. Counsel must be aware that German law has a broader definition of who qualifies as an expert and requires expert pay. Therefore, counsel should coordinate German witness requests with their office's LN German attorney to determine which witnesses may qualify as experts.

**(4) Other Civilian Witnesses.** When appropriate, civilian witnesses, other than those in [\(1\) through \(3\) above](#), will be asked to appear at courts-martial. When voluntary attendance cannot be obtained, local civil authorities (police, public prosecutors, and judicial authorities) may be contacted for assistance. Before contacting witnesses or local civil authorities, coordination will be made with local legal-liaison authorities in Germany ([AE Reg 550-56](#)) or the U.S. country representative outside Germany ([AE Reg 550-50](#)). This authority or representative will send the request to the appropriate public prosecutor with jurisdiction over the area in which the witness resides. As soon as possible before testifying, the witness will be given a copy of the appropriate information memorandum (app [E](#) or [F](#), as applicable).

**f. Fees and Allowances.** DFAS-IN Regulation 37-1 governs the payment of fees and allowances for witnesses and interpreters attending courts-martial. As a general rule, rates of pay and allowances will be the same as those provided for witnesses and interpreters attending courts in the United States.

(1) In Germany, disbursing officers are authorized to pay the rate prescribed in DFAS-IN Regulation 37-1 or the rate provided by German law, whichever is higher. [Appendix H](#) of this regulation is a translation of applicable German laws on compensating witnesses and experts and a fee schedule for experts.

(2) Local residents who are not considered Government employees according to DFAS-IN Regulation 37-1 but entitled to pay and allowances under employment contracts with the U.S. Government while attending courts-martial will be paid according to their contracts.

(3) Local residents who are not authorized pay and allowances under employment contracts while attending courts-martial will be paid the same fees and allowances as other witnesses and interpreters. Any witness fees or expenses not normally paid under U.S. proceedings but customarily paid by German courts may be considered for payment; the types of any such fees or expenses to be reimbursed should be included in invitational travel orders, AE Form 27-10C, or in any other related subpoena document.

(4) TCs and summary courts-martial officers will ensure necessary vouchers are prepared and procure the necessary supporting documents to pay witnesses and interpreters according to DFAS-IN Regulation 37-1.

**g. Requests to Appear and Testify.** Requests for personnel not in the U.S. military to appear and testify may be made by using AE Form 27-10C. AE Form 27-10C may be used to support a voucher for the payment of witness fees and allowances. This form is designed for use in Germany. If used elsewhere, AE Form 27-10C should be translated into the language of the country in which the form is used before being reproduced.

**h. Procedures for Requesting Civilian Witnesses Residing in the United States.** When attendance of a witness who resides in the United States is essential, the request for the witness to attend will be prepared according to [appendix G](#). Requests for civilian witnesses from the United States should be processed by area GCMCAs at least 30 calendar days before the desired arrival date.

**i. Reimbursing Witnesses.** The finance office of the requesting command will process paperwork to compensate witnesses before they leave the command. Military-justice personnel will ensure necessary vouchers and supporting documents are prepared and processed quickly and that witnesses are paid according to the following guidelines:

(1) Fees and allowances provided for in DFAS-IN Regulation 37-1 will be used when the computed amounts are higher than or equal to witness entitlements under German law.

(2) When the entitlement of a witness under German law ([app H](#)) is more than when computed in (1) above, payment will be based on German law.

(3) Claims for loss of pay will be substantiated by a written statement from the employer of the witness. The statement will include the witness's tour of duty, the number of workhours lost, and the amount of wages or salary lost while serving as a witness. The statement will be included with the voucher.

(4) Claims for reimbursing experts will be substantiated as required by DFAS-IN Regulation 37-1.

**j. Military Medical Experts, Consultants, Witnesses in USAREUR.** Because of the need to ensure the availability of medical care for the military and civilian beneficiaries of the military healthcare system in Europe, requesting medical personnel needed for trial, particularly physicians and nurses, requires additional coordination with ERMC. The procedures for obtaining such expert assistance and testimony are outlined in [appendix I](#).

## **17. POSTTRIAL DOCUMENTATION REQUIREMENTS**

**a. Report of Results of Trial.** The TC will send copies of the Report of Result of Trial (DA Form 4430) to the following:

(1) The company, battalion, and brigade commanders or commanders of equivalent size units, as applicable.

(2) The servicing provost marshal.

(3) The USARCF-E (if applicable).

(4) The supporting finance and personnel office. Sending the Report of Result of Trial (DA Form 4430) to the servicing finance office is imperative to prevent confined or discharged Soldiers from wrongfully receiving pay and entitlements. The servicing finance office will prevent this by properly annotating the court-martial or foreign conviction in the Soldier's file.

(5) The military judge and the convening authority or his or her designee.

**b. Distribution of Court-Martial Orders.** One copy of the initial court-martial promulgating orders and all supplementary court-martial orders will be issued to the military judge, TC, and defense counsel.

**c. Confinement Unit Identification Code (UIC).** In accordance with AR 600-62, paragraph, 3-12, Soldiers at the USARCF-E or an HN civilian correctional facility who are sentenced to confinement of 120 or fewer days without an adjudged discharge will remain assigned to their parent unit. Soldiers who are sentenced to confinement of more than 120 days without an adjudged punitive discharge or who have an adjudged sentence that includes a punitive discharge will be assigned to the USARCF-E and transferred to the designated CONUS regional correctional facility for confinement, posttrial processing, or both.

**d. Public Affairs Reports.** After the trial, the area GCMCA SJA may make a summary of the trial results available to the servicing public affairs office. The summary may include a brief statement of the facts and the sentence imposed.

## **18. REPORTS AND COPIES OF DISCIPLINARY ACTIONS REQUIRED BY THE USAREUR JA**

**a. Report of Judicial and Disciplinary Activity in the Army.** The servicing SJA or designated official will certify and submit an electronic copy of the Military Justice Report (MJR) using Military Justice Online (MJO) through JAGCNet within 5 workdays after the last day of the month or, if GCM jurisdiction is discontinued, as soon as possible after discontinuation.

**b. USAREUR Reports.** The OSJA of each GCM jurisdiction will—

(1) Provide immediate notice to the USAREUR JA of allegations of misconduct or court-martial disposition results against senior leaders (all officers and enlisted personnel in the grade of E-8 and above) or high-profile cases that could involve media or senior DOD attention.

(2) Provide a biweekly senior leader (all officers and enlisted personnel in the grade of E-8 and above) misconduct report to the Chief, Military and Civil Law Division, OJA, HQ USAREUR, detailing the current case status.

(3) Provide a monthly summary of all courts-martial results to the Chief, Military and Civil Law Division, OJA, HQ USAREUR.

(4) Provide annual strength numbers for the respective GCMCA jurisdictions to the Chief, Military and Civil Law Division, OJA, HQ USAREUR.

(5) Ensure the area GCMCA OSJA has access to MJO.

(6) Provide any additional information that may be requested.

## **19. BARS TO ENTRY**

**a. Mandatory Permanent Theater-wide Bars to Entry.**

(1) The following persons are permanently barred entry to installations, housing areas, lands, buildings, or other structures or places under the control or jurisdiction of the CG, USAREUR:

(a) Soldiers who are in an excess-leave status pending execution of an approved punitive discharge or dismissal.

(b) Former Soldiers who were discharged under other-than-honorable conditions or who have received a punitive discharge or dismissal.

(2) GCMCAs will issue permanent bar memorandums to individuals informing them that they have been barred permanently and explaining the terms of the bar. Bar memorandums will identify barred persons by—

(a) Name.

(b) SSN.

(d) Passport or HN identification card (for example, *Personalausweis*) number, as appropriate.

(d) The status of the individual (that is, former Soldier, U.S. citizen, Family member, former member of another Service, HN citizen, LN employee, third-country national).

#### **b. Other Bars to Entry.**

**(1) Theater-wide Bars.** GCMCAs, USAG commanders, and the DCG, USAREUR, acting for the CG, USAREUR, may also issue orders barring entry to all installations, housing areas, lands, buildings, or any other structures or places under the control or jurisdiction of the CG, USAREUR. These bars may be issued for the following categories of individuals who have engaged in serious or repeated acts of misconduct or other activity that threatens the good order, discipline, or morale; combat readiness; mission accomplishment; installation security; or the privacy rights of those who work or live on U.S. military installations:

(a) Civilians (including LN employees, local residents, and third-country nationals).

(b) U.S. citizens (including Federal employees and Family members).

(c) Members or former members of other Services.

**(2) Delegation Prohibition.** GCMCAs, USAG commanders, and the DCG, USAREUR, may not delegate their authority to issue permanent bars to entry ([a above](#)) or theater-wide bars to entry ([\(1\) above](#)).

**(3) Local Bars.** USAG commanders and commanders who exercise GCM authority may issue local bar memorandums barring people from entering areas under their local control. This authority is inherent and is not limited by the issuance of other bar memorandums by a GCMCA or a USAG commander. Requests to have an offender barred from all Army in Europe areas and facilities should be sent by the civilian misconduct action authority to the USAG commander.

**(4) Civilian Employee Bars.** Commanders must coordinate bars imposed on civilian employees (APF, NAF, LN, Department of Defense Dependents Schools (DODDS), and Army and Air Force Exchange Service (AAFES)) with the servicing civilian personnel advisory center (CPAC). When the person is a DODDS or AAFES employee, the bar must be coordinated with the employing activity.

**(5) Medical Treatment Facilities.** Commanders or their delegees may not bar offenders from access to medical treatment facilities.

**(6) Bar Incidental Effects.** Commanders or their delegees must be aware that bars from entry may have incidental effects, including—

(a) Denying a person access to AAFES facilities, commissaries, or other places (including attendance at DODDS schools) where privileges have not been abused.

(b) Making the person ineligible for future DA employment in the geographic area covered by the bar.

(c) Causing the separation of a NAF employee under the provisions in AR 215-3. NAF employees may be considered disqualified when they are barred from the area of employment.

**(7) Legal Review and Advice.** Commanders imposing bars to entry on persons listed in (1)(a) through (c) and (3) above will obtain the legal review and the advice of their servicing SJA before imposing a bar to entry.

#### **c. List of Barred Personnel.**

(1) The GCMCA or USAG commander issuing or lifting a bar memorandum (local or USEUCOM-wide) will send a copy through encrypted e-mail to the DMDC-Europe Installation Access Control System (IACS) help desk (<mailto:usarmy.badenwur.usareur.list.opm-iacs-help-desk@mail.mil>), within 24 hours after imposing a bar and within 24 hours after lifting a bar. The GCMCA or USAG commander will keep a copy of the bar memorandum until it expires and serve as the adjudication POC if the individual wishes to appeal the bar.

(2) The Office of the Provost Marshal, G3/4 Protect Division, Office of the Deputy Chief of Staff, G3/5/7, HQ USAREUR, will provide a monthly USEUCOM-wide bar report to IACS users in the USEUCOM AOR who do not have access to the USAREUR IACS Portal. USEUCOM IACS users may request access to the IACS Portal by contacting the Security Operations and Assessments Branch, Office of Provost Marshal (mil 537-2264).

#### **d. Removing or Modifying Bars to Entry.**

(1) Requests to remove or modify a bar to entry must be sent to the authority who issued the bar memorandum. Requests may not be made until at least 1 year after the effective date of the bar memorandum.

(2) Requests will explain why the bar should be lifted.

(3) Unless an exigent circumstance exists, commanders should not remove or modify bars to entry until at least 1 year after the effective date of the memorandum. Commanders will seek the legal review and advice of their SJA before acting on requests to remove or modify bars to entry.

## **APPENDIX A REFERENCES**

### **SECTION I PUBLICATIONS**

Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (NATO SOFA)

Agreement of 3 August 1959, as Amended by the Agreements of 21 October 1971, 18 May 1981, and 18 March 1993, to Supplement the Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of their Forces With Respect to Foreign Forces Stationed in the Federal Republic of Germany (Revised Supplementary Agreement) (effective 29 March 1998), and the Protocol of Signature to the Supplementary Agreement.

FY 14 National Defense Authorization Act

Manual for Courts-Martial, United States, 2012

Uniform Code of Military Justice

Defense Finance and Accounting Service-Indianapolis Regulation 37-1, Finance and Accounting Policy Implementation

Army Directive 2011-17, Self-Reporting by Officers and Senior Enlisted Members of Criminal Convictions

Army Directive 2014-16, (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Courts-Martial)

AR 15-6, Procedures for Investigating Officers and Boards of Officers

AR 25-400-2, The Army Records Information Management System (ARIMS)

AR 27-10, Military Justice

AR 27-20, Claims

AR 27-40, Litigation

AR 27-50, Status of Forces Policies, Procedures, and Information

AR 40-68, Clinical Quality Management

AR 190-9, Absentee Deserter Apprehension Program and Surrender of Military Personnel to Civilian Law Enforcement Agencies

AR 190-47, The Army Corrections System

AR 195-2, Criminal Investigation Activities

AR 215-3, Nonappropriated Funds Personnel Policy

AR 600-4, Remission or Cancellation of Indebtedness

AR 600-8-2, Suspension of Favorable Personnel Actions (Flag)

AR 600-8-4, Line of Duty Policy, Procedures, and Investigations

AR 600-8-19, Enlisted Promotions and Reductions

AR 600-8-24, Officer Transfers and Discharges

AR 600-20, Army Command Policy

AR 600-43, Conscientious Objection

AR 600-62, United States Army Personnel Control Facilities and Procedures for Administering Assigned and Attached Personnel

AR 601-280, Army Retention Program

AR 614-6, Permanent Change of Station Policy

AR 623-3, Evaluation Reporting System

AR 630-10, Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings

AR 635-200, Active Duty Enlisted Administrative Separations

AR 735-5, Property Accountability Policies

JAGC Publication 1-1, Office of the Judge Advocate General Personnel Policies

JAGC Policy 14-01, Special Victim Counsel

JAGC Policy 14-06, Special Victim Prosecutors

USEUCOM Instruction 5804.01, Administration of Military Justice

[AE Regulation 1-7](#), Support Agreements

[AE Regulation 10-5](#), Headquarters, United States Army Europe

[AE Regulation 190-1/CNE-C6F Instruction 11240.6S/USAFE Instruction 31-202](#), Driver and Vehicle Requirements and the Installation Traffic Code for the U.S. Forces in Germany

[AE Regulation 190-47](#), United States Army Corrections System in Europe

[AE Regulation 550-50/USNAVEUR Instruction 5820.8K/USAFE Instruction 51-706](#), Exercise of Foreign Criminal Jurisdiction Over United States Personnel

[AE Regulation 550-56/USNAVEUR Instruction 5820.13F/USAFE Instruction 51-705](#), Exercise of Jurisdiction by German Courts and Authorities Over U.S. Personnel

## **SECTION II FORMS**

DD Form 458, Charge Sheet

DD Form 2707, Confinement Order

DA Form 2028, Recommended Changes to Publications and Blank Forms

DA Form 4430, Department of the Army Report of Result of Trial

DA Form 5112, Checklist for Pretrial Confinement

[AE Form 27-10B](#), Advice to Accused Upon Confinement

[AE Form 27-10C](#), Request to Appear and Testify/*Aussageersuchen*

## APPENDIX B

### GUIDANCE ON THE REVIEW OF DECISIONS NOT TO REFER CHARGES OF CERTAIN SEX-RELATED OFFENSES FOR COURT-MARTIAL (ARMY DIRECTIVE 2014-19)

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SECRETARY OF THE ARMY  
WASHINGTON

27 JUN 2014

#### MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Army Directive 2014-19 (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Courts-Martial)

#### 1. References:

- a. National Defense Authorization Act for Fiscal Year 2014, Public Law 113-66.
- b. Memorandum, Secretary of Defense, Apr 11, 2014, subject: Implementation of Section 1744 of the National Defense Authorization Act for FY 2014.
- c. Army Regulation 27-10 (Military Justice), 3 October 2011.

#### 2. Purpose. Pursuant to references 1a and 1b, this directive implements section 1744 of the National Defense Authorization Act for Fiscal Year 2014, which requires:

... the Secretaries of the military departments to provide for review of decisions not to refer charges for trial by court-martial in cases where a sex-related offense has been alleged by a victim of the alleged offense.

#### 3. Definitions. The term "sex-related offense" means any of the following:

- a. rape or sexual assault under Articles 120(a) or (b), Uniform Code of Military Justice (UCMJ);
- b. forcible sodomy under Article 125, UCMJ; and
- c. an attempt to commit an offense under Articles 120(a), 120(b) or 125, as punishable under Article 80, UCMJ.

#### 4. Policy. Effective immediately, a superior competent authority will review any decision not to refer charges for trial by court-martial in a case where a sex-related offense has been alleged by a victim as set forth in paragraphs 4a and 4b of this directive.

- a. Review of Cases Not Referred to Courts-Martial Following Staff Judge Advocate (SJA) Recommendation to Refer. When the SJA, in their Article 34, UCMJ pretrial advice, recommends referring charges of a sex-related offense for trial by court-martial,

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**Figure B-1. Guidance on the Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Court-Martial (Army Directive 2014-19)**

SUBJECT: Army Directive 2014-19 (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Court-Martial)

but the General Court-Martial Convening Authority (GCMCA) declines, the GCMCA must forward the case file to me for review.

(1) Specific Review Requirements. As part of my review, I will consider:

(a) all statements the victim provided during the course of the criminal investigation regarding the alleged sex-related offense, and

(b) whether the convening authority forwarding the case file for review considered the victim's statements and views concerning disposition of the alleged sex-related offense in making the referral decision.

(2) Elements of Case File. A case file forwarded to superior authority for review pursuant to paragraphs 4a and 4b of this directive will include:

(a) all charges and specifications preferred in accordance with Article 30, UCMJ;

(b) all reports of investigations of such charges, including the investigation report from the military criminal investigative organization and the report from the Article 32 preliminary hearing and investigation;

(c) a certification that the victim of the alleged sex-related offense was notified of the opportunity to express their views regarding the preferred disposition of the offense for consideration by the convening authority;

(d) all statements the victim provided to the military criminal investigative organization and the victim's chain of command relating to the offense and any statements the victim provided to the convening authority expressing their views on the preferred disposition of the alleged offense;

(e) the written pretrial advice of the SJA to the GCMCA pursuant to Article 34, UCMJ;

(f) a written statement explaining the reasons the GCMCA decided not to refer any charges of a sex-related offense for trial by court-martial; and

(g) a certification that the victim of the alleged sex-related offense was informed of the GCMCA's decision to forward the case to higher authority for review.

(3) Submission of Case Files. Case files forwarded to me pursuant to this paragraph must be submitted to the Office of the Judge Advocate General; Chief, Criminal Law Division (DAJA-CL); 2200 Army Pentagon, Room 3D548; Washington, DC 20310-2200.

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**Figure B-1. Guidance on the Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Court-Martial (Army Directive 2014-19) (Continued)**

SUBJECT: Army Directive 2014-19 (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Court-Martial)

(a) Files should be forwarded within 7 days of the determination not to refer charges involving a sex-related offense to court-martial.

(b) The servicing SJA office will forward an electronic version of the file, along with a hard copy file containing the originals of the charge sheet, transmittal documents and each of the documents and certifications set forth in paragraph 4a(2) of this directive.

(c) After reviewing the case file, the Chief, Criminal Law Division will forward the file to the Deputy Judge Advocate General, who will prepare it for my review. Nothing in this paragraph should be construed to provide an additional right of review beyond my office.

b. Review of Cases Not Referred to Court-Martial Following SJA Recommendation Not to Refer. In a case where the SJA, in their Article 34, UCMJ pretrial advice, recommends that charges of a sex-related offense should not be referred for trial by court-martial and the convening authority decides not to refer the charges, the convening authority will forward the case file for review to the next superior commander authorized to exercise GCMCA.

(1) Specific Review Requirements. As part of the review by the next superior GCMCA, consideration will be given to the requirements set forth in paragraph 4a(1) of this directive.

(2) Elements of Case File. A case file forwarded to the next superior GCMCA for review will include each of the elements set forth in paragraph 4a(2) of this directive.

(3) Next Superior GCMCA Review. After reviewing the case file, the next superior GCMCA will either refer the charges of a sex-related offense for court-martial or uphold the decision by the subordinate convening authority not to refer the case. Nothing in this paragraph should be construed to provide an additional right of review beyond what has already been provided for in this directive.

(a) Decision to Refer Case to Court-Martial. If the next superior GCMCA decides to refer charges of a sex-related offense for court-martial, the next superior GCMCA will refer the charges personally and not direct that the subordinate convening authority refer them. The next superior GCMCA will also pay for all trial-related expenses for the court-martial, including witness fees, temporary duty, expert witness expenses, etc. The next superior GCMCA will try the case with his or her court-martial panel and use the trial team and special victim capability personnel at his or her disposal, if available. Next superior GCMCAs who have no court-martial panel, trial team or special victim capability personnel assigned to them will coordinate with the subordinate GCMCA to provide those services for court-martial proceedings.

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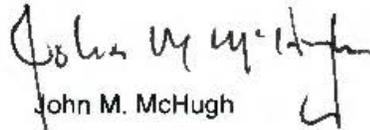
**Figure B-1. Guidance on the Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Court-Martial (Army Directive 2014-19) (Continued)**

SUBJECT: Army Directive 2014-19 (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Court-Martial)

(b) Decision Not to Refer Case to Court-Martial. If the next superior GCMCA agrees with the subordinate convening authority's decision not to refer the charges of a sex-related offense to court-martial, he or she will provide written justification for the decision and immediately notify the victim as set forth in paragraph 4c of this directive. The next superior GCMCA will store the original case file in keeping with file storage procedures outlined in Army Regulation 24-400-2 (The Army Records Information Management System (ARIMS)) and Department of Defense Directive 5015.2 (DoD Records Management Program).

c. Victim Notification. The victim of the alleged sex-related offense will be notified of the results of any review conducted pursuant to paragraphs 4a and 4b of this directive.

5. The policy in this directive is effective immediately. The Judge Advocate General is the proponent for this policy and will incorporate it in the next revision of Army Regulation 27-10. This directive is rescinded upon publication of the revised regulation.

  
John M. McHugh

**DISTRIBUTION:**

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  - U.S. Army Intelligence and Security
  - U.S. Army Criminal Investigation Command
  - U.S. Army Corps of Engineers Command
  - U.S. Army Military District of Washington
- (CONT)

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**Figure B-1. Guidance on the Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Court-Martial (Army Directive 2014-19) (Continued)**

SUBJECT: Army Directive 2014-19 (Implementation of Section 1744 of the National Defense Authorization Act for Fiscal Year 2014—Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Trial by Court-Martial)

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**Figure B-1. Guidance on the Review of Decisions Not to Refer Charges of Certain Sex-Related Offenses for Court-Martial (Army Directive 2014-19) (Continued)**

**APPENDIX C**  
**INFORMATION MEMORANDUM FOR U.S. VICTIMS**

Figure C-1 is the format for a memorandum to be sent to a U.S. victim. Figure C-2 is the format for enclosure 2 to the memorandum that explains the U.S. military justice system.

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**Letterhead**

Office Symbol

Date

MEMORANDUM FOR RECORD

SUBJECT: Victim Rights under the Special Victim Counsel Program

PART I – Case Information and Prosecution Points of Contact

1. Case Name: United States v. Rank First MI. Last
2. Name of Victim: (Rank)(Mrs.)(Mr.) First MI. Last
3. Date of Referral: XX Xxxxx 20XX (annotate if anticipated)
4. General Nature of Offenses: Article 120 – Sexual Assault, Article 125 – Forcible Sodomy
5. Assigned Victim-Witness Liaison: Mrs. First MI. Last
  - a. Telephone: (mil) XXX-XXXX, (civ) +49 (0) XXX-XXXXXX
  - b. E-mail: (first.m.last.civ@mail.mil)
  - c. Office: (room XXX, Building XXX, XXXX Barracks, APO AE 09XXX)
6. Detailed Trial Counsel: CPT First MI. Last
  - a. Telephone: (mil) XXX-XXXX, (civ) +49 (0) XXX-XXXXXX
  - b. E-mail: (first.m.last.mil@mail.mil)
  - c. Office: (room XXX, Building XXX, XXXX Barracks, APO AE 09XXX)
7. Special Victim Prosecutor: CPT First MI. Last
  - a. Telephone: (mil) XXX-XXXX, (civ) +49 (0) XXX-XXXXXX
  - b. E-mail: (first.m.last.mil@mail.mil)
  - c. Office: (room XXX, Building XXX, XXXX Barracks, APO AE 09XXX)

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**Figure C-1. Information Memorandum for U.S. Victims**

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**PART II – NOTIFICATION OF SPECIAL VICTIM COUNSEL SERVICES**

I, \_\_\_\_\_, have been advised of my right to consult with a Special Victim Counsel (SVC) provided by the Government at no cost to me. I understand that the SVC's mission is to provide victims with confidential legal representation related to issues that may arise as a result of being sexually assaulted. The SVC works independently of the prosecution and may provide the following services:

- Accompany to and advise client during interviews, examinations, hearings, and court-martial proceedings
  - Represent client in court-martial as permitted by law
  - Advise client on victim's rights
  - Advise and advocate clients regarding protective orders
  - Referral to Trial Defense Service for collateral misconduct, if necessary
  - Referral to other agencies for assistance, if necessary
  - Advocate client's interest on disposition options
  - Assist client with post-trial submissions to include victim impact statements
  - Advise client on collateral civil issues arising from the crime
  - Legal assistance services
- I understand that I may speak with an SVC and elect representation at any time during the legal, medical, or investigative process.

\_\_\_\_\_  
(Signature of Victim) (Date)

\_\_\_\_\_  
(Signature of Government Representative) (Date)

You may contact your servicing SVC by calling the following number:

- Military: XXX-XXXX
- Civilian: +49 (0) XXX-XXXXXX
- Cell:

You may also contact your servicing SVC by visiting a legal assistance office:

*List area legal assistance office.*

**PART III – Victim's Elections (Initial Entries and Circle Choices)**

1. \_\_\_\_ I (am) (am not) currently represented by an SVC.

\_\_\_\_\_  
Name of SVC (if applicable)

*(only complete the remaining sections if the victim is not a represented party)*

2. \_\_\_\_ Having been advised of my right, I (do) (do not) request to speak with a Special Victim Counsel to assist me at this time.

*(Complete the remaining section only if the victim does not wish to have an SVC.)*

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**Figure C-1. Information Memorandum for U.S. Victims (Continued)**

3. \_\_\_\_\_ I understand that I may speak with and request an SVC later in the proceedings should I change my mind. If I change my mind, I may request or speak with an SVC by informing the Victim Advocate, Victim-Witness Liaison, Trial Counsel, Special Victim Prosecutor, or by contacting the Legal Assistance Division, Office of the Staff Judge Advocate, Insert your office information here, Telephone (mil, civ):

4. \_\_\_\_\_ I am willing to be interviewed and to discuss my case with the Trial Counsel, Special Victim Prosecutor, and other Government representatives without consulting a Special Victim Advocate or retaining such counsel.

**PART IV – Trial Counsel Certification**

I certify that the victim was advised of his/her right to representation under the Special Victim Counsel Program and the general nature of services provided. Additionally, the victim has been provided with a copy of this memorandum and ensured he/she has contact information for the Victim-Witness Liaison, Special Victim Prosecutor, Legal Assistance, and for me.

2 Encls	FIRST MI. LAST
1. Contact information	CPT, JA
2. Explanation of the U.S. Military Justice System	Trial Counsel

CF:  
Victim  
Name, SVC  
Name, SVP

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**Figure C-1. Information Memorandum for U.S. Victims (Continued)**

## THE U.S. MILITARY JUSTICE SYSTEM

### HOW THE SYSTEM WORKS

#### 1. GENERAL

When an alleged crime is brought to the attention of U.S. Army authorities, a couple of things happen:

a. First, military or German officials conduct an initial investigation.

b. Second, an evaluation is made to determine whether the Army has legal authority (jurisdiction) to investigate and prosecute the case or whether the case will be prosecuted by German civilian authorities. This determination is based on a number of factors as outlined in the NATO Status of Forces Agreement (SOFA) and the Supplementary Agreement.

#### 2. WHAT HAPPENS IF THE U.S. ARMY DOES NOT HAVE JURISDICTION

If the Army does not have jurisdiction—

a. Appropriate German authorities will be notified. These authorities will determine whether or not prosecution is appropriate in German court.

b. You probably will receive no further notification from military authorities. At your request, the victim/witness liaison officer will advise you of the German civilian authorities who may be handling the matter.

#### 3. WHAT HAPPENS IF THE U.S. ARMY HAS JURISDICTION

If the Army has jurisdiction, a decision will be made by the commanders having authority over the accused whether or not prosecution is appropriate. Potential punishment for criminal convictions can range from very minor sanctions, such as a reprimand, to more serious punishments, such as life imprisonment or, in certain cases such as premeditated murder, death. Offenses may be handled in one of the following ways:

a. The immediate commander of the accused may dismiss the charges. If the offenses are determined to be minor, the immediate commander may initiate nonjudicial punishment (Article 15, Uniform Code of Military Justice (UCMJ)) proceedings. Under these proceedings, that commander determines guilt or innocence and has authority to impose small forfeitures of pay, reductions in pay grade, and restrictions, but may not send the accused to jail.

b. A commander who, by law, has the authority to convene administrative-elimination boards or courts-martial (trials) may handle more serious offenses, if appropriate.

c. In cases alleging serious offenses, normally a formal, preliminary hearing (known as an Article 32 investigation) is held to evaluate the quality and quantity of the evidence and to recommend what level of court-martial, if any, is appropriate. The different levels of courts-martial are as follows:

**(1) Summary Court-Martial.** The lowest level of courts-martial is the summary court-martial. At a summary court-martial, a military officer serves as a judge and may sentence the accused. The maximum punishment that normally may be adjudged is forfeiture of two-thirds of 1 month's pay, reduction in rank, and up to 30 days in jail.

**(2) Special Court-Martial.** A special court-martial is the intermediate level of court-martial and involves a legally qualified military judge and (at the option of the accused) a jury (called court members) of military personnel. It also has a prosecuting attorney (trial counsel) and entitles the accused to a defense attorney. If the accused requests, he or she may be tried by a military judge alone. This court may impose a maximum sentence of fines or forfeiture of two-thirds pay for 1 year, reduction to the lowest enlisted grade, confinement in jail for up to 1 year, and in certain cases, a bad-conduct (punitive) discharge from the Army.

Enclosure 2

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### Figure C-2. Enclosure 2 to Information Memorandum for U.S. Victims

**(3) General Court-Martial.** A general court-martial is the highest level of court-martial and is usually reserved for serious military or civilian offenses (felonies). A general court-martial normally is ordered by a general officer and involves a military judge and (at the option of the accused) a jury (called court members) of military personnel. It may impose up to the maximum permissible punishments authorized by law including, depending on the offenses involved, a fine, total forfeiture of pay, reduction to the lowest enlisted grade, a dishonorable (punitive) discharge, a period in jail up to life imprisonment or, for a few very serious offenses, death.

**NOTE:** Your victim/witness liaison officer can advise you on the maximum punishment for the offenses under investigation.

#### **4. PRETRIAL AGREEMENT**

If a case is sent to a special or general court-martial, a pretrial agreement (plea bargain) may be reached between the commander who authorized the court-martial and the accused. These agreements may be entered into for a number of reasons, including sparing a victim the trauma of testifying in court, eliminating the delay and cost of a lengthy trial, and reducing the risk of having a case reversed by an appellate court. Pretrial agreements usually provide that the accused plead guilty in exchange for a limit on the sentence or dismissal of certain charges.

### **WHAT YOU MAY EXPECT FROM THE U.S. MILITARY JUSTICE SYSTEM**

As a victim of an offense that is handled by the U.S. military justice system, you are entitled to courteous and compassionate consideration by military law-enforcement and legal personnel and by other military personnel responsible for providing victim assistance services to you. Furthermore, you may expect the efforts of those charged with administering the system to dispose of charges in a fair and timely manner. You may be entitled to some of the following services:

**a. Medical and Social Services.** Medical and social services are available for Soldiers and their Family members. Generally, civilians who are not Family members of military personnel are not legally entitled to these services.

(1) A military medical treatment facility (MTF) may provide emergency care if the MTF can furnish the service most expeditiously after an offense. In some cases, the MTF commander may waive charges for this treatment.

(2) DOD civilian employees and their Family members also may receive medical services; they will be charged at the prescribed rates.

(3) Medical treatment is available at the medical facility listed in enclosure 1. Civilians who are not eligible for nonemergency military medical treatment may get treatment at no cost to the U.S. Government at the local civilian facilities listed in enclosure 1. Help with financial, legal, or other social matters related to the offense also may be obtained from the sources listed in enclosure 1.

**b. Notice of Critical Events.** If you wish to be notified of critical events, provide your victim/witness liaison officer with your address and telephone number. He or she will notify you in advance, when circumstances allow, of the following events:

- (1) Apprehension (arrest) of the accused.
- (2) Pretrial release of the accused.
- (3) Trial date or a guilty plea and sentencing proceedings.

**NOTE:** Questions pertaining to this notification should be directed to your victim/witness liaison officer.

**c. Protection.** If you believe that you are being subjected to bribery, threats, intimidation, or harassment as a victim (or potential witness), call the local or military police. Steps will be taken by appropriate authorities to investigate the matter and provide you with necessary protection.

**d. Consultations With Prosecuting Officials.** While the running of the military justice system, including handling the case in which you may be involved, is a decision left by U.S. Federal statute to certain military commanders, the U.S. Army recognizes the importance your views on certain issues may have in helping commanders make their decisions. For this reason, you may be requested to consult with commanders or their lawyers and prosecuting attorneys concerning any of the following matters:

- (1) Entry (preference) of charges against the accused.
- (2) Dismissal of charges against the accused.
- (3) Pretrial restraint (including confinement) of the accused.
- (4) Plea negotiations (plea bargaining) between the accused and the Government.

**NOTE:** Questions concerning these matters should be directed to your victim/witness liaison officer.

**e. Property Return and Restitution.**

**(1) Property Return.** The U.S. Army will safeguard and return property as soon as possible to the lawful owner. However, if the property is required for evidence in a court-martial, it may be temporarily held. Your victim/witness liaison officer will advise you of the agency holding your property and procedures for having it returned.

**(2) Restitution (Recovery for Victim's Loss).** The military justice system was established primarily to help maintain good order and military discipline rather than securing restitution for victims. Various means of restitution may be available to you:

(a) The accused may be personally liable for personal injury done to you or for damage done to your property. If the accused is on active duty, you may be able to recover the value of certain property losses directly from his or her military pay, provided the claim is made within 90 days after the loss or good cause is shown for a claim filed later.

(b) Sometimes a claim may be made against the U.S. Army. You should promptly discuss such claims against the accused or the Army with the local Army claims office.

(c) A demand or lawsuit against the accused or other financially responsible parties for restitution for damages and injuries may be obtained under certain circumstances. You may get legal advice from your local legal assistance office or from your attorney.

(d) If you are a victim of a violent crime, you may be eligible for compensation from the competent *Versorgungsamts* (pension office) under the *Opferentschädigungsgesetz* (German Law Concerning Compensation for Victims of Violent Crimes).

**f. Notification of Employers or Creditors.** If, as a result of the incident, you are forced to be absent from work or you are subjected to serious financial strain, you are entitled to have those circumstances that contributed to your absence or financial hardship explained to your employer or creditors respectively. For assistance in obtaining an explanation, contact your victim/witness liaison officer.

**g. Case Status and Notification of Hearings.** If you have any questions concerning the status of the case or desire to provide input, contact your victim/witness liaison officer. You may have the opportunity to attend hearings in the case. However, if you are also a witness, the presiding officer or judge has the authority to exclude you when other evidence is being presented. If you wish to attend and if you provide the victim/witness liaison officer your telephone number or address, you will be notified in advance of such hearings. Always call to confirm hearing dates immediately before attending to ensure that they have not been rescheduled.

## **WHAT THE U.S. MILITARY JUSTICE SYSTEM ASKS OF YOU**

1. The military justice system is designed to—
  - a. Promote good order and discipline in the Armed Forces.
  - b. Provide a system for the just disposition of criminal offenders.
  - c. Provide a fair trial for the accused.
  - d. Prevent the commission of further crime.
  - e. Appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt.
2. To accomplish the goals of the military justice system, your cooperation with law-enforcement and other military authorities is extremely important.
3. Victims often want to withdraw from the criminal justice process, perhaps because of fear, frustration, or simply the desire to get as far away from the incident as possible. Should you have any of these or similar feelings, it is certainly understandable. We ask, however, that while you may not be able to set them aside completely, you do not let them prevent your cooperation, which is essential to the military justice system.
4. The U.S. Army's Victim/Witness Assistance Program, with its services for victims described in this enclosure (see "What You May Expect From the U.S. Military Justice System"), has been established to reduce the hardships of your experience and to make your cooperation easier. Take advantage of the program. By doing so, you will help the U.S. military justice system work and may, in the process, prevent others from becoming victims like yourself.

**APPENDIX D**  
**INFORMATION MEMORANDUM FOR GERMAN VICTIMS (*INFORMATIONEN FÜR DEUTSCHE GESCHÄDIGTE*) (ENGLISH AND GERMAN VERSIONS)**

Figure D-1 is the format for the memorandum in English to be sent to a German victim. Figure D-2 is the format for enclosure 2 in English. Figures D-3 and D-4 are German translations of figures D-1 and D-2 respectively.

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**Letterhead**

Date

Name  
Mailing address

Dear \_\_\_\_\_:

This letter is being sent to you as part of the U.S. Army's Victim/Witness Assistance Program. If you have questions that this letter does not answer, you should contact your victim/witness liaison officer. (In some cases the victim/witness liaison officer may use a German-speaking interpreter as your point of contact.)

Enclosure 1 is a list that includes your victim/witness liaison officer's telephone number and individuals and agencies that may serve as sources of victim assistance. Enclosure 2 is an explanation of the U.S. military justice system and how it works.

As a victim and potential witness in a criminal matter that may be resolved in the U.S. Army military justice system, you are entitled to understand—

- a. How the justice system works.
- b. What you may expect from this system as a victim.
- c. What this system asks of you.

Sincerely,

Name  
Title

Enclosures

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**Figure D-1. Information Memorandum for German Victims**

## THE U.S. MILITARY JUSTICE SYSTEM

### HOW THE SYSTEM WORKS

#### 1. GENERAL

When a possible crime is brought to the attention of U.S. Army authorities, a couple of things happen:

a. First, military or German officials conduct an initial investigation.

b. Second, an evaluation is made to determine whether the Army has legal authority (jurisdiction) to investigate and prosecute the case or whether the case will be prosecuted by German civilian authorities. This determination is based on a number of factors as outlined in the NATO Status of Forces Agreement (SOFA) and the Supplementary Agreement.

#### 2. WHAT HAPPENS IF THE U.S. ARMY DOES NOT HAVE JURISDICTION

If the Army does not have jurisdiction—

a. Appropriate German authorities will be notified. These authorities will determine whether or not prosecution is appropriate in German court.

b. You probably will receive no further notification from military authorities. At your request, the victim/witness liaison officer will advise you of the German civilian authorities who may be handling the matter.

#### 3. WHAT HAPPENS IF THE U.S. ARMY HAS JURISDICTION

If the Army has jurisdiction, a decision will be made by the commanders having authority over the accused whether or not prosecution is appropriate. Potential punishment for criminal convictions can range from very minor sanctions, such as a reprimand, to more serious punishments, such as life imprisonment or, in certain cases such as premeditated murder, death. Offenses may be handled in one of the following ways:

a. The immediate commander of the accused may dismiss the charges. If the offenses are determined to be minor, the immediate commander may initiate nonjudicial punishment (Article 15, Uniform Code of Military Justice (UCMJ)) proceedings. Under these proceedings, that commander determines guilt or innocence and has authority to impose small forfeitures of pay, reductions in pay grade, and restrictions, but may not send the accused to jail.

b. A commander who, by law, has the authority to convene administrative-elimination boards or courts-martial (trials) may handle more serious offenses if appropriate.

c. In cases alleging serious offenses, normally a formal, preliminary hearing (known as an Article 32 investigation) is held to evaluate the quality and quantity of the evidence and to recommend what level of court-martial, if any, is appropriate. The different levels of courts-martial are as follows:

**(1) Summary Court-Martial.** The lowest level of courts-martial is the summary court-martial. At a summary court-martial, a military officer serves as a judge and may sentence the accused. The maximum punishment that normally may be adjudged is forfeiture of two-thirds of 1 month's pay, reduction in rank, and up to 30 days in jail.

**(2) Special Court-Martial.** A special court-martial is the intermediate level of court-martial and involves a legally qualified military judge and (at the option of the accused) a jury (called court members) of military personnel. It also has a prosecuting attorney (trial counsel) and entitles the accused to a defense attorney. If the accused requests, he or she may be tried by a military judge alone. This court may impose a maximum sentence of fines or forfeiture of two-thirds pay for 1 year, reduction to the lowest enlisted grade, confinement in jail for up to 1 year, and in certain cases, a bad-conduct (punitive) discharge from the Army.

Enclosure 2

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**Figure D-2. Enclosure 2 to Information Memorandum for German Victims**

**(3) General Court-Martial.** A general court-martial is the highest level of court-martial and is usually reserved for serious military or civilian offenses (felonies). A general court-martial normally is ordered by a general officer and involves a military judge and (at the option of the accused) a jury (called court members) of military personnel. It may impose up to the maximum permissible punishments authorized by law including, depending on the offenses involved, a fine, total forfeiture of pay, reduction to the lowest enlisted grade, a dishonorable (punitive) discharge, a period in jail up to life imprisonment or, for a few very serious offenses, death.

**NOTE:** Your victim/witness liaison officer can advise you on the maximum punishment for the offenses under investigation.

#### **4. PRETRIAL AGREEMENT**

If a case is sent to a special or general court-martial, a pretrial agreement (plea bargain) may be reached between the commander who authorized the court-martial and the accused. These agreements may be entered into for a number of reasons, including sparing a victim the trauma of testifying in court, eliminating the delay and cost of a lengthy trial, and reducing the risk of having a case reversed by an appellate court. Pretrial agreements usually provide that the accused plead guilty in exchange for a limit on the sentence or dismissal of certain charges.

### **WHAT YOU MAY EXPECT FROM THE U.S. MILITARY JUSTICE SYSTEM**

As a victim of an offense that is handled by the U.S. military justice system, you are entitled to courteous and compassionate consideration by military law-enforcement and legal personnel and by other military personnel responsible for providing victim assistance services to you. Furthermore, you may expect the efforts of those charged with administering the system to dispose of charges in a fair and timely manner. You may be entitled to some of the following services:

**a. Medical and Social Services.** You may be eligible for medical and social services provided under German law. Your participation in the U.S. military justice system does not make you ineligible for medical or social benefits granted by German institutions. You should contact your health insurance agency or the nearest *Sozialamt* (social assistance office) for help in obtaining medical and social services.

**b. Notice of Critical Events.** If you wish to be notified of critical events, provide your victim/witness liaison officer your address and telephone number. He or she will notify you in advance, when circumstances allow, of the following events:

- (1) Apprehension (arrest) of the accused.
- (2) Pretrial release of the accused.
- (3) Trial date or a guilty plea and sentencing proceedings.

**NOTE:** Questions pertaining to this notification should be directed to your victim/witness liaison officer.

**c. Protection.** If you believe that you are being subjected to bribery, threats, intimidation, or harassment as a victim (or potential witness), call the local German police. Steps will be taken by appropriate authorities to investigate the matter and provide you with necessary protection.

**d. Consultations With Prosecuting Officials.** While the running of the military justice system, including handling the case in which you may be involved, is a decision left by U.S. Federal statute to certain military commanders, the U.S. Army recognizes the importance your views on certain issues may have in helping commanders make their decisions. For this reason, you may be requested to consult with commanders or their lawyers and prosecuting attorneys concerning any of the following matters:

- (1) Entry (preferral) of charges against the accused.

- (2) Dismissal of charges against the accused.
- (3) Pretrial restraint (including confinement) of the accused.
- (4) Plea negotiations (plea bargaining) between the accused and the Government.

**NOTE:** Questions concerning these matters should be directed to your victim/witness liaison officer.

**e. Property Return and Restitution.**

**(1) Property Return.** The U.S. Army will safeguard and return property as soon as possible to the lawful owner. However, if the property is required for evidence in a court-martial, it may be temporarily held. Your victim/witness liaison officer will advise you of the agency holding your property and procedures for having it returned.

**(2) Restitution (Recovery for Victim's Loss).** The military justice system was established primarily to help maintain good order and military discipline rather than securing restitution for victims. Various means of restitution may be available to you:

(a) The accused may be personally liable for personal injury done to you or for damage done to your property. If the accused is on active duty, you may be able to recover the value of certain property losses directly from his or her military pay, provided the claim is made within 90 days after the loss or good cause is shown for a claim filed later.

(b) A request for an ex gratia award also may be made against the U.S. Government under certain circumstances through consultation with the *Lohnstelle ausländische Streitkräfte* (Foreign Forces Payroll Office).

(c) A demand or lawsuit against the accused or other financially responsible third parties for restitution for damages and injuries may be obtained under certain circumstances. To obtain legal advice in this regard, Soldiers, retirees, DOD civilian employees, and Family members may contact the local legal assistance office. (If you are not eligible for Army legal assistance, you may see an attorney of your own selection at no cost to the U.S. Government.)

(d) If you are a victim of a violent crime, you also may be eligible for compensation from the competent *Versorgungsamt* (pension office) under the *Opferentschädigungsgesetz* (German Law Concerning Compensation for Victims of Violent Crimes).

**f. Notification of Employers or Creditors.** If, as a result of the incident, you are forced to be absent from work or you are subjected to serious financial strain, you are entitled to have those circumstances that contributed to your absence or financial hardship explained to your employer or creditors respectively. For assistance in obtaining an explanation, contact your victim/witness liaison officer.

**g. Case Status and Notification of Hearings.** If you have any questions concerning the status of the case or desire to provide input, contact your victim/witness liaison officer. You may have the opportunity to attend hearings in the case. However, if you are also a witness, the presiding officer or judge has the authority to exclude you when other evidence is being presented. If you wish to attend and if you provide the victim/witness liaison officer your telephone number or address, you will be notified in advance of such hearings. Always call to confirm hearing dates immediately before attending to ensure that they have not been rescheduled.

## **INFORMATION FOR POTENTIAL WITNESSES**

### **1. CONDUCT OF THE TRIAL**

Trials are conducted before a U.S. Army court-martial.

a. The court will consist of either one judge or a judge with a panel of three or more Army Soldiers who decide the guilt or innocence of the accused based on testimony you and other witnesses relate to them. (See “How the System Works.”)

b. Your testimony as a witness before a U.S. military court will be taken according to U.S. law and procedures. Consideration will be given to you for the privileges and immunities you would have in a German court.

c. In U.S. courts, witnesses are not permitted to watch or hear the proceedings until called to testify.

(1) You will be asked to wait in another room until it is your turn to appear before the court-martial. You will be notified when you are needed.

(2) When called at the proceeding to testify, witnesses are administered an oath before giving testimony. The fact that you are asked to affirm the truth of your testimony or swear in the name of God that the testimony is the truth is not a reflection on your truthfulness.

### **2. TRANSLATION OF PROCEEDINGS**

The proceedings are in English. Your testimony, however, normally will be given in German through an interpreter.

a. Although you may understand English, please do not answer until the interpreter has translated the question into German for you.

b. Your answer should be in German and will be translated into English by the interpreter. By speaking slowly and clearly and phrasing your answers in short sentences, you will help to ensure an accurate translation.

c. You will notice there is only one interpreter. This person is a sworn official of the court. At both the Article 32 investigation and at the trial, the interpreter translates questions for both the prosecution and the defense.

### **3. QUESTIONING**

You will be questioned in turn by both the counsel for the prosecution and for the defense.

a. Because the members of the court do not have access to the statements you made at the Article 32 investigation, it may be necessary for you to repeat all you know about the incident at the trial.

b. The counsel, through questioning, will help ensure no essential testimony is overlooked.

c. During the testimony, you also may be asked questions by—

(1) An investigating officer of an Article 32 investigation. (See “How the System Works.”)

(2) A military judge.

(3) Members of the court who may ask questions through the military judge.

d. The testimony that you give, including your responses to questions asked, is essential to the military justice system.

## **WHAT THE U.S. MILITARY JUSTICE SYSTEM ASKS OF YOU**

1. The military justice system is designed to—
  - a. Promote good order and discipline in the Armed Forces.
  - b. Provide a system for the just disposition of criminal offenders.
  - c. Provide a fair trial for the accused.
  - d. Prevent the commission of further crime.
  - e. Appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt.
2. To accomplish the goals of the military justice system, your cooperation with law-enforcement and other military authorities is extremely important.
3. Victims often want to withdraw from the criminal justice process, perhaps because of fear, frustration, or simply the desire to get as far away from the incident as possible. Should you have any of these or similar feelings, it is certainly understandable. We ask, however, that while you may not be able to set them aside completely, you do not let them prevent your cooperation, which is essential to the military justice system.
4. The U.S. Army's Victim/Witness Assistance Program, with its services for victims described in this enclosure (see "What You May Expect From the U.S. Military Justice System"), has been established to reduce the hardships of your experience and to make your cooperation easier. Take advantage of the program. By doing so you will be helping the U.S. military justice system work and may, in the process, prevent others from becoming victims like yourself.

**Letterhead**

Date

Name  
Mailing address

Sehr geehrte(r) \_\_\_\_\_,

dieses Schreiben ist Bestandteil des Hilfsprogramms der US-Army für Geschädigte und Zeugen. Sollten Sie Fragen haben, die in diesem Brief nicht beantwortet werden, wenden Sie sich bitte an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen. (In manchen Fällen kann auch ein für die Verbindungsstelle für Geschädigte und Zeugen tätiger, deutschsprachiger Dolmetscher als Kontaktperson angegeben sein.)

Als Anlage 1 ist eine Liste beigefügt, die die Telefonnummer des für Sie zuständigen Verbindungsoffiziers für Geschädigte und Zeugen enthält sowie die Personen und Dienststellen aufführt, an die Sie sich im Rahmen des Hilfsprogramms für Geschädigte wenden können. In Anlage 2 wird das US-Militärstrafrechtssystem beschrieben und erklärt, wie es funktioniert.

Als Geschädigter und potentieller Zeuge in einer Strafsache, mit der das Militärstrafrechtssystem der US-Army befasst ist, haben Sie ein Recht darauf zu wissen,

- a. wie dieses Rechtssystem funktioniert;
- b. was Sie von diesem System als Geschädigter erwarten dürfen;
- c. was dieses System von Ihnen erwartet.

Mit freundlichen Grüßen

Name  
Titel

Anlagen

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**Figure D-3. Information Memorandum for German Victims (German)**

## DAS AMERIKANISCHE MILITÄRSTRAFRECHTSSYSTEM

### FUNKTIONSWEISE

#### 1. ALLGEMEINES

Wenn die Behörden der US-Army über eine vermeintliche Straftat informiert werden, wird eine Reihe von Maßnahmen eingeleitet.

a. Zunächst werden erste Ermittlungen von Angehörigen der Streitkräfte oder deutschen Beamten durchgeführt.

b. Anschließend wird geprüft, ob die Zuständigkeit der US-Army (Gerichtsbarkeit) gegeben ist, in dem betreffenden Fall Ermittlungen anzustellen und ihn strafrechtlich zu verfolgen, oder ob die strafrechtliche Verfolgung in die Zuständigkeit deutscher Zivilbehörden fällt. Diese Entscheidung hängt von einer Anzahl von Faktoren ab, die im NATO-Truppenstatut (NTS) und dem Zusatzabkommen zum NTS aufgeführt werden.

#### 2. WAS GESCHIEHT, WENN DIE US-ARMY NICHT ZUSTÄNDIG IST

Wenn die Army nicht zuständig ist, werden

a. die zuständigen deutschen Behörden verständigt. Diese Behörden entscheiden darüber, ob eine strafrechtliche Verfolgung vor einem deutschen Gericht angezeigt ist;

b. Sie von den Militärbehörden wahrscheinlich keine weitere Nachricht erhalten. Auf Ihr Ersuchen nennt Ihnen der Verbindungsoffizier für Geschädigte und Zeugen die deutschen Zivilbehörden, die den Fall möglicherweise bearbeiten.

#### 3. WAS GESCHIEHT, WENN DIE US-ARMY ZUSTÄNDIG IST

Wenn der Fall in die Zuständigkeit der US-Army fällt, entscheiden die Disziplinarvorgesetzten des Beschuldigten, ob eine strafrechtliche Verfolgung angezeigt ist. Die möglichen Bestrafungen im Falle einer Verurteilung können von sehr geringfügigen Sanktionen, wie beispielsweise einem Verweis, bis zu härteren Strafen reichen, wie z.B. lebenslängliche Freiheitsstrafe. In bestimmten Fällen, z.B. bei vorsätzlichem Mord, kann auch die Todesstrafe verhängt werden. Bei Straftaten sind folgende Vorgehensweisen möglich:

a. Der direkte Disziplinarvorgesetzte des Beschuldigten kann die Klage abweisen. Wenn festgestellt wurde, dass es sich um eine geringe Straftat handelt, kann der direkte Vorgesetzte ein Verfahren für eine außergerichtliche Bestrafung (Artikel 15 *Uniform Code of Military Justice (UCMJ)* (Einheitliches Militärstrafgesetzbuch) einleiten. In diesem Verfahren entscheidet der Disziplinarvorgesetzte über Schuld oder Nichtschuld und ist befugt, die Einbehaltung eines geringen Teils des Solds anzuordnen, den Sold zu kürzen und gewisse Beschränkungen aufzuerlegen; er kann den Beschuldigten jedoch nicht zu einer Gefängnisstrafe verurteilen.

b. Ein Vorgesetzter, der kraft Gesetzes befugt ist, die Verwaltungsausschüsse oder Militärgerichte (Gerichtsverfahren) einzuberufen, kann bei Bedarf über schwerere Straftaten entscheiden.

c. In Fällen, in denen es um schwere Straftaten geht, wird normalerweise eine offizielle Voruntersuchung (auch als "Untersuchung gemäß Artikel 32" bezeichnet) durchgeführt, um die Qualität und den Umfang des Beweismaterials zu prüfen und zu empfehlen, auf welcher Militärgerichtsstufe der Fall verhandelt werden sollte. Militärgerichte gibt es auf folgenden Ebenen:

**(1) Kleines Militärgericht:** Auf der untersten Ebene gibt es das Kleine Militärgericht. Beim Kleinen Militärgericht führt ein Offizier als Richter den Vorsitz und kann den Angeklagten verurteilen. Die Höchststrafe, die hier normalerweise verhängt werden kann, ist die Einziehung von zwei Dritteln des Solds für einen Monat, Degradierung und bis zu 30 Tage Gefängnis.

Anlage 2

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Figure D-4. Enclosure 2 to Information Memorandum for German Victims (German)

**(2) Spezielles Militärgericht:** Ein Spezielles Militärgericht ist das Mittlere Militärgericht, das sich aus einem juristisch ausgebildeten Militärrichter und, wenn der Angeklagte dies wünscht, aus einem Geschworenengremium (als Mitglieder des Gerichts bezeichnet), bestehend aus Angehörigen der Streitkräfte, zusammensetzt. Es verfügt außerdem über einen Anklagevertreter und gibt dem Angeklagten das Recht auf einen Verteidiger. Wenn es der Angeklagte wünscht, kann er auch vom Militärrichter allein gehört werden. Dieses Gericht kann als Höchststrafe Geldstrafen oder die Einziehung von zwei Dritteln des Solds für 12 Monate verhängen, die Degradierung auf den niedrigsten Mannschaftsdienstgrad, Gefängnisstrafen bis zu 12 Monaten und, in bestimmten Fällen, die Entlassung aus der US-Army wegen schlechter Führung veranlassen.

**(3) Großes Militärgericht:** Ein Großes Militärgericht ist das höchste Militärgericht und in der Regel schweren militärischen oder zivilen Straftaten (Verbrechen) vorbehalten. Ein Großes Militärgericht wird normalerweise von einem General einberufen und setzt sich aus einem Militärrichter und (nach Wahl des Angeklagten) einem Geschworenengremium (als Mitglieder des Gerichts bezeichnet), das aus Militärangehörigen besteht, zusammen. Es kann auf die höchsten vom Gesetz zugelassenen Strafen erkennen; dazu gehören - abhängig von der Straftat - Geldstrafen, die Einziehung des gesamten Solds, Degradierung auf den untersten Mannschaftsdienstgrad, unehrenhafte Entlassung, Freiheitsstrafen bis zu lebenslänglicher Haft oder, bei wenigen sehr schweren Verbrechen, auch die Todesstrafe.

**ANMERKUNG:** Der zuständige Verbindungsoffizier für Geschädigte und Zeugen kann Ihnen über die Höchststrafe für die zur Ermittlung anstehenden Straftaten Auskunft geben.

#### **4. AUßERGERICHTLICHE ABSPRACHE**

Wird ein Fall an das Spezielle oder Große Militärgericht verwiesen, kann zwischen dem Kommandeur, der das Militärgericht einberuft, und dem Angeklagten eine außergerichtliche Absprache (Abkommen zwischen Anklagevertretung und Verteidigung) getroffen werden. Diese Absprachen können aus mehreren Gründen getroffen werden, z.B. um dem Geschädigten das Trauma zu ersparen, vor Gericht aussagen zu müssen, um Verzögerungen und Kosten einer langwierigen Verhandlung zu vermeiden, und um nach Möglichkeit das Risiko auszuschalten, dass das Urteil von einem Berufungsgericht aufgehoben wird. Außergerichtliche Absprachen sehen in der Regel vor, dass sich der Angeklagte für schuldig erklärt, wenn das Strafmaß beschränkt wird oder bestimmte Anklagepunkte fallen gelassen werden.

### **WAS SIE VOM US-MILITÄRSTRAFRECHTSSYSTEM ERWARTEN DÜRFEN**

Als Geschädigter bei einer Straftat, die unter das US-Militärstrafrechtssystem fällt, haben Sie Anspruch auf eine höfliche und verständnisvolle Behandlung seitens des an diesem Verfahren dienstlich beteiligten militärischen und zivilen Personals, dessen Aufgabe es ist, Ihnen als Geschädigtem Beistand zu leisten. Außerdem können Sie erwarten, dass das zuständige Verwaltungspersonal die Anklage fair und zügig bearbeitet. Sie haben möglicherweise Anspruch auf einige der folgenden Leistungen:

**a. Medizinische und soziale Leistungen:** Falls Sie die Voraussetzungen erfüllen, können Sie medizinische und soziale Leistungen nach deutschem Recht in Anspruch nehmen. Durch Ihre Beteiligung an einer amerikanischen Militärgerichtsverhandlung geht Ihr Anspruch auf medizinische oder soziale Leistungen, die von deutschen Einrichtungen gewährt werden, nicht verloren. Setzen Sie sich mit dem Träger Ihrer Krankenversicherung oder mit dem nächstgelegenen Sozialamt hinsichtlich der Inanspruchnahme von medizinischen und sozialen Leistungen in Verbindung.

**b. Unterrichtung über wichtige Ereignisse:** Wenn Sie über wichtige Ereignisse unterrichtet werden möchten, geben Sie dem zuständigen Verbindungsoffizier für Geschädigte und Zeugen Ihre Anschrift und Telefonnummer. Er wird Sie, wenn möglich im Voraus, über die folgenden Ereignisse unterrichten:

- (1) Festnahme (Verhaftung) des Beschuldigten
- (2) Entlassung des Beschuldigten aus der Untersuchungshaft
- (3) Verhandlungstermin oder Ablegung eines Geständnisses und Einleitung des Verurteilungsverfahrens

**ANMERKUNG:** Fragen im Zusammenhang mit dieser Benachrichtigung sind an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen zu richten.

**c. Schutzmaßnahmen:** Wenn Sie glauben, dass Sie als Geschädigter (oder potentieller Zeuge) Bestechungen, Drohungen, Einschüchterungen oder Belästigungen ausgesetzt sind, wenden Sie sich bitte an die örtliche deutsche Polizeidienststelle. Die zuständigen Behörden werden Maßnahmen zur Überprüfung der Angelegenheit ergreifen und Ihnen den notwendigen Schutz gewähren.

**d. Beratungen mit Strafverfolgungsbeamten:** Obwohl die Entscheidungen nach dem Militärstrafrecht, einschließlich der Bearbeitung des Sie betreffenden Falles, gemäß US-Bundesgesetz bestimmten militärischen Kommandeuren überlassen sind, ist sich die US-Army dennoch der Bedeutung bewusst, die Ihre Meinung zu bestimmten Punkten für die Kommandeure bei ihren Entscheidungen haben kann. Aus diesem Grunde können Sie ersucht werden, sich mit den Kommandeuren oder deren Anwälten und Anklagevertretern in Bezug auf einen der folgenden Vorgänge zu beraten:

- (1) Anklageerhebung gegen den Beschuldigten
- (2) Abweisung der Klage gegen den Beschuldigten
- (3) Freiheitsentzug vor der Verhandlung (einschließlich Inhaftierung) des Beschuldigten
- (4) Außergerichtliche Absprachen zwischen dem Beschuldigten und der Regierung

**ANMERKUNG:** Sollten Sie hierzu noch Fragen haben, wenden Sie sich bitte an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen.

#### **e. Rückgabe von Eigentum und Rückerstattung**

**(1) Rückgabe von Eigentum:** Die US-Army stellt das Eigentum sicher und gibt es so schnell wie möglich an den rechtmäßigen Eigentümer zurück. Wenn das Eigentum jedoch für die Beweisführung in einem Militärgerichtsverfahren benötigt wird, kann es vorübergehend einbehalten werden. Der für Sie zuständige Verbindungsoffizier für Geschädigte und Zeugen nennt Ihnen die Stelle, die Ihr Eigentum verwahrt, sowie das für die Rückgabe anzuwendende Verfahren.

**(2) Rückerstattung (Entschädigung des Opfers für Verluste):** Das Militärstrafrechtssystem wurde in erster Linie zur Unterstützung bei der Aufrechterhaltung von Ordnung und militärischer Disziplin geschaffen und nicht, um Ersatzleistungen für Geschädigte sicherzustellen. Dennoch haben Sie verschiedene Möglichkeiten, um Ihre Entschädigungsansprüche geltend zu machen:

(a) Der Angeklagte kann persönlich für die Ihnen zugefügten Verletzungen oder Beschädigungen Ihres Eigentums haftbar sein. Wenn der Angeklagte im Militärdienst steht, können Sie möglicherweise Schadenersatz für bestimmte Sachschäden direkt aus seinem oder ihrem Sold erhalten, vorausgesetzt, dass die Forderung innerhalb von 90 Tagen nach Eintritt des Schadens erhoben wird oder es einen triftigen Grund für die spätere Geltendmachung der Forderung gibt.

(b) Unter bestimmten Umständen kann auch in Absprache mit der Lohnstelle ausländische Streitkräfte ein Antrag an die US-Regierung auf Zahlung einer freiwilligen (ex gratia) Entschädigung gestellt werden.

(c) Je nach Lage der Dinge kann Wiedergutmachung für Sach- und Personenschäden auch durch eine Forderung oder eine Klage gegen den Beschuldigten oder andere finanziell verantwortliche Dritte erlangt werden; Sie können sich hierbei von einem deutschen Rechtsanwalt Ihrer Wahl beraten lassen (die US-Regierung kann die Rechtsanwaltsgebühren jedoch nicht erstatten).

(d) Sind Sie Opfer einer Gewalttat geworden, haben Sie unter Umständen auch Anspruch auf Entschädigung vom zuständigen Versorgungsamt nach dem deutschen Opferentschädigungsgesetz.

**f. Benachrichtigung von Arbeitgebern oder Gläubigern:** Sind Sie als Folge des Vorfalls gezwungen, Ihrem Arbeitsplatz fernzubleiben, oder in einen schwerwiegenden finanziellen Engpass geraten, sind Sie berechtigt, diese Umstände, die zu Ihrem Fernbleiben vom Arbeitsplatz oder finanziellen Notlage beigetragen haben, Ihrem Arbeitgeber bzw. Ihren Gläubigern mitteilen zu lassen. Wenden Sie sich an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen, der Ihnen bei der Abgabe der Erklärung behilflich ist.

**g. Stand des Verfahrens und Benachrichtigung über Verhandlungstermine:** Sollten Sie irgendwelche Fragen zum Stand des Verfahrens haben oder diesbezügliche Informationen mitteilen wollen, wenden Sie sich bitte an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen. Sie haben möglicherweise Gelegenheit, bei Verhandlungen in der Sache anwesend zu sein. Sind Sie jedoch gleichzeitig Zeuge, dann ist der den Vorsitz führende Offizier oder der Richter berechtigt, Sie von der Verhandlung auszuschließen, wenn andere Zeugenaussagen gemacht werden. Falls Sie anwesend sein möchten und Sie dem Verbindungsoffizier für Geschädigte und Zeugen Ihre derzeitige Telefonnummer und Adresse mitteilen, werden Sie im Voraus über solche Verhandlungen unterrichtet. Rufen Sie auf jeden Fall an, bevor Sie zu einer Verhandlung gehen, um sich zu vergewissern, dass die Termine nicht kurzfristig geändert wurden.

## **INFORMATIONEN FÜR POTENTIELLE ZEUGEN**

### **1. ABLAUF DER VERHANDLUNG**

Die Verhandlungen finden vor einem Militärgericht der US-Army statt.

a. Das Gericht setzt sich entweder aus einem Richter oder einem Richter mit einem Gremium von drei oder mehr Soldaten zusammen, die aufgrund der von Ihnen und anderen Zeugen gemachten Aussagen über Schuld oder Nichtschuld des Angeklagten zu befinden haben (siehe "Das amerikanische Militärstrafrechtssystem - Funktionsweise").

b. Ihre Zeugenaussage vor einem US-Militärgericht erfolgt gemäß den gesetzlichen Bestimmungen und der Verfahrensordnung der Vereinigten Staaten. Die Rechte und Vorrechte, die Sie vor einem deutschen Gericht haben würden, werden berücksichtigt.

c. Vor amerikanischen Gerichten dürfen Zeugen der Verhandlung weder beiwohnen noch zuhören, bis sie selbst in den Zeugenstand gerufen werden.

(1) Dementsprechend wird man Sie bitten, in einem anderen Raum so lange zu warten, bis Sie in den Zeugenstand gerufen werden. Sie erhalten rechtzeitig Kenntnis von Ihrem Aufruf.

(2) Vor Beginn ihrer Aussage bei der Verhandlung werden die Zeugen vereidigt. Die Tatsache, dass Sie ersucht werden, eidesstattlich zu versichern, dass Ihre Aussage der Wahrheit entspricht, oder bei Gott zu schwören, dass Ihre Aussage die Wahrheit, die reine Wahrheit und nichts als die Wahrheit ist, bedeutet nicht, dass Ihre Glaubwürdigkeit in Zweifel gezogen wird.

### **2. ÜBERSETZUNG DER VERHANDLUNG**

Die Verhandlung wird in englischer Sprache geführt. Normalerweise machen Sie Ihre Aussage jedoch auf Deutsch und bedienen sich eines Dolmetschers.

a. Auch wenn Sie Englisch verstehen, antworten Sie bitte erst dann, wenn der Dolmetscher die Frage an Sie ins Deutsche übersetzt hat.

b. Ihre Antwort sollte in deutscher Sprache erfolgen, um dann vom Dolmetscher ins Englische übertragen zu werden. Wenn Sie langsam und deutlich sprechen und Ihre Antworten in kurzen Sätzen formulieren, tragen Sie dazu bei, eine präzise Übersetzung zu gewährleisten.

c. Sie werden feststellen, dass nur ein Dolmetscher anwesend ist. Er ist eine vereidigte Gerichtsperson. Sowohl in der Untersuchung nach Artikel 32 als auch in der Hauptverhandlung übersetzt der Dolmetscher Fragen der Anklagevertretung wie auch der Verteidigung.

### **3. VERNEHMUNG**

Sie werden nacheinander vom Anklagevertreter und vom Verteidiger befragt.

a. Da die Geschworenen keinen Zugang zu den Aussagen haben, die Sie bei der Untersuchung nach Artikel 32 gemacht haben, ist es möglicherweise notwendig, alles, was Sie über den Vorfall wissen, in der Hauptverhandlung zu wiederholen.

b. Anklagevertreter und Verteidiger sorgen durch geeignete Fragestellung dafür, dass kein wichtiger Punkt Ihrer Aussage unberücksichtigt bleibt.

c. Im Verlauf der Zeugenaussage können Ihnen auch Fragen von den folgenden Personen gestellt werden:

(1) einem Offizier, der die Untersuchung nach Artikel 32 durchgeführt hat (siehe "Das amerikanische Militärstrafrechtssystem - Funktionsweise");

(2) einem Militärrichter;

(3) den Geschworenen, die durch den Militärrichter Fragen stellen lassen können.

d. Ihre Aussage, die auch Ihre Antworten auf Ihnen gestellte Fragen umfasst, trägt wesentlich dazu bei, dass das Militärstrafrechtssystem erfolgreich angewendet werden kann.

### **WAS DAS US-MILITÄRSTRAFRECHTSSYSTEM VON IHNEN ERWARTET**

1. Das Militärstrafrechtssystem dient dazu,

a. Ordnung und Disziplin innerhalb der Streitkräfte zu fördern;

b. ein System für die gerechte Behandlung von Straftätern zu schaffen;

c. einem Angeklagten eine faire Verhandlung zu gewährleisten;

d. weitere Straftaten zu verhindern;

e. jene Personen, deren Schuld einwandfrei erwiesen ist, angemessen zu bestrafen und wiedereinzugliedern.

2. Zur Realisierung der Ziele des Militärstrafrechtssystems ist Ihre Zusammenarbeit mit den Vollstreckungs- und anderen Militärbehörden äußerst wichtig.

3. Geschädigte neigen oft dazu, sich dem Strafverfahrensprozess zu entziehen, vielleicht aus Angst oder Gehemmtheit oder einfach, um so viel Abstand wie möglich von dem Vorfall zu gewinnen. Sollten Sie solche oder ähnliche Gefühle hegen, ist das sicher verständlich. Auch wenn Sie sich diesen Empfindungen nicht völlig entziehen können, möchten wir Sie dennoch bitten, sich dadurch an Ihrer wichtigen Mitarbeit nicht hindern zu lassen.

4. Das Hilfsprogramm der US-Army für Geschädigte und Zeugen mit seinen in dieser Anlage beschriebenen Leistungen für Geschädigte (siehe "Was Sie vom US-Militärstrafrechtssystem erwarten können") wurde erstellt, um Härten zu mildern, die Sie möglicherweise in der Vergangenheit erfahren haben, und Ihre Mitarbeit zu erleichtern. Nutzen Sie dieses Programm, denn damit tragen Sie dazu bei, dass das US-Militärstrafrechtssystem funktioniert, und verhindern dabei möglicherweise, dass andere, wie Sie selbst auch, zu Geschädigten werden.

**APPENDIX E**  
**INFORMATION MEORANDUM FOR U.S. WITNESSES**

Figure E-1 is the format for a memorandum to be sent to a U.S. witness. Figure E-2 is a sample of enclosure 2 to the memorandum that explains the U.S. military justice system.

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**Letterhead**

Date

Name  
Mailing address

Dear \_\_\_\_\_:

This letter is being sent to you as part of the U.S. Army's Victim/Witness Assistance Program. If you have questions that this letter does not answer, you should contact your victim/witness liaison officer.

Enclosure 1 is a list that includes your victim/witness liaison officer's telephone number and individuals and agencies that may help you. Enclosure 2 is an explanation of the U.S. military justice system and how it works.

As a potential witness in a criminal matter that may be resolved in the U.S. Army military justice system, you are entitled to understand—

- a. How the justice system works.
- b. What you may expect from this system as a witness.
- c. What this system asks of you.

Sincerely,

Name  
Title

Enclosures

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**Figure E-1. Information Memorandum for U.S. Witnesses**

## THE U.S. MILITARY JUSTICE SYSTEM

### HOW THE SYSTEM WORKS

#### GENERAL

By the time you receive this, some things will normally have already been decided about the case in which you are a potential witness:

a. Army officials will have decided that the military has authority to investigate and prosecute the accused (defendant) and that you have important information about the case.

b. The Army also may have decided how the accused will be tried. The case may be—

(1) Tried at a lower- or intermediate-level military criminal trial (known as a summary or special court-martial).

(2) Sent to a preliminary hearing (known as an Article 32 investigation) to evaluate whether or not the accused should be tried by the general court-martial, the highest military criminal court.

c. For all these proceedings, the way you testify is virtually the same. You may be—

(1) Requested (or ordered if you are a Soldier) to appear at an Article 32 hearing.

(2) Subpoenaed (or ordered if you are a Soldier) to appear before a court-martial.

d. At the proceeding, you will be administered an oath.

e. During your testimony, you may be asked questions by—

(1) An investigating officer of an Article 32 investigation.

(2) A military judge.

(3) Court members (military jurors) at a court-martial.

(4) Government (trial) and defense counsel.

f. Your testimony, including responses to questions asked, is essential to the military justice system.

#### WHAT YOU MAY EXPECT FROM THE U.S. MILITARY JUSTICE SYSTEM

As a witness you normally are authorized the following services:

**a. Notice of Critical Events.** If you wish to be notified of critical events, provide your victim/witness liaison officer your address or telephone number. You will be notified in advance, when circumstances allow, of the following events:

(1) Apprehension (arrest) of the accused.

(2) Pretrial release of the accused.

Enclosure 2

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**Figure E-2. Enclosure 2 to Information Memorandum for U.S. Witnesses**

(3) Trial or entry of a guilty plea and sentencing proceedings.

**NOTE:** You should direct any questions about this notification to your victim/witness liaison officer.

**b. Expenses.** When you appear as a witness in a court-martial, deposition, or Article 32 investigation, you may be entitled to certain allowances. For information about specific allowances, please contact your victim/witness liaison officer.

(1) As a general rule, you can be reimbursed for reasonable and necessary travel and transportation expenses (for example, meals and lodging) that occur because of required appearances.

(2) Civilian witnesses (including U.S. military retirees) who are not employed by the U.S. Government and are required to appear before courts-martial or at depositions are entitled to a fee for each day of mandatory attendance. This fee is not authorized for attendance at Article 32 investigations.

(3) Sometimes portions of these allowances can be advanced to you at your request before attendance.

**c. Notification of Employers and Creditors.** The U.S. Army normally will not reimburse you for lost income. At your request, the victim/witness liaison officer will contact your employer to explain the circumstances of the case and why you must appear. He or she will request that you lose no benefits because of your involvement as a witness in a Federal judicial proceeding. Also, if you request, the victim/witness liaison officer will explain to your creditors any serious, personal financial hardship resulting from your involvement as a witness.

**d. Appearance Time and Notice of Changes.** You will be given a time and place to report for the hearing. If your appearance will cause extreme hardship, contact your victim/witness liaison officer immediately. If a hearing is rescheduled or canceled, the victim/witness liaison officer or other military justice personnel will try to contact you in advance. However, you should always call your victim/witness liaison officer before leaving to report as a witness to ensure that there has been no last-minute rescheduling. To help us notify you of changes in scheduling, please make sure your victim/witness liaison officer has your correct address and telephone number at all times.

**e. Separate Waiting Area.** When possible, defense and prosecution witnesses are provided separate waiting areas for their comfort and privacy. However, this convenience may not always be available. Contact your victim/witness liaison officer or trial counsel immediately if problems arise concerning waiting-room conditions. You should refrain from discussing the case in a waiting room or the surrounding area.

**f. Local Services.** If you need local transportation, parking, or childcare services, contact your victim/witness liaison officer for information and help. If you must stay overnight, certain installation services may be available; contact your victim/witness liaison officer to ask about these.

**g. Special Witness Consideration.** If you are a Family member of a Soldier who is pending reassignment, your sponsor's reassignment may need to be delayed. If such an unusual situation exists, please notify your victim/witness liaison officer immediately.

**h. Protection.** If you are being subjected to coercion, harassment, intimidation, or threats of any kind, notify your victim/witness liaison officer. If you are in immediate danger, call the local or military police at once. Appropriate authorities will investigate the matter and provide you any necessary protection.

## **WHAT THE U.S. MILITARY JUSTICE SYSTEM ASKS OF YOU**

1. The military justice system is designed to—
  - a. Promote good order and discipline in the Armed Forces.
  - b. Provide a system for the just disposition of criminal offenders.
  - c. Provide a fair trial for the accused.
  - d. Prevent the commission of further crime.
  - e. Appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt.
2. To accomplish the goals of the military justice system, your testimony is extremely important. The Army expects that unless you have a specific legal privilege, you will testify if called to do so, and you will do so truthfully.
3. The U.S. military justice system has the authority to compel military witnesses (by order) and U.S. civilian witnesses (by subpoena) to attend and provide testimony at courts-martial. Most witnesses in military criminal proceedings, in spite of inconveniences, fulfill their responsibility by testifying voluntarily.
4. The U.S. Army's Victim/Witness Assistance Program has been established to reduce the hardships of your experience and to make your cooperation easier. Take advantage of the program. By doing so you will help the U.S. military justice system work.
5. If you have questions about your legal rights or obligations as a witness, contact your victim/witness liaison officer.

**APPENDIX F**  
**INFORMATION MEMORANDUM FOR GERMAN WITNESSES (*INFORMATIONEN FÜR DEUTSCHE ZEUGEN*) (ENGLISH AND GERMAN VERSIONS)**

Figure F-1 is the format for a memorandum in English to be sent to a German witness. Figure F-2 is the format for enclosure 2 in English. Figures F-3 and F-4 are the German translations of figures F-1 and F-2 respectively.

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**Letterhead**

Date

Name  
Mailing address

Dear \_\_\_\_\_:

This letter is being sent to you as part of the U.S. Army's Victim/Witness Assistance Program. If you have questions that this letter does not answer, you should contact your victim/witness liaison officer.

Enclosure 1 is a list that includes your victim/witness liaison officer's telephone number and individuals and agencies that may help you. Enclosure 2 is an explanation of the U.S. military justice system and how it works.

As a potential witness in a criminal matter that may be resolved in the U.S. Army military justice system, you are entitled to understand—

- a. How the justice system works.
- b. What you may expect from this system as a witness.
- c. What this system asks of you.

Sincerely,

Name  
Title

Enclosures

---

**Figure F-1. Information Memorandum for German Witnesses**

## THE U.S. MILITARY JUSTICE SYSTEM

### HOW THE SYSTEM WORKS

#### GENERAL

By the time you receive this, some things will normally have already been decided about the case in which you are a potential witness.

a. Army officials will have decided that the military has authority to investigate and prosecute the accused (defendant) and that you have important information about the case.

b. The Army also may have decided how the accused will be tried. The case may be—

(1) Tried at a lower- or intermediate-level military criminal trial (known as a summary or special court-martial).

(2) Sent to a preliminary hearing (known as an Article 32 investigation) to evaluate whether or not the accused should be tried by the general court-martial, the highest military criminal court.

c. For all these proceedings, the way you testify is virtually the same. You may be—

(1) Requested to appear at an Article 32 hearing.

(2) Subpoenaed to appear before a court-martial.

d. At the proceeding, you will be administered an oath.

e. During your testimony, you may be asked questions by—

(1) An investigating officer of an Article 32 investigation.

(2) A military judge.

(3) Court members (military jurors) at a court-martial.

(4) Government (trial) and defense counsel.

f. Your testimony, including responses to questions asked, is essential to the military justice system.

### WHAT YOU MAY EXPECT FROM THE U.S. MILITARY JUSTICE SYSTEM

As a witness you normally are authorized the following services:

**a. Notice of Critical Events.** If you wish to be notified of critical events, provide your victim/witness liaison officer your address or telephone number. You will be notified in advance, when circumstances allow, of the following events:

(1) Apprehension (arrest) of the accused.

(2) Pretrial release of the accused.

(3) Trial or entry of a guilty plea and sentencing proceedings.

**NOTE:** You should direct any questions about this notification to your victim/witness liaison officer.

Enclosure 2

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### Figure F-2. Enclosure 2 to Information Memorandum for German Witnesses

**b. Expenses.** When you appear as a witness in a court-martial, deposition, or Article 32 investigation, you may be entitled to certain allowances. For information about specific allowances, please contact your victim/witness liaison officer.

(1) As a general rule, you may be reimbursed for reasonable and necessary travel and transportation expenses (for example, meals and lodging) that occur because of required appearances.

(2) Civilian witnesses (including U.S. military retirees) who are not employed by the U.S. Government and are required to appear before courts-martial or at depositions are entitled to a fee for each day of mandatory attendance. This fee is not authorized for attendance at Article 32 investigations.

(3) Sometimes portions of these allowances can be advanced to you at your request before attendance.

**c. Notification of Employers and Creditors.** The U.S. Army normally will not reimburse you for lost income. At your request, the victim/witness liaison officer will contact your employer to explain the circumstances of the case and why you must appear. He or she will request that you lose no benefits because of your involvement as a witness in a Federal judicial proceeding. Also, if you request, the victim/witness liaison officer will explain to your creditors any serious, personal financial hardship resulting from your involvement as a witness.

**d. Appearance Time and Notice of Changes.** You will be given a time and place to report for the hearing. If your appearance will cause extreme hardship, contact your victim/witness liaison officer immediately. If a hearing is rescheduled or canceled, the victim/witness liaison officer or other military justice personnel will try to contact you in advance. However, you should always call your victim/witness liaison officer before leaving to report as a witness to ensure that there has been no last-minute rescheduling. To help us notify you of changes in scheduling, please make sure your victim/witness liaison officer has your correct address and telephone number at all times.

**e. Separate Waiting Area.** When possible, defense and prosecution witnesses are provided separate waiting areas for their comfort and privacy. However, this convenience may not always be available. Contact your victim/witness liaison officer or trial counsel immediately if problems arise concerning waiting-room conditions. You should refrain from discussing the case in a waiting room or the surrounding area.

**f. Local Services.** If you need local transportation, parking, or childcare services, contact your victim/witness liaison officer for information and help. If you must stay overnight, certain installation services may be available; contact your victim/witness liaison officer to ask about these.

**g. Special Witness Consideration.** If you are a Family member of a Soldier who is pending reassignment, your sponsor's reassignment may need to be delayed. If such an unusual situation exists, please notify your victim/witness liaison officer immediately.

**h. Protection.** If you are being subjected to coercion, harassment, intimidation, or threats of any kind, notify your victim/witness liaison officer. If you are in immediate danger, call the local or military police at once. Appropriate authorities will investigate the matter and provide you any necessary protection.

## **INFORMATION FOR POTENTIAL WITNESSES**

### **1. CONDUCT OF THE TRIAL**

Trials are conducted before a U.S. Army court-martial.

a. The court will consist of either one judge or a judge with a panel of three or more Army Soldiers who decide the guilt or innocence of the accused based on testimony you and other witnesses relate to them. (See "How the System Works.")

b. Your testimony as a witness before a U.S. military court will be taken according to U.S. law and procedures. Consideration will be given to you for the privileges and immunities you would have in a German court.

c. In U.S. courts, witnesses are not permitted to watch or hear the proceedings until called to testify.

(1) You will be asked to wait in another room until it is your turn to appear before the court-martial. You will be notified when you are needed.

(2) When called at the proceeding to testify, witnesses are administered an oath before giving testimony. The fact that you are asked to affirm the truth of your testimony or swear in the name of God that the testimony is the truth is not a reflection on your truthfulness.

## **2. TRANSLATION OF PROCEEDINGS**

The proceedings are in English. Your testimony, however, normally will be given in German through an interpreter.

a. Although you may understand English, please do not answer until the interpreter has translated the question into German for you.

b. Your answer should be in German and will be translated into English by the interpreter. By speaking slowly and clearly and phrasing your answers in short sentences, you will help to ensure an accurate translation.

c. You will notice there is only one interpreter. This person is a sworn official of the court. At both the Article 32 investigation and at the trial, the interpreter translates questions for both the prosecution and the defense.

## **3. QUESTIONING**

You will be questioned in turn by both the counsel for the prosecution and for the defense.

a. Because the members of the court do not have access to the statements you made at the Article 32 investigation, it may be necessary for you to repeat all you know about the incident at the trial.

b. The counsel, through questioning, will help ensure no essential testimony is overlooked.

c. During the testimony, you also may be asked questions by—

(1) An investigating officer of an Article 32 investigation. (See “How the System Operates.”)

(2) A military judge.

(3) Members of the court who may ask questions through the military judge.

d. The testimony that you give, including your responses to questions asked, is essential to the military justice system.

## **WHAT THE U.S. MILITARY JUSTICE SYSTEM ASKS OF YOU**

1. The military justice system is designed to—

a. Promote good order and discipline in the Armed Forces.

b. Provide a system for the just disposition of criminal offenders.

- c. Provide a fair trial for the accused.
  - d. Prevent the commission of further crime.
  - e. Appropriately punish and rehabilitate those persons whose guilt has been proven beyond a reasonable doubt.
2. To accomplish the goals of the military justice system, your testimony is extremely important. The Army expects that unless you have a specific legal privilege, you will testify if called to do so, and you do so truthfully.
3. The U.S. military justice system has the authority to compel military witnesses (by order) and U.S. civilian witnesses (by subpoena) to attend and provide testimony at courts-martial. Most witnesses in military criminal proceedings, in spite of inconveniences, fulfill their responsibility by testifying voluntarily.
4. The U.S. Army's Victim/Witness Assistance Program has been established to reduce the hardships of your experience and to make your cooperation easier. Take advantage of the program. By doing so, you will be helping the U.S. military justice system work.
5. If you have questions about your legal rights or obligations as a witness, contact your victim/witness liaison officer.

**Letterhead**

Date

Name  
Mailing address

Sehr geehrte(r) \_\_\_\_\_,

dieses Schreiben ist Bestandteil des Hilfsprogramms der US-Army für Geschädigte und Zeugen. Sollten Sie Fragen haben, die in diesem Brief nicht beantwortet werden, wenden Sie sich bitte an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen.

Als Anlage 1 ist eine Liste beigefügt, die die Telefonnummer des für Sie zuständigen Verbindungsoffiziers für Geschädigte und Zeugen enthält sowie die Namen der Personen und Dienststellen, die Ihnen helfen können. In Anlage 2 wird das US-Militärstrafrechtssystem beschrieben und seine Funktionsweise erklärt.

Als potentieller Zeuge in einer Strafsache, mit der das Militärstrafrechtssystem der US-Army befasst ist, sollten Sie wissen:

- a. wie dieses Rechtssystem funktioniert;
- b. was Sie von diesem System als Zeuge erwarten dürfen;
- c. was dieses System von Ihnen erwartet.

Mit freundlichen Grüßen

Name  
Titel

Anlagen

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**Figure F-3. Information Memorandum for German Witnesses (German)**

## DAS AMERIKANISCHE MILITÄRSTRAFRECHTSSYSTEM

### FUNKTIONSWEISE

#### ALLGEMEINES

Wenn Sie diesen Brief erhalten, sind normalerweise bereits einige Entscheidungen in dem Fall, in dem Sie als potentieller Zeuge auftreten, getroffen worden.

a. Die zuständigen Vertreter der US-Army haben bereits festgestellt, dass die Streitkräfte berechtigt sind, in dem betreffenden Fall Ermittlungen anzustellen und den Beschuldigten strafrechtlich zu verfolgen, und dass Sie über wichtige Informationen verfügen, die diesen Fall betreffen.

b. Die US-Army hat möglicherweise auch entschieden, vor welches Gericht der Beschuldigte gestellt werden soll. Der Fall kann

(1) vor einem Gericht auf der unteren oder der mittleren Ebene verhandelt werden (Kleines oder Spezielles Militärgericht).

(2) einer offiziellen Voruntersuchung unterzogen werden (auch als "Untersuchung nach Artikel 32" bezeichnet), um zu beurteilen, ob der Beschuldigte vor das höchste Militärgericht, das Große Militärgericht, gestellt werden soll.

c. Ihre Zeugenaussage wird von diesen verschiedenen Verfahren praktisch nicht berührt. Sie können

(1) aufgefordert werden, bei einer Untersuchung nach Artikel 32 zu erscheinen;

(2) vor ein Militärgericht vorgeladen werden.

d. Vor Ihrer Aussage werden Sie vereidigt.

e. Im Verlauf Ihrer Zeugenaussage können Ihnen Fragen von den folgenden Personen gestellt werden:

(1) einem Offizier, der die Untersuchung nach Artikel 32 durchführt

(2) einem Militärrichter

(3) den Geschworenen oder Mitgliedern des Militärgerichts

(4) dem Anklagevertreter und Verteidiger

f. Ihre Zeugenaussage, die auch die Antworten auf Ihnen gestellte Fragen umfasst, trägt wesentlich dazu bei, dass das Militärstrafrechtssystem erfolgreich angewendet werden kann.

#### WAS SIE VOM US-MILITÄRSTRAFRECHTSSYSTEM ERWARTEN DÜRFEN

Als Zeuge haben Sie normalerweise Anspruch auf folgende Leistungen:

**a. Unterrichtung über wichtige Ereignisse:** Wenn Sie über wichtige Ereignisse unterrichtet werden möchten, geben Sie dem zuständigen Verbindungsoffizier für Geschädigte und Zeugen Ihre Anschrift oder Telefonnummer. Sie werden, wenn möglich im Voraus, über die folgenden Ereignisse unterrichtet:

(1) Festnahme (Verhaftung) des Beschuldigten

Anlage 2

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#### Figure F-4. Enclosure 2 to Information Memorandum for German Witnesses (German)

(2) Entlassung des Beschuldigten aus der Untersuchungshaft

(3) Verhandlung oder Ablegung eines Schuldgeständnisses und Einleitung des Verurteilungsverfahrens

**ANMERKUNG:** Fragen im Zusammenhang mit dieser Benachrichtigung sind an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen zu richten.

**b. Ausgaben:** Wenn Sie als Zeuge vor einem Militärgericht, zu einem Beweisaufnahmeprotokoll oder einer Untersuchung nach Artikel 32 erscheinen, haben Sie eventuell Anspruch auf bestimmte Aufwandsentschädigungen. Informationen über solche Zahlungen erhalten Sie von dem für Sie zuständigen Verbindungsoffizier für Geschädigte und Zeugen.

(1) Generell gilt, dass Ihnen angemessene und notwendige Reise- und Beförderungskosten erstattet werden (z.B. Unterkunft und Verpflegung), die durch das erforderliche Erscheinen vor Gericht entstehen.

(2) Als Zeugen auftretende Zivilisten (pensionierte US-Militärangehörige eingeschlossen), die keine Beschäftigten der US-Regierung sind und vor Militärgerichten oder zum Beweisaufnahmeprotokoll erscheinen müssen, haben Anspruch auf eine Vergütung für jeden Tag, an dem ihre Anwesenheit erforderlich ist. Diese Vergütung wird für die Anwesenheit bei Untersuchungen nach Artikel 32 nicht gewährt.

(3) In bestimmten Fällen kann ein Teil der Aufwandsentschädigung auf Antrag im Voraus gezahlt werden, bevor die Zeugenaussage gemacht wird.

**c. Benachrichtigung von Arbeitgebern oder Gläubigern:** Die US-Army entschädigt Sie normalerweise nicht für einen Verdienstausschlag. Auf Ihren Wunsch wird sich der Verbindungsoffizier für Geschädigte und Zeugen an Ihren Arbeitgeber wenden, um ihm die Umstände des Falls und die Gründe für Ihr Erscheinen zu erklären. Er wird ihn ersuchen, dafür zu sorgen, dass Ihnen aus Ihrer Teilnahme an einem Gerichtsverfahren der US-Regierung als Zeuge keine finanziellen Nachteile entstehen. Bei einem entsprechenden Ersuchen an Ihren Verbindungsoffizier für Geschädigte und Zeugen wird er auch Ihren Gläubigern die finanzielle Härte erläutern, die eine Teilnahme als Zeuge für Sie bedeuten kann.

**d. Termin des Erscheinens vor Gericht und Unterrichtung über Änderungen:** Sie werden über die Zeit und den Ort der Gerichtsverhandlung informiert. Sollte Ihr Gerichtstermin mit außerordentlichen Problemen für Sie verbunden sein, wenden Sie sich bitte sofort an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen. Wenn ein Gerichtstermin verlegt oder gestrichen wird, werden der Verbindungsoffizier für Geschädigte und Zeugen oder Angestellte des Militärgerichts versuchen, Sie rechtzeitig vorher zu informieren. Sie sollten dennoch den zuständigen Verbindungsoffizier für Geschädigte und Zeugen immer anrufen, bevor Sie sich als Zeuge zum Ort der Verhandlung begeben, um sicherzustellen, dass nicht in letzter Minute der Termin geändert wurde. Um uns Ihre Unterrichtung über Terminänderungen zu erleichtern, sorgen Sie bitte dafür, dass der zuständige Verbindungsoffizier für Geschädigte und Zeugen immer Ihre richtige Adresse und Telefonnummer hat.

**e. Getrennte Warteräume:** Um Ihnen Unannehmlichkeiten zu ersparen, und aus Gründen der Privatsphäre wird möglichst versucht, getrennte Warteräume für die Zeugen der Verteidigung und der Anklage bereitzustellen. Allerdings ist dies nicht immer möglich. Wenden Sie sich bei Problemen im Zusammenhang mit den Warteraumbedingungen bitte sofort an den zuständigen Verbindungsoffizier für Geschädigte und Zeugen oder den Anklagevertreter. Sie sollten im Warteraum oder in den benachbarten Räumlichkeiten nicht über den Fall sprechen.

**f. Hilfestellung vor Ort:** Wenn Sie am Ort der Gerichtsverhandlung Verkehrsmittel benötigen, Parkmöglichkeiten oder Personal für Kinderbetreuung suchen, wird Sie der zuständige Verbindungsoffizier für Geschädigte und Zeugen darüber informieren und Ihnen behilflich sein. Bei Übernachtungen können eventuell Standortunterkünfte bereitgestellt werden. Wenden Sie sich bitte an Ihren Verbindungsoffizier für Geschädigte und Zeugen.

**g. Berücksichtigung besonderer Umstände des Zeugen:** Wenn Sie ein Familienangehöriger eines Soldaten sind, dessen Versetzung bevorsteht, kann diese möglicherweise verschoben werden müssen. Falls eine solch ungewöhnliche Situation besteht, verständigen Sie bitte sofort den zuständigen Verbindungsoffizier für Geschädigte und Zeugen.

**h. Schutz.** Falls Sie Nötigungen, Belästigungen, Einschüchterungen oder Drohungen irgendwelcher Art ausgesetzt sind, unterrichten Sie bitte Ihren Verbindungsoffizier für Geschädigte und Zeugen. Wenn Sie sich in unmittelbarer Gefahr befinden, rufen Sie sofort die örtliche Polizeidienststelle oder die Militärpolizei an. Die zuständigen Behörden werden die Angelegenheit untersuchen und die notwendigen Maßnahmen zu Ihrem Schutz treffen.

## **INFORMATIONEN FÜR POTENTIELLE ZEUGEN**

### **1. ABLAUF DER VERHANDLUNG**

Die Verhandlungen finden vor einem Militärgericht der US-Army statt.

a. Das Gericht setzt sich entweder aus einem Richter oder einem Richter und einem Gremium aus drei oder mehr Mitgliedern der US-Army zusammen, die aufgrund der von Ihnen und anderen Zeugen gemachten Aussagen über Schuld oder Nichtschuld des Angeklagten zu befinden haben (siehe "Das amerikanische Militärstrafrechtssystem - Funktionsweise").

b. Ihre Zeugenaussage vor einem US-Militärgericht erfolgt gemäß den gesetzlichen Bestimmungen und der Verfahrensordnung der Vereinigten Staaten. Die Rechte und Vorrechte, die Sie vor einem deutschen Gericht haben würden, werden berücksichtigt.

c. Vor amerikanischen Gerichten dürfen Zeugen der Verhandlung weder beiwohnen noch zuhören, bis sie selbst in den Zeugenstand gerufen werden.

(1) Dementsprechend wird man Sie bitten, in einem anderen Raum so lange zu warten, bis Sie in den Zeugenstand gerufen werden. Sie erhalten rechtzeitig Kenntnis von Ihrem Aufruf.

(2) Vor Beginn ihrer Aussage bei der Verhandlung werden die Zeugen vereidigt. Die Tatsache, dass Sie ersucht werden, eidesstattlich zu versichern, dass Ihre Aussage der Wahrheit entspricht, oder bei Gott zu schwören, dass Ihre Aussage die Wahrheit, die reine Wahrheit und nichts als die Wahrheit ist, bedeutet nicht, dass Ihre Glaubwürdigkeit in Zweifel gezogen wird.

### **2. ÜBERSETZUNG DER VERHANDLUNG**

Die Verhandlung wird in englischer Sprache geführt. Normalerweise machen Sie Ihre Aussage jedoch auf Deutsch und bedienen sich eines Dolmetschers.

a. Auch wenn Sie Englisch verstehen, antworten Sie bitte erst dann, wenn der Dolmetscher die Frage an Sie ins Deutsche übersetzt hat.

b. Ihre Antwort sollte in deutscher Sprache erfolgen, um dann vom Dolmetscher ins Englische übertragen zu werden. Wenn Sie langsam und deutlich sprechen und Ihre Antworten in kurzen Sätzen formulieren, tragen Sie dazu bei, eine präzise Übersetzung zu gewährleisten.

c. Sie werden feststellen, dass nur ein Dolmetscher anwesend ist. Er ist eine vereidigte Gerichtsperson. Sowohl in der Artikel-32 Untersuchung als auch in der Hauptverhandlung übersetzt der Dolmetscher Fragen der Anklagevertretung wie auch der Verteidigung.

### **3. VERNEHMUNG**

Sie werden nacheinander vom Anklagevertreter und vom Verteidiger befragt.

a. Da die Geschworenen keinen Zugang zu den Aussagen haben, die Sie bei der Artikel-32 Untersuchung gemacht haben, ist es möglicherweise notwendig, alles, was Sie über den Vorfall wissen, in der Hauptverhandlung zu wiederholen.

b. Anklagevertreter und Verteidiger sorgen durch geeignete Fragestellung dafür, dass kein wichtiger Punkt Ihrer Aussage unberücksichtigt bleibt.

c. Im Verlauf der Zeugenaussage können Ihnen auch Fragen von den folgenden Personen gestellt werden:

(1) einem Offizier, der eine Untersuchung nach Artikel 32 durchgeführt hat (siehe "Das amerikanische Militärstrafrechtssystem - Funktionsweise");

(2) einem Militärrichter;

(3) den Geschworenen, die durch den Militärrichter Fragen stellen lassen können.

d. Ihre Aussage, die auch Ihre Antworten auf Ihnen gestellte Fragen umfasst, trägt wesentlich dazu bei, dass das Militärstrafrechtssystem erfolgreich angewendet werden kann.

### **WAS DAS US-MILITÄRSTRAFRECHTSSYSTEM VON IHNEN ERWARTET**

1. Das Militärstrafrechtssystem dient dazu,

a. Ordnung und Disziplin innerhalb der Streitkräfte zu fördern;

b. ein System für die gerechte Behandlung von Straftätern zu schaffen;

c. einem Angeklagten eine faire Verhandlung zu gewährleisten;

d. weitere Straftaten zu verhindern;

e. jene Personen, deren Schuld einwandfrei erwiesen ist, angemessen zu bestrafen und zu rehabilitieren.

2. Zur Realisierung der Ziele des Militärstrafrechtssystems ist Ihre Zeugenaussage äußerst wichtig. Sofern Sie nicht ein besonderes Aussageverweigerungsrecht haben, erwartet die US-Army von Ihnen, dass Sie sich als Zeuge zur Verfügung stellen und Ihre Aussage machen, und diese auch der Wahrheit entspricht.

3. Mit Hilfe des Militärstrafrechtssystems ist es möglich, Zeugen, die Militärangehörige sind (durch Befehl) und amerikanische Zivilisten (durch Ladung) zum Erscheinen und Aussagen vor einem Militärgericht zu zwingen. Die meisten Zeugen in Militärstrafverfahren sind jedoch trotz der damit verbundenen Unannehmlichkeiten bereit, freiwillig auszusagen.

4. Das Hilfsprogramm der US-Army für Geschädigte und Zeugen wurde erstellt, um Härten zu mildern, die Sie möglicherweise in der Vergangenheit erfahren haben, und Ihre Mitarbeit zu erleichtern; nutzen Sie dieses Programm, denn durch Ihre Mitarbeit tragen Sie dazu bei, dass das Militärstrafrechtssystem funktioniert.

5. Sollten Sie Fragen bezüglich Ihrer Rechte und Pflichten als Zeuge haben, wenden Sie sich bitte an den zuständigen Verbindungsbeauftragten für Geschädigte und Zeugen.

## APPENDIX G

### CIVILIAN WITNESSES FROM THE UNITED STATES

#### G-1. UNIFORM SYSTEM FOR PAYMENT OF CIVILIAN WITNESSES FROM THE UNITED STATES WHO TESTIFY IN COURTS-MARTIAL IN EUROPE

Although the responsibility for the proper treatment of witnesses rests with the victim/witness liaison officer or the trial counsel, several jurisdictions also have used their noncommissioned officer in charge or legal administrative technician as a POC for processing witnesses. The POC can be made a certifying officer and, under certain circumstances, a class-A agent officer. A class-A agent officer may draw funds from the finance and accounting office for paying witnesses. It may be appropriate for a POC to be a class-A agent officer if he or she is an officer, warrant officer, or noncommissioned officer in the grade of sergeant first class through sergeant major stationed in an isolated area.

#### G-2. PROCEDURES

When a civilian witness residing in the United States and not employed by the Government will be called to testify, the appropriate staff judge advocate (SJA) will—

- a. Take appropriate action to provide for the attendance of witnesses for both the prosecution and the defense according to Rule for Courts-Martial 703.
- b. Get a fund cite from the comptroller or other appropriate office.
- c. Provide a copy of the information memorandum for U.S. witnesses ([app E](#)) and a copy of the witness information sheet for civilian witnesses from the United States who testify in courts-martial ([fig G-1](#)) to the witness.
- d. Communicate with the witness by telephone to keep the witness informed and to reduce potential problems.
- e. Make arrangements for local transportation and lodging of the witness after the GCMCA issues invitational travel orders.
- f. Review witness information ([fig G-1](#)) with the witness. This review will ensure the witness is familiar with payable fees and allowances and with payment procedures.

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## WITNESS INFORMATION SHEET

1. This information sheet is provided to help you understand your travel entitlements in connection with your appearance as a witness. It does not cover every possibility, but is meant to be a guide. If you have any questions, feel free to ask the victim/witness liaison officer or the trial counsel.

### a. Transportation Entitlements.

(1) The U.S. Government will pay for travel from your home to the airport from which you fly to Europe and, on return, for travel from the reentry airport in the United States to your home. In all cases, the Government—

- (a) Provides its own transportation or obtains it from a commercial source.
- (b) Pays for common-carrier expenses at the least expensive rate (for example, coach fare rather than first class).
- (c) Pays [XX] cents per mile.
- (d) Pays a combination of the above.

**Example:** If you traveled by car from your home (H) to town (T), then took a bus to the city (C), then took a domestic airline to the airport (A) from which you flew to Europe, you will be reimbursed as follows:

Mileage from H to T at [XX] cents per mile, plus the cost of the bus ticket from T to C, plus the cost of the coach fare airline ticket from C to A.

(2) For your flight from the airport in the United States to your overseas destination and back, you will receive either transportation provided by the Government or payment for a commercial ticket you buy up to the amount the Government would have paid if it had bought the ticket. (You must fly on an American-flag carrier.) Payment is calculated on the actual cost, not to exceed the most economical rate available. You are free to sightsee in connection with your trip to Europe as a witness, but the Government cannot pay for sightseeing costs.

(3) Your entitlements for travel to and from the airport in Europe to the place of trial are the same as for travel described in (1) above.

**b. Reimbursable Expenses.** You will be paid for toll charges for roads, bridges, tunnels, and ferries; for taxi fares between places of lodging and common-carrier terminals; and for parking fees. Remember to obtain and keep receipts to turn in when you file your claim.

**c. Daily Expenses.** You will be paid for daily expenses, such as meals, lodging, and laundry, according to Government tables, called “per diem rates,” which are based on the local cost of living. These rates vary from place to place. When you arrive, the legal clerk or trial counsel will explain the per diem rates that apply to your trip. You should keep receipts for all expenses for which you think you might be paid.

(1) If you take a few extra days for sightseeing, the U.S. Government will pay per diem only for the time that you would have needed to travel as a witness if you had come and gone directly to the place of trial.

(2) For full days at the place of trial, you will be paid per diem at the daily rate.

(a) [XX] percent of this rate applies to lodging, so the amount payable per day will be reduced if you stay in Government accommodations. You will be paid [XX] percent per diem for meals, \$[XX] for miscellaneous expenses, plus the actual cost of the room. (Here is a note of warning that you, as a taxpayer, will understand and appreciate: If Government quarters are available and suitable, your per diem rate will be reduced even if you choose not to stay in the Government quarters. It is in your interest to check with the trial counsel before making hotel arrangements.)

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### Figure G-1. Witness Information Sheet for Civilian Witnesses From the United States Who Testify in Courts-Martial in Europe

(b) If you eat in a Government dining facility, the per diem rate will be reduced by [XX] percent for each meal consumed. You are not required to eat in a Government dining facility and your per diem rate will not be affected if you do not, even if a Government dining facility is available.

**d. Witness Fee.** You will be paid a witness fee of \$[XX] per day for each day of attendance. (Compensation also may be based on German law if such payment is more advantageous to you. In order to allow such a comparison, you should be prepared to submit evidence of wages you will lose due to your appearance.)

2. Before you leave this command, we will prepare the necessary paperwork for filing your claim for expenses.

3. Your attendance at this trial is sincerely appreciated. If you have any questions concerning your payment or if you have any problems, please see the victim/witness liaison officer or the trial counsel so that your questions can be answered and your problems can be solved before you leave Europe.

## APPENDIX H

### COMPENSATING WITNESSES AND EXPERTS AND THE FEE SCHEDULE FOR EXPERTS (TRANSLATION OF APPLICABLE GERMAN LAWS)

**LAW CONCERNING THE REMUNERATION OF EXPERTS, INTERPRETERS, AND TRANSLATORS AS WELL AS THE COMPENSATION OF HONORARY JUDGES, WITNESSES, AND THIRD PERSONS** (Law Concerning Remuneration and Compensation in Connection With Court Proceedings — *Justizvergütungs- und Entschädigungsgesetz/JVEG*) in the version of 5 May 2004, Federal Law Gazette I, 2004, p. 776 with subsequent amendments through 23 July 2013.

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**PART 1  
GENERAL PROVISIONS**

**SECTION 1. SCOPE OF APPLICATION AND ENTITLED PERSONS**

(1) This law regulates—

1. The remuneration of experts, interpreters, and translators whose services are requested by the court, the public prosecutor's office, the tax authority in cases in which it conducts the preliminary investigation independently, the administrative authority in case of proceedings pursuant to the Law on Administrative Offenses, or the bailiff;

2. The compensation of honorary judges at a court of general jurisdiction and the courts for labor issues as well as the courts with jurisdiction in administrative, tax, and social matters with the exception of honorary judges in trade matters in disciplinary court proceedings or at disciplinary tribunals, as well as

3. The compensation of witnesses and third persons (section 23) called in by the agencies listed in number 1.

Remuneration or compensation is granted only in accordance with this law. The person whose services were requested is entitled to remuneration pursuant to sentence 1, number 1; this applies also to personnel of a company rendering a service, even if the order was placed with the company.

(2) This law also applies if authorities or other public agencies are requested to render expert services by the agencies stated in paragraph 1, sentence 1, number 1. This law does not apply to members of an authority or other public agency who are neither honorary officers nor working on an honorary basis if they render, defend, or explain an expert opinion as part of their official responsibilities.

(3) A request for services by the police or another law-enforcement authority upon order or previous approval by the office of the public prosecutor or the tax authority is equal to a request by the public prosecutor's office or the tax authority in the cases of paragraph 1, sentence 1, number 1. Sentence 1 shall apply accordingly to proceedings of an administrative authority pursuant to the Law on Administrative Offenses.

(4) The members of the committees for the appointment of lay judges and those of the committees for the appointment of honorary judges at the courts of jurisdiction for administrative and tax matters will be compensated in the same manner as honorary judges.

## **SECTION 2. ASSERTION AND EXPIRATION OF CLAIM, STATUTE OF LIMITATIONS**

(1) Claim to remuneration or compensation expires if it is not asserted within 3 months at the agency that requested or ordered the services of the entitled person. The period starts to run—

1. In case of a written opinion or preparation of a translation, on receipt of the opinion or the translation by the agency requesting the service from the entitled person,

2. In case of an examination as an expert or witness or assistance as an interpreter, on completion of the examination or the assistance rendered;

3. In the cases of section 23, on completion of the measure, and

4. In case of rendering a service as an honorary judge or member of a committee within the meaning of section 1, paragraph 4, on completion of the office term.

Based on a justified request, the period may be extended by the agency designated in sentence 1; if it denies an extension, it will immediately submit the request to the court with competence for assessing the remuneration or compensation pursuant to section 4, paragraph 1, which will make a final decision. If the court denies the request, the claim will expire if the period pursuant to sentence 1 has run and the claim has not been asserted at the agency designated in sentence 1 within 2 weeks of publication of the decision.

(2) If the entitled person is hindered from complying with the timeframe pursuant to paragraph 1 without fault of his or her own, the court will grant restitution to the previous condition on request, if the individual states the amount of the claim within 2 weeks after elimination of the hindrance and provides credible reasons for a restitution to the previous condition. After a period of 1 year, starting at the end of the expiration period, restitution to the previous condition can no longer be requested. Denial of restitution may be appealed. Such an appeal is authorized only if filed within 2 weeks. This period begins when the decision is served. Section 4, paragraph 4, sentences 1 through 3, and paragraphs 6 through 8, will apply accordingly.

(3) The claim to remuneration or compensation becomes statute-barred after 3 years at the end of that calendar year during which the material point in time pursuant to paragraph 1, sentence 2, numbers 1 through 4, has occurred. The provisions of the Civil Code (*BGB*) will apply to the statute of limitations. The statute of limitations is suspended by a request for assessment by court (section 4) in the same way as complaints are filed. The statute of limitations will not be considered *ex officio*.

(4) The claim to reimbursement of an overpaid remuneration or compensation becomes statute-barred after 3 years at the end of the calendar year in which payment was made. Section 5, paragraph 3, of the Law on Court Costs (*Gerichtskostengesetz*) applies accordingly.

## **SECTION 3. ADVANCE PAYMENT**

On request, a reasonable advance payment will be granted if the entitled person has incurred or is likely to incur substantial travel costs or other expenses, or if the expected reimbursement for a part of the services already rendered exceeds €2,000.

## **SECTION 4. ASSESSMENT BY COURT AND COMPLAINT**

(1) Assessment of the remuneration, compensation, or advance payment will be made by court decision if the entitled person or the treasury requests an assessment by court or the court considers it appropriate. Competence lies with—

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1. The court that requested the services of the entitled person, or the court at which that person participated as an honorary judge or at which the committee within the meaning of section 1, paragraph 4, is established;

2. The court where the office of the public prosecutor is located if the request was initiated by the public prosecutor's office or upon its order or approval by the police or other law-enforcement agency; after public charges have been preferred, however, the court in charge of the proceedings;

3. The State court at which the public prosecutor's office is located that would be in charge of the preliminary investigation if the request in the cases of section 1, paragraph 1, sentence 1, number 1, was initiated by the tax authority or on its order or with its approval by the police or other law-enforcement agency; after public charges have been preferred, however, the court in charge of the proceedings;

4. The district court in the area in which the bailiff has his or her official seat, if the request for service was initiated by the bailiff, in deviation therefrom; in case of enforcement proceedings, the court having jurisdiction of such proceedings.

(2) If the request for service was made by the administrative authority in the course of administrative fine proceedings, the remuneration or compensation to be granted and the advance payment will be assessed by court decision if the entitled person requests a court decision against assessment by the administrative authority. Section 62 of the Law Concerning Administrative Fines will apply to the proceedings.

(3) The entitled person and the treasury may file a complaint against the decision pursuant to paragraph 1 if the amount in dispute exceeds €200 or if the court that rendered the appealed decision allows the complaint based on the fundamental importance of the issue to be decided.

(4) To the extent that the court considers the complaint permissible and valid, it has to remedy it; otherwise the complaint will immediately be submitted to the court of appeal. The court of appeal is the court at the next higher level. A complaint to a higher Federal court does not occur. The court of appeal is bound by the complaint's being allowed; rejection cannot be appealed.

(5) A further complaint is only permissible if the State court has rendered a decision as appellate court and has allowed it in its decision based on the fundamental importance of the issue to be decided. It can only be justified with the reason that the decision is based on a violation of law; sections 546 and 547 of the Code of Civil Procedure will apply accordingly. The superior State court will decide on the further complaint. Paragraph 4, sentences 1 and 4, will apply accordingly.

(6) Briefs and statements may be submitted to the record of the clerk's office or in writing; section 129a of the Code of Civil Procedure will apply accordingly. The provisions of the rules of procedure applicable to the basic proceedings apply accordingly to the authorization. The complaint will be filed with the court that issued the decision which is being appealed.

(7) The court will render the decision on the request through one of its judges sitting alone; the same applies to the complaint, if the appealed decision was rendered by a judge sitting alone or a senior court officer. The judge sitting alone will transfer the procedure to the division or the senate if the matter involves specific problems of either factual or legal nature or if the legal issue is of fundamental importance. However, the court will always decide without participation of honorary judges. An appeal may not be based on an initiated or omitted transfer.

(8) The proceedings will be free of charge. Costs will not be reimbursed.

(9) The decisions pursuant to paragraphs 1, 2, 4, and 5 are not operative against the party liable for the costs.

#### **SECTION 4A. REMEDY IN CASE OF VIOLATION OF THE RIGHT TO BE HEARD BEFORE THE COURT**

(1) Based on an objection by a person involved who is adversely affected by a decision pursuant to this law, the proceedings will be continued if—

1. An appeal or any other legal remedy against the decision is not possible, and

2. The court has violated this person's right to be heard before the court in a manner relevant to the issues of the case.

(2) The objection will be raised within 2 weeks after obtaining knowledge of the violation of the right to be heard before the court; the time when it became known must be substantiated. If a year has elapsed after publication of the appealed decision, an objection can no longer be raised. Informally communicated decisions are considered published on the 3d day after they were mailed. The objection will be raised with the court that made the decision which is being appealed; section 4, paragraph 6, sentences 1 and 2, apply accordingly. The objection must designate the appealed decision and state the existence of the prerequisites mentioned in paragraph 1, number 2.

(3) The other persons involved will, if necessary, be given the opportunity to make a statement.

(4) Ex officio, the court will review the objection to determine whether or not it is in fact admissible and to determine if it was raised in the form and within the time limit required by law. If one of these requirements is not met, the objection will be dismissed as inadmissible. If the objection is not justified, the court will reject it. Such a decision is rendered in a final order. The order must be provided with a brief justification.

(5) If the objection is justified, the court will remedy it by continuing the proceedings, in case such measure is necessary based on the objection.

(6) Costs will not be reimbursed.

#### **SECTION 4B. ELECTRONIC FILE, ELECTRONIC DOCUMENT**

(1) The regulations on the electronic file and the electronic court document for the proceedings in which the services of the entitled person were requested will apply.

(2) If a recording as an electronic document is sufficient for petitions and statements in the proceedings in which the services of the entitled person were requested, this form of document will also be sufficient for petitions and statements pursuant to this law. The responsible person will provide the document with a qualified electronic signature in accordance with the Signature Law. If a transmitted electronic document cannot be processed by the court, the sender will immediately be informed accordingly and the general technical conditions will be stated.

(3) An electronic document is considered submitted as soon as it was recorded by the court's receiving device.

## **PART 2 JOINT PROVISIONS**

### **SECTION 5. COMPENSATION OF TRAVEL EXPENSES**

(1) Actually incurred expenditures for use of regularly running public transportation will be reimbursed in the amount of up to the respective costs for first-class travel by train including expenses for seat reservations and transportation of the luggage needed.

(2) When using their own motor vehicle or a motor vehicle provided for use at no cost—

1. Witnesses or third persons (section 23) will be reimbursed €0.25 to compensate the operating costs and the wear and tear of the motor vehicle, and

2. Entitled persons designated in section 1, paragraph 1, sentence 1, numbers 1 and 2, will be reimbursed €0.30 to compensate purchase, maintenance, and operating costs,

for each kilometer driven plus regular expenses in cash incurred by use of the vehicle for the trip, in particular parking fees. In case the vehicle is used by several persons, the standard rate can be claimed only once. In case a motor vehicle is used that does not fall under the category of vehicles designated in paragraph 1 or sentence 1, travel costs actually incurred will be reimbursed up to the amount of the travel costs designated in sentence 1; in addition, regular expenses in cash incurred by use of the vehicle for the trip, in particular parking fees, will be reimbursed to the extent that the entitled person has to bear them.

(3) Travel costs exceeding those designated in paragraph 1 or paragraph 2 will be reimbursed if additional amounts for remuneration or compensation can thereby be saved or if higher travel costs are required due to special circumstances.

(4) For trips taken in the course of the proceedings, travel costs will be reimbursed only to the extent that additional amounts for remuneration or compensation are thereby saved and would otherwise have to be granted if the person remained at the location of the proceedings.

(5) If the trip to the place of the proceedings begins at a location different than the one stated in the summons or notification of proceedings or the one immediately stated to the competent agency, or if the return trip is made to a different place, additional costs will be reimbursed only, with reasonably exercised discretion, if the entitled person was forced to make these trips due to special circumstances.

### **SECTION 6. COMPENSATION OF COSTS**

(1) A person who neither lives nor works in the local community in which the proceedings take place will receive a per diem allowance for the time he or she must be absent from his or her residence and his or her work to attend the court proceedings; the amount is determined in accordance with section 4, paragraph 5, sentence 1, number 5, sentence 2, of the Income Tax Law (*Einkommensteuergesetz*).

(2) If an overnight stay away from home is necessary, an overnight allowance pursuant to the provisions of the Federal Law on Travel Costs (*Bundesreisekostengesetz*) will be granted.

### **SECTION 7. REIMBURSEMENT OF OTHER EXPENSES**

(1) Such cash expenses that are not specifically mentioned in sections 5, 6, and 12 will also be reimbursed to the extent that they are necessary. This applies in particular to costs for necessary replacements and necessary accompanying persons.

(2) For photocopies and printouts

1. Up to a size of DIN A3, €0.50 per page will be reimbursed for the first 50 pages and €0.15 for each additional page;
2. Of a size exceeding DIN A3, €3.00 per page will be reimbursed, and
3. For color photocopies or color printouts, twice the respective amount pursuant to number 1 or 2 will be reimbursed.

In one and the same matter, the amount of the standard rate will be calculated uniformly. A standard rate will be granted only for copies and printouts made from official and court files if they were required for an adequate preparation of or working on the matter, as well as for copies and additional printouts which were made on demand of the agency requesting the service. If copies or printouts of a size exceeding DIN A3 are made by a third party against payment, the entitled person/party can demand reimbursement of the cash expenses instead of the standard rate.

(3) For providing electronically stored files instead of the copies and printouts mentioned in paragraph 2, €1.50 per file will be reimbursed. For documents made available in one single process or transferred to the same storage medium in one single process, a maximum of €5.00 will be reimbursed.

### **PART 3 REMUNERATION OF EXPERTS, INTERPRETERS, AND TRANSLATORS**

#### **SECTION 8. BASIS FOR REMUNERATION**

(1) Experts, interpreters, and translators will receive as remuneration—

1. A fee for their services (sections 9 to 11),
2. Reimbursement of travel costs (section 5),
3. Compensation of costs (section 6) as well as
4. Reimbursement of other and special expenses (sections 7 and 12).

(2) If the fee has to be calculated in hourly rates, it will be granted for each hour the service is required plus necessary travel and waiting time. The last hour that has already started will be calculated as a full hour if more than 30 minutes were required to render the service; otherwise, the fee will be half of the amount to be paid for a full hour.

(3) If services or expenses subject to remuneration are applicable to simultaneous completion of several matters, remuneration will be divided by the number of matters to be worked.

(4) As appears just, experts, interpreters, and translators who are ordinarily resident outside of Germany may be granted a higher remuneration than the one determined in paragraph 1 in consideration of their personal circumstances, in particular their regularly earned income.

## **SECTION 9. FEE FOR SERVICE OF EXPERTS AND INTERPRETERS**

(1) Experts will receive the following fee per hour:

<b>Fee Category</b>	<b>Amount in Euro</b>
1	65
2	70
3	75
4	80
5	85
6	90
7	95
8	100
9	105
10	110
11	115
12	120
13	125
M1	65
M2	75
M3	100

Attribution of services to a fee category is determined pursuant to annex 1. If the service is rendered in a technical field that is not listed in any of the fee categories, it will be attributed to a fee category as appears just under consideration of the hourly rates generally paid for such services outside the judicial and official field; this applies accordingly if a medical or psychological expertise concerns an item that is not listed in any of the fee categories. If the service is rendered in several technical fields or if the medical or psychological expertise concerns several issues and these technical fields or issues belong to different fee categories, the fee is determined uniformly according to the highest of these fee categories for the entire time that was required; sentence 3, however, will apply accordingly if such calculation would lead to an unfair result in consideration of the main focus of the service. Section 4 applies accordingly provided that the complaint is also permissible if the value of the matter in dispute does not exceed €200. The complaint is authorized only as long as the claim for remuneration has not been asserted.

(2) If the court asks the temporary insolvency administrator to verify whether grounds for opening insolvency proceedings are present and which prospects there are for a continuation of the debtor's company (section 22, paragraph 1, sentence 2, number 3 of the insolvency regulations also in connection with section 22, paragraph 2 of the insolvency regulations), the fee of the expert is determined at €80 per hour in this case, in deviation from paragraph 1.

(3) The fee for an interpreter is €70 per hour and, if called on specifically for simultaneous interpreting, €75; decisive is only the type of interpreting communicated ahead of time when calling on the interpreter. A person working exclusively as an interpreter will receive a deficiency compensation to the extent that he or she suffered a loss of income due to cancellation of a court hearing for which he or she was summoned and which was cancelled for a reason for which he or she was not responsible, and if he or she was notified of the cancellation on the same day or 1 or 2 days before the hearing. The deficiency compensation is paid for an amount of up to the pay for two hours.

## **SECTION 10. FEE FOR SPECIAL SERVICES**

(1) If an expert or an expert witness renders services that are designated in annex 2, the fee or compensation will be determined based on that annex.

(2) For services of the type designated in part O of the Fee Schedule for Medical Services (Annex re Schedule of Medical Fees), the fee is determined by respective application of this fee schedule and calculating 1.3 times the rate. Section 4, paragraph 2 sentence 1 paragraph 2a sentence 1, paragraph 3 and 4, sentence 1, and section 10 of the Schedule of Medical Fees will apply accordingly; otherwise sections 7 and 12 will remain unaffected.

(3) If additional time is required to render a service under paragraph 1 or 2, the entitled person will receive a fee according to fee category 1.

## **SECTION 11. FEE FOR TRANSLATIONS**

(1) The fee for a translation is €1.55 for every 55 keystrokes or parts thereof of the written text (base compensation). If the text is not provided electronically in an editable form, the compensation is increased to €1.75 for every 55 keystrokes or parts thereof (increased compensation). If a translation is extremely difficult because of the special circumstances of the individual case, especially because of the frequent use of technical terms, poor legibility of the text, special urgency or because it involves a foreign language rarely needed in Germany, the base compensation will be increased to €1.85; in case of extraordinarily difficult texts, to €2.05. The text in the target language is used when determining the number of keystrokes; if, however, Latin letters are used only in the source language, the number of keystrokes in the source language text is used for determining keystrokes. If counting the keystrokes would require an unreasonable effort, their number will be determined based on the number of lines, taking the average number of keystrokes per line into consideration.

(2) For one or several translations based on the same order, the fee will be at least €15.

(3) If the service of the translator consists of reviewing documents or telecommunication recordings with regard to certain contents, without a written translation being required, he or she shall receive the same fee as an interpreter.

## **SECTION 12. REIMBURSEMENT OF SPECIAL EXPENSES**

(1) If not otherwise provided by this law, remuneration pursuant to sections 9 through 11 also covers common general and administrative costs as well as the expenses normally incurred in connection with the preparation of an expert opinion or a translation. However, special compensation will be granted for—

1. The special costs required and incurred for the preparation and rendering of an expert opinion or a translation, including related expenses necessary for assisting personnel, as well as for materials and tools used for an examination;

2. Each photo necessary for the preparation and rendering of expertise at €2 and, if the photos are not part of the written expertise (section 7 paragraph 2), €0.50 for the second and each additional copy or printout;

3. The preparation of a written expert opinion at €0.90 for every 1,000 keystrokes or parts thereof; if the number of keystrokes is not known, it will be estimated;

4. The turnover-tax imposed on the remuneration, unless it is not imposed pursuant to section 19, paragraph 1, of the Turnover Tax Law (*Umsatzsteuergesetz*).

(2) A part of the general and administrative costs attributable to the assisting personnel (paragraph 1, sentence 2, number 1) will be compensated by a supplement of 15 percent of the amount that is to be compensated as a necessary expense for assisting personnel, unless the use of such personnel did not or only very minimally contributed to an increase in the general and administrative costs.

### **SECTION 13. SPECIAL REMUNERATION**

(1) If the parties or persons involved have indicated to the court that they agree to a specific remuneration or a remuneration deviating from the legal provisions, the services of the expert, interpreter, or translator will be requested only, and granted such remuneration, after a sufficient amount for the entire remuneration has been paid to the treasury. If, in a procedure pursuant to the Code of Administrative Offenses (*Gesetz über Ordnungswidrigkeiten*), the prosecuting authority made an according statement, no advance payment is required even if the prosecuting authority is not exempt from paying the costs. In a procedure in which court fees are levied under no circumstances, it is sufficient if an amount covering the additional costs has been paid for which the parties or persons involved pursuant to paragraph 6 are liable.

(2) The statement of one party or one person involved is sufficient if it refers to the hourly rate pursuant to section 9 or for written translations to the remuneration for every 55 keystrokes or parts thereof pursuant to section 11 and the court consents. Consent will be given only if the fee does not exceed two times the amount authorized pursuant to sections 9 through 11 and if no suitable person agrees to take on the task for the legally determined compensation. Before it consents, the court will hear the other party or the other persons involved. Consent and denial of consent are not subject to appeal.

(3) A person who has been granted legal aid may make a statement pursuant to paragraph 1 only with reference to the hourly rate pursuant to section 9 or for written translations to the remuneration for the every 55 keystrokes or parts thereof pursuant to section 11. If he or she were obliged to make an advance payment on the remuneration without taking into account the legal aid, he or she would have to pay a sufficient amount to the treasury for the remuneration expected in addition to the legally required or agreed remuneration (section 14); section 122, paragraph 1, number 1, letter a of the Code of Civil Procedure will not be applicable in this case. The amount will be determined in a decision that cannot be appealed. At the same time, the court determines which fee group the expert's services would have to be assigned to without considering of the statements of the parties or persons involved or the amount to be paid for 55 keystrokes for a translation in such a case.

(4) If an agreement pursuant to paragraphs 1 and 3 is necessary for an appropriate prosecution and the person who has been granted legal aid is unable to pay the amount necessary pursuant to paragraph 3, sentence 2, the payment is not required if the court agrees to his or her statement. Consent will be given only if the fee does not exceed twice the amount authorized pursuant to sections 9 through 11. Consent and denial of consent are not subject to appeal.

(5) In test proceedings pursuant to the Law Concerning Test Proceedings on Capital Investments (*Kapitalanleger-Musterverfahrensgesetz*), remuneration will be granted without considering whether a sufficient amount has been paid to the treasury. In case of paragraph 2, the statement of one party involved is sufficient (section 8 of the Law Concerning Test Proceedings on Capital Investments). Paragraphs 3 and 4 will not be applied. Hearing of the remaining parties involved may be replaced by giving public notice of the remuneration amount for which approval of the court is to be given. Public notice is effected by entry into the register of court actions (*Klageregister*) pursuant to section 2 of the Law Concerning Test Proceedings on Capital Investments. At least 4 weeks must pass between giving public notice and the decision on the approval.

(6) If no party or person involved owes the remuneration according to the provisions in the law governing costs, those parties or persons involved who made a statement pursuant to paragraph 1 or paragraph 3 are jointly and severally liable for the additional costs incurred thereby, internally pro-rated per capita. For the criminal prosecution or prosecuting authority, such a body is liable where the authority is assigned to if the body is not exempt from paying the costs. The share falling to one party or person involved will be disregarded if the court consented to the statement pursuant to paragraph 4. The expert, interpreter, or translator will provide a calculation of the legal remuneration.

#### **SECTION 14. AGREEMENT ON REMUNERATION**

The highest *Land* authority, in case of the Federal courts and authorities, the highest Federal authority, or an agency assigned by them may agree with experts, interpreters, and translators whose services are frequently requested on the remuneration to be granted; however, the remuneration may not exceed the amount provided for by this law.

### **PART 4**

#### **COMPENSATION OF HONORARY JUDGES**

##### **SECTION 15. BASIS FOR COMPENSATION**

(1) Honorary judges receive as compensation—

1. Reimbursement of travel costs (section 5),
2. Compensation of costs (section 6),
3. Reimbursement of other expenses (section 7),
4. Compensation for loss of time (section 16),
5. Compensation for negative effects on housekeeping (section 17), as well as
6. Compensation for loss of earnings (section 18).

(2) If compensation is calculated on an hourly basis, it will be granted for the entire time the service is required, including travel and waiting times necessary; however, compensation will be for no more than 10 hours per day. The last already started hour will be calculated as 1 full hour.

(3) Compensation will also be granted—

1. If honorary judges have to attend introductory and continuing education conferences on the initiative of the responsible state agency;
2. If honorary judges at the labor and social courts participate in such capacity in the election of committees required for them by law or if they participate in sessions of such committees (sections 29 and 38 of the Law on Labor Courts (*Arbeitsgerichtsgesetz*), and sections 23; 35 paragraph 1, and section 47 of the Law on Social Courts (*Sozialgerichtsgesetz*)).

##### **SECTION 16. COMPENSATION FOR LOSS OF TIME**

The compensation for loss of time will be €6 per hour.

##### **SECTION 17. COMPENSATION FOR NEGATIVE EFFECTS ON HOUSEKEEPING**

Honorary judges keeping their own household for several persons will receive an additional compensation for negative effects on housekeeping in the amount of €14 per hour if they are not employed or if they work part-time and are requested outside of their agreed regular daily workhours. Honorary judges who receive a substitute income (*Erwerbsersatz Einkommen*, such as pensions, unemployment benefits, etc.) are considered to be equal to honorary judges who are working. Compensation for part-time employees will be granted for a maximum of 10 hours per day minus the number of hours corresponding to the agreed regular workhours. The compensation will not be granted if costs for a necessary replacement are reimbursed.

## **SECTION 18. COMPENSATION FOR LOSS OF EARNINGS**

In addition to the compensation pursuant to section 16, an additional compensation will be granted for loss of earnings, which will be determined based on the regular gross income including the social security payments made by the employer; this compensation, however, will not exceed the maximum amount of €24 per hour. Compensation will be up to €46 per hour for honorary judges whose services are required for more than 20 days for the same proceedings or who are absent from their regular employment for at least 6 days within a period of 30 days. It will be up to €61 per hour for honorary judges whose attendance is required for more than 50 days in the same proceedings.

## **PART 5 COMPENSATION OF WITNESSES AND THIRD PERSONS**

### **SECTION 19. BASIS FOR COMPENSATION**

- (1) Witnesses receive as compensation—
1. Reimbursement of travel costs (section 5),
  2. Compensation of costs (section 6),
  3. Reimbursement of other expenses (section 7),
  4. Compensation for loss of time (section 20),
  5. Compensation for negative effects on housekeeping (section 21), as well as
  6. Compensation for loss of earnings (section 22).

This also applies in case of a written response to a question about evidence.

(2) If compensation is calculated on an hourly basis, it will be granted for the entire time attendance is required, including travel and waiting times necessary; this compensation, however, will be for no more than 10 hours per day. The last already started hour will be calculated as 1 full hour if altogether more than 30 minutes are allocated to the service requested; or else, compensation will be half the amount for a full hour.

(3) If compensation is required when services of a witness are requested simultaneously in different matters, it will be divided between these matters pursuant to the proportions of compensation that would be justified in case of a special request.

(4) Witnesses who are ordinarily resident in a foreign country, may, on fair judgment, receive a higher compensation than the one determined in sections 20 to 22, in consideration of their personal circumstances, in particular their regularly earned income.

### **SECTION 20. COMPENSATION FOR LOSS OF TIME**

Compensation for lost time is €3.50 per hour, provided that no compensation must be granted for loss of earnings or negative effects on housekeeping, unless the witness did not suffer an obvious disadvantage from his or her requested appearance in court.

### **SECTION 21. COMPENSATION FOR NEGATIVE EFFECTS ON HOUSEKEEPING**

Witnesses keeping their own household for several persons will receive compensation for negative effects on housekeeping in the amount of €14 per hour if they are not gainfully employed or if they work part-time and their services are requested outside their agreed regular daily workhours. Witnesses who receive a substitute income (*Erwerbsersatzeinkommen*, such as pensions, unemployment benefits, etc.) are considered to be equal to working witnesses. Compensation for part-time employees will be granted for a maximum of 10 hours per day minus the number of hours corresponding to the agreed regular workhours. The compensation will not be granted if costs for a necessary replacement are reimbursed.

## **SECTION 22. COMPENSATION FOR LOSS OF EARNINGS**

Witnesses suffering a loss of earnings will receive a compensation that will be determined based on the regular gross income, including the social security payments made by the employer; however, this compensation will not exceed the maximum amount of €21 per hour. Prisoners who do not suffer loss of earnings from a private employment relationship will receive compensation in the amount of the lost allocation paid by the detention authority (*Vollzugsbehörde*).

## **SECTION 23. COMPENSATION OF THIRD PERSONS**

(1) Inasmuch as those who render telecommunications services or contribute to this (telecommunications companies) put orders for surveillance of telecommunication into practice or provide information which is subject to special compensation pursuant to appendix 3 to this law, compensation is calculated exclusively pursuant to this appendix.

(2) Third persons submitting certificates, other documents, or other items on the basis of a court order pursuant to section 142, paragraph 1, sentence 1, or section 144, paragraph 1, of the Code of Civil Procedure (*Zivilprozessordnung*), or who tolerate their inspection, as well as third persons who, on the basis of a request that serves purposes relating to evidence by the prosecuting authority—

1. Surrender objects (section 95, paragraph 1; and section 98a of the Code of Criminal Procedure, *Strafprozessordnung*) or avoid the obligation to surrender the object pursuant to a suggestion of the prosecuting authority;

2. Provide information in cases other than the ones mentioned in paragraph 1

(3) The necessary use of their own data processing equipment for purposes of a computer-assisted search (*Rasterfahndung*) will be compensated if the investment for both hard- and software used in a specific case exceeds €10,000. The compensation will be—

1. €5 for each hour of use for an investment of more than €10,000 and up to €25,000; the total time of use will be rounded up to full hours;

2. For other data processing equipment —

a) €10 for each hour of use of the equipment for the development of a special application program required for the individual case, in addition to the compensation pursuant to paragraph 2; and

b) For the other time of use, to include the personnel costs necessary for this, one-tenth of a million of the invested amount per second for the time during which the central processing unit is occupied (CPU second), not to exceed €0.30 per CPU second.

The invested amount and the CPU time used must be substantiated.

(4) External electronic data processing equipment is considered to be equal to the own equipment if the directly attributable costs incurred by providing the information (section 7) cannot be ascertained reliably.

## **APPENDIX I**

### **OBTAINING ASSISTANCE OF EXPERT MEDICAL WITNESSES AND CONSULTANTS AND REQUESTING A SANITY BOARD**

#### **I-1. OBTAINING ASSISTANCE OF EXPERT MEDICAL WITNESSES AND CONSULTANTS**

Trial counsel (TC) and defense counsel frequently have a need for medical experts to help in prepare and conduct courts-martial. All requests, regardless of the originating command or counsel, will be directed to the Office of the Command Judge Advocate (OCJA), United States Army Regional Medical Command (ERMC). Every effort will be made to help meet the trial attorneys' needs for expert assistance while considering the mission requirements of the medical community.

a. Counsel will determine the need for the expert by defining the nature and extent of the expertise required. It is important that counsel and the court assess the need versus the desire for the medical expertise and the level and amount of assistance required, understanding that involvement in a court-martial process, even if only for consultation, removes a medical provider from patient care and can adversely affect the ability of ERMC to provide necessary care.

b. Counsel will contact the ERMC OCJA in writing or by e-mail to forward the request to the appropriate section within the ERMC or the supporting military treatment facility (MTF) for review and action. The request will provide the following minimum information:

(1) The court-martial or administrative proceeding for which expert assistance is required.

(2) The nature of the expert from whom assistance is required. Sufficient facts need to be provided to determine the requisite qualifications of the expert best positioned to assist.

(3) Specifically identify if this request is a by-name request and, if so, provide details (for example, first responder).

(4) State whether the expert is needed as a consultant or to testify as a witness for the Government or defense. If the expert is needed as a consultant or witness for the defense, state whether the expert will become a member of the defense team.

(a) If the expert is needed as a witness, the request must include the following information:

1. The anticipated trial dates and the extent of involvement of the witness in the trial (that is, as a primary, rebuttal, or sentencing witness).

2. Where the trial is expected to take place and, if known, whether it is anticipated that the expert will be placed on call, rather than required at the place of trial pending testimony.

3. Whether the expert's testimony can be offered by telephonic testimony or by stipulation.

(b) If the expert is needed as a consultant, the request must include the following information:

1. The nature of the consultation (for example, review of records, interviewing clients and witnesses, evaluation).

2. The number of estimated hours/days required to accomplish the consultation.

(5) Any other information that would be pertinent to determining the most qualified expert and assessing availability.

c. The appropriate ERMC consultant may contact and coordinate with the various clinics, hospitals, and facilities within the ERMC area of responsibility to determine expertise and availability. Once an available expert is identified—

(1) The ERMC consultant will provide the expert's contact information to the OCJA.

(2) The ERMC OCJA will provide the expert's contact information to the requesting attorney (if not already known).

(3) The TC will provide the ERMC OCJA with copies of all subpoenas, court orders, or other orders requiring expert assistants or witnesses be provided.

d. The TC will ensure that appropriate motions or requests are made to the military judge to minimize medical personnel time away from their duties and patient-care responsibilities.

e. Appointing an expert witness or consultant without first ensuring that coordination has been made with the ERMC may result in significant delay due to the identified provider's unavailability or inability to meet expert requirements, or due to a greater medical need.

f. The ERMC will not deny requests for an expert medical witness or consultant without coordinating with the Office of the Judge Advocate, HQ USAREUR, and the applicable general court-martial convening authority office of the staff judge advocate.

g. Requests for Forensic Behavioral Science Services must be in compliance with the procedures in OTSG/MEDCOM Policy Memorandum 13-017.

## **I-2. SANITY-BOARD ORDER**

According to Rule for Courts-Martial (RCM) 706, the commander of the accused, the investigating officer, TC, defense counsel, or military judge may request an inquiry into the mental condition of the accused (sanity-board order) if there is reason to believe that the accused lacks mental capacity to stand trial or lacked mental responsibility for the charged offenses. The sanity-board order will be forwarded through appropriate channels to the convening authority or military judge before whom the charges are pending to order an inquiry into the mental condition of the accused (RCM 706(a)-(b)). Other evidence regarding the mental or physical conditions that might be relevant in extenuation or mitigation during the trial should be developed through requests for expert assistance ([para I-1 above](#)).

a. The sanity-board order will provide a statement, either attached through documents (for example, defense request for the sanity board; report from treating psychiatrist; statements of parties making observations as to the accused's mental state, briefs, motions) or in the body of the order, as to whether it is believed that the accused lacked mental responsibility for a charged offense and whether it is believed that the accused lacks capacity to stand trial. The documentation will provide detailed facts leading to the belief or the nature of the observations that give rise to the belief (RCM 706(a) and (c)(2)).

b. The sanity-board order may request more than one board member or additional testing or findings not mandated by the provisions of RCM 706(c)(2). It is strongly recommended that the Chief, Behavioral Health, Landstuhl Regional Medical Center (LRMC), be consulted to determine the need for a sanity board and, if needed, the propriety of additional members or testing and findings before issuing a sanity-board order.

c. The sanity board is bound by RCM 706 to make separate and distinct findings on each of the following:

(1) At the time of the alleged criminal conduct, did the accused have a severe mental disease or defect? The term “severe mental disease or defect” does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct, or minor disorders such as nonpsychotic behavior disorders and personality defects.

(2) What is the clinical psychiatric diagnosis?

(3) Was the accused, at the time of the alleged criminal conduct and as a result of such severe mental disease or defect, unable to appreciate the nature and quality or wrongfulness of his or her conduct?

(4) Is the accused presently suffering from a mental disease or defect rendering the accused unable to understand the nature of the proceedings against him or her or to conduct or cooperate intelligently in the defense?

d. A sanity-board order will be referred to either the LRMC or the Bavaria Medical Department Activity, whichever is closer to the location of the accused, unless otherwise directed by USAREUR or ERMC policy or regulation. For Soldiers in confinement at the United States Army Regional Correctional Facility-Europe, the LRMC is responsible for conducting the sanity board ([AE Reg 190-47](#)).

e. RCM 707 requires that an accused be brought to trial within 120 days after referral of charges or the imposition of restraint. Failure to comply with this requirement can result in dismissal of affected charges or sentencing relief. While time for psychiatric evaluations is typically excluded from Government accountability, this is true only when the delay is found to be reasonable.

(1) The United States Army Medical Command is involved in and has given high priority to the Access to Care Campaign, which focuses on speedy and efficient delivery of healthcare to its beneficiaries. This program requires healthcare providers to program a certain number of days and hours in the clinic. This care is programmed 4 to 6 weeks in advance. A sanity board requires at least 1 full day for each involved healthcare provider and together as many as 3 to 4 full duty days and additional time for documenting the results and creating the report for all board members. For this reason, all parties should request sanity boards well in advance of the need for the report and should consider the delays that may result from requesting more than one board member or additional testing.

(2) The commander of the MTF and board members should be aware that due diligence in completing the sanity board is required and that it is advisable to track and document reasons for delay in the proceedings, requesting appropriate extensions if suspenses cannot be met.

f. The TC will ensure that the sanity-board order is forwarded to the appropriate MTF commander through encrypted or digitally signed e-mail, with a copy to the Health Care Law Attorney, ERMOCJA (personnel will call mil 496-8803 for the e-mail address). All subsequent communication about the order must be sent by encrypted e-mail. The TC will include the following in the e-mail message to the MTF commander:

(1) The court-martial for which the sanity board is required.

(2) A copy of the sanity-board order.

(3) The anticipated trial dates, if applicable.

(4) Any other information pertinent to determining the most qualified healthcare providers and to assessing availability.

g. The MTF commander or the ERMOCJA will forward the request to the behavioral health chief of the responsible MTF who will designate board members. The TC will provide the board members with the documents describing all facts and circumstances of the incident or occurrence that led to convening the sanity board. This will include a copies of investigation reports and all other related statements. This may also include statements detailing observations of the accused at other proceedings (for example, pretrial confinement hearings, proceedings at detention facilities).

h. The sanity board will report findings as follows:

(1) By using a short form report. This will be a statement consisting only of the board's ultimate conclusions as to all questions specified in the sanity board order to the officer ordering the examination, the accused's commanding officer, the investigating officer, if any, appointed pursuant to Article 32, and to all counsel in the case, the convening authority, and, after referral, to the military judge.

(2) By using a long form report. The long-form report is used to make a full report. The full report of the sanity board will be released to the defense counsel and the commanding officer of the accused, if requested. The sanity board or other medical personnel will not release any of the contents of the full report nor any matter considered during its investigation to any person not authorized to receive the full report, except pursuant to an order by the military judge.

(3) No one other than the defense counsel, the accused, or, after referral of charges, the military judge may disclose to the TC any statement made by the accused to the sanity board or any evidence derived from such a statement.

i. Counsel may contact the ERMOCJA at military 496-8806 for assistance or in particularly urgent cases.

## GLOSSARY

5th Sig Cmd	5th Signal Command
21st TSC	21st Theater Sustainment Command
66th MI Bde	66th Military Intelligence Brigade
AAFES	Army and Air Force Exchange Service
AE	Army in Europe
AO	area of operation
AOR	area of responsibility
APF	appropriated fund
AR	Army regulation
ARNG	United States Army National Guard
ASCC	Army service component command
BJA	brigade judge advocate
CG, USAREUR	Commanding General, United States Army Europe
CID	Criminal Investigation Division, United States Army Criminal Investigation Command
CJA	command judge advocate
CONUS	continental United States
CPAC	civilian personnel advisory center
CPU	central processing unit
DA	Department of the Army
DCG, USAREUR	Deputy Commanding General, United States Army Europe
DCO	designated commanding officer
DFAS-IN	Defense Finance and Accounting Service-Indianapolis
DOD	Department of Defense
DODDS	Department of Defense Dependents Schools
ERMC	Europe Regional Medical Command
GCM	general court-martial
GCMCA	general court-martial convening authority
HN	host nation
HQ USAREUR	Headquarters, United States Army Europe
HQDA	Headquarters, Department of the Army
HRC	United States Army Human Resources Command
IACS	Installation Access Control System
IMCOM-Europe	United States Army Installation Management Command, Europe Region
JA	judge advocate
JAGC	Judge Advocate General's Corps
JMTC	Seventh Army Joint Multinational Training Command
LN	local national
LRMC	Landstuhl Regional Medical Center
MCM	Manual for Courts-Martial
MJO	Military Justice Online
MSC	major subordinate command
MTF	medical treatment facility
NAF	nonappropriated fund
NATO SOFA	North Atlantic Treaty Organization Status of Forces Agreement
NCO	noncommissioned officer
NDAA	National Defense Authorization Act

OCJA	Office of the Command Judge Advocate
OJA	Office of the Judge Advocate, Headquarters, United States Army Europe
OSJA	office of the staff judge advocate
POC	point of contact
RCM	Rule for Courts-Martial
SF	standard form
SJA	staff judge advocate
SOFA	Status of Forces Agreement
SPCMA	special court-martial convening authority
SSN	Social Security number
SVP	special victim prosecutor
TC	trial counsel
TCAP	Trial Counsel Assistance Program
TDS	United States Army Trial Defense Services
U.S.	United States
UCMJ	Uniform Code of Military Justice
UIC	unit identification code
USACIC	United States Army Criminal Investigation Command
USAG	United States Army garrison
USAR	United States Army Reserve
USARAF/SETAF	United States Army Africa/Southern European Task Force
USARCF-E	United States Army Regional Correctional Facility-Europe
USAREUR	United States Army Europe
USEUCOM	United States European Command