

Section 1. Part II of the Manual for Courts-Martial (MCM), United States, is amended as follows:

(a) The Discussion following R.C.M. 703(g)(3)(C)(i) is amended to read as follows:

“A pre-referral investigative subpoena may be issued in accordance with R.C.M. 309 or subsection (g)(3)(~~D~~)(~~E~~)(~~v~~)(vi) of this rule for the production of evidence not under control of the government for use at an Article 32 preliminary hearing. *See also* R.C.M. 405.”

(b) R.C.M. 908(b)(9) is amended to read as follows:

“(9) *Pretrial confinement of accused pending appeal.* If an accused is in pretrial confinement at the time the United States files notice of its intent to appeal under paragraph (b)(3) of this rule, the commander, in determining whether the accused should be confined pending the outcome of an appeal by the United States, should consider the same factors which would authorize the imposition of pretrial confinement under R.C.M. 305(~~h~~)(i)(2)(B).”

(c) R.C.M. 1001(b)(4) is amended to read as follows:

“(4) *Evidence in aggravation.* The trial counsel may present evidence as to any aggravating circumstance directly relating to or resulting from the offenses of which the accused has been found guilty. Evidence in aggravation includes, but is not limited to, evidence of financial, social, psychological, and medical impact on or cost to any person or entity who was the victim of an offense committed by the accused and evidence of significant adverse impact on the mission, discipline, or efficiency of the command directly and immediately resulting from the accused’s offense. In addition, evidence in aggravation may include evidence that the accused intentionally selected any victim or any property as the object of the offense because of the actual or perceived race, color, religion, national origin, ethnicity, sex (including pregnancy), ~~gender (including gender identity)~~, disability, or sexual orientation of any person. Except in

capital cases, a written or oral deposition taken in accordance with R.C.M. 702 is admissible in aggravation.”

(d) R.C.M. 1003(b)(4) is amended to read as follows:

“(4) *Reduction in paygrade.* Except as provided in R.C.M. 1301(d), a court-martial may sentence an enlisted member to be reduced to the lowest or any intermediate pay grade;”

(e) R.C.M. 1003(b)(7) is amended to read as follows:

“(7) *Confinement.* The place of confinement shall not be designated by the court-martial. When confinement for life is authorized, it may be with or without eligibility for parole. A court-martial shall not adjudge a sentence to solitary confinement or to confinement without hard labor;”

(f) R.C.M. 1003(b)(8)(C) is amended to read as follows:

“(C) *Bad-conduct discharge.* A bad-conduct discharge applies only to enlisted persons and may be adjudged by a general court-martial or by a special court-martial which has met the requirements of R.C.M. 201(f)(2)(B). A bad-conduct discharge is less severe than a dishonorable discharge and is designed as a punishment for serious offenses of either a civilian or military nature. It is also appropriate for an accused who has been convicted repeatedly of minor offenses and whose punitive separation appears to be necessary;”

(g) R.C.M. 1103(d)(2) is amended to read as follows:

“(2) In a case in which the accused requests deferment, the accused shall have the burden of showing that the interests of the accused and the community in deferral outweigh the community’s interests in imposition of the punishment on its effective date. Factors that the authority acting on a deferment request may consider in determining whether to grant the deferment request include, where applicable: the probability of the accused’s flight; the

probability of the accused's commission of other offenses, intimidation of witnesses, or interference with the administration of justice; the nature of the offenses (including the effect on the victim) of which the accused was convicted; the sentence adjudged; the command's immediate need for the accused; the effect of deferment on good order and discipline in the command; the accused's character, mental condition, family situation, and service record. The decision of the authority acting on the deferment request shall be subject to judicial review only for abuse of discretion. The action of the authority acting on the deferment request shall be in writing but need not include the reasons upon which the action is based. A copy of the action on the deferment request, to include any rescission, shall be included in the record of trial and a copy shall be provided to the accused and to the military judge."

Section 2. Part III of the Manual for Courts-Martial, United States, is amended as follows:

(a) Mil. R. Evid. 106 is amended to read as follows:

"If a party introduces all or part of a ~~writing or recorded~~ statement, an adverse party may require the introduction, at that time, of any other part - or any other ~~writing or recorded~~ statement - that in fairness ought to be considered at the same time. The adverse party may do so over a hearsay objection."

(b) A new Mil. R. Evid. 107 is inserted immediately after Mil. Rule Evid. 106 to read as follows:

"Rule 107. Illustrative Aids

(a) Permitted Uses. The military judge may allow a party to present an illustrative aid to help the trier of fact understand the evidence or argument if the aid's utility in assisting comprehension is not substantially outweighed by the danger of unfair prejudice, confusing the issues, misleading the members, undue delay, or wasting time.

(b) Use in Member Deliberations. An illustrative aid is not evidence and must not be provided to the members during deliberations unless:

(1) all parties consent; or

(2) the military judge, for good cause, orders otherwise.

(c) Record. When practicable, an illustrative aid used at trial must be entered into the record.

(d) Summaries of Voluminous Materials Admitted as Evidence. A summary, chart, or calculation admitted as evidence to prove the content of voluminous admissible evidence is governed by Mil. R. Evid. 1006.”

(c) Mil. R. Evid. 613(b) is amended to read as follows:

“(b) *Extrinsic Evidence of a Prior Inconsistent Statement.* Unless the military judge orders otherwise, extrinsic evidence of a witness’ prior inconsistent statement ~~is admissible only if~~ may not be admitted until after the witness is given an opportunity to explain or deny the statement and an adverse party is given an opportunity to examine the witness about it, ~~or if justice so requires.~~ Mil. R. Evid. 613(b) does not apply to an opposing party’s statement under Mil. R. Evid. 613 (d)(2).”

(d) Mil. R. Evid. 615 is amended as follows:

“(a) *Excluding Witnesses.* At a party’s request, the military judge must order witnesses excluded from the courtroom so that they cannot hear other witnesses’ testimony, or the military judge may do so *sua sponte*. But this rule does not authorize excluding:

(1) the accused;

(2) a member of ~~an Armed service~~ the Armed Forces of the United States or an

employee of the United States after being designated as a representative of the United States by trial counsel;

(3) a person whose presence a party shows to be essential to presenting the party's case;

(4) a person authorized by statute to be present; or

(5) a victim of an offense from the trial of an accused for that offense, unless the military judge, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that hearing or proceeding.

“(b) *Additional Orders to Prevent Disclosing and Accessing Testimony*. An order under (a) operates only to exclude witnesses from the courtroom. But the court may also, by order:

(1) prohibit disclosure of trial testimony to witnesses who are excluded from the courtroom; and

(2) prohibit excluded witnesses from accessing trial testimony.”

(e) Mil. R. Evid. 702 is amended to read as follows:

“A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if the proponent demonstrates to the military judge that it is more likely than not that:

(a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;

(b) the testimony is based on sufficient facts or data;

(c) the testimony is the product of reliable principles and methods; and

(d) the expert's ~~has reliably applied~~ opinion reflects a reliable application of the principles and methods to the facts of the case."

(f) Mil. R. Evid. 801(d)(2)(E) is amended to read as follows:

"(E) was made by the party's co-conspirator during and in furtherance of the conspiracy. The statement must be considered but does not by itself establish the declarant's authority under (C); the existence or scope of the relationship under (D); or the existence of the conspiracy or participation in it under (E). If a party's claim, defense, or potential liability is directly derived from a declarant or the declarant's principal, a statement that would be admissible against the declarant or the principal under this rule is also admissible against the party."

(g) Mil. R. Evid. 804(b)(3)(B) is amended to read as follows:

"(B) if offered in a criminal case as one that tends to expose the declarant to criminal liability, is supported by corroborating circumstances that clearly indicate its trustworthiness after considering the totality of circumstances under which it was made and any evidence that supports or undermines it, ~~if it tends to expose the declarant to criminal liability and is offered to exculpate the accused.~~"

(h) Mil. R. Evid. 1006 is amended to read as follows:

"(a) Summaries of Voluminous Materials Admissible as Evidence. The military judge may admit as evidence ~~The proponent may use~~ a summary, chart, or calculation offered to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court-, whether or not they have been introduced into evidence.

(b) Procedures. The proponent must make the underlying originals or duplicates available for examination or copying, or both, by other parties at a reasonable time or place. The military judge may order the proponent to produce them in court.

(c) Illustrative Aids Not Covered. A summary, chart, or calculation that functions only as an illustrative aid is governed by Mil. R. Evid. 107.”

Section 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 78a.c.(7)(a) is amended as follows:

“(a) a military protective order enforceable under 10 U.S.C. § 890 (article 90) or 10 U.S.C. § 892 (article 92); or”

Section 4. Appendix 2.1 of the Manual for Courts-Martial, United States, is amended as follows:

“(a) 2.7. Inappropriate Considerations. The disposition determination must not be influenced by:

- a. The accused’s race; ethnicity; religion; sex; ~~gender (including gender identity)~~; sexual orientation; national origin; or lawful political association, activities, or beliefs;
- b. The personal feelings of anyone authorized to recommend, advise, or make a decision as to disposition of alleged offenses concerning the accused, the accused’s associates, the victim of the alleged offense, or any witness;
- c. The time and resources already expended in the investigation of the case;
- d. The possible effect of the disposition determination on the commander’s, convening authority’s, or special trial counsel’s military career or other professional or personal circumstances;
- e. Political pressure to take or not to take specific actions in the case; or
- f. Improper consideration of the race; ethnicity; religion; sex; ~~gender (including gender identity)~~; sexual orientation; national origin; or lawful political association, activities, or beliefs of the victim of an alleged offense.”

Section 5. Appendix 15 of the Manual for Courts-Martial, United States, is amended as follows:

(a) The Analysis for R.C.M. 908(b)(9) is amended by adding a new paragraph at the end to read as follows:

“2025 Amendment: R.C.M. 908(b)(9) was changed to correctly reference R.C.M. 305(i)(2)(B) rather than R.C.M. 305(h)(2)(B).”

(b) The Analysis for R.C.M. 1001(b)(4) is amended by adding a new paragraph at the end to read as follows:

“2025 Amendment: R.C.M. 1001(b)(4) is amended to remove the words ‘gender (including gender identity)’.”

(c) The Analysis for R.C.M. 1003 is amended by adding a new paragraph at the end to read as follows:

“2025 Amendment: R.C.M. 1003(b)(4), (b)(7) and (b)(8)(C) were amended by changing the semicolon at the end of each paragraph or subparagraph to a period.”

(d) The Analysis for R.C.M. 1103(d)(2) is amended to read as follows:

“2025 Amendment: The change to RCM 1103(d)(2) adds the clause “but need not include the reasons upon which the action is based” at the end of the sentence beginning with the words “The action of the authority acting on the deferment request.” This rule change abrogates the holding at *U.S. v. Sloan*, 35 M.J. 4, 7 (C.M.A. 1992) to the extent that it remains good law. That decision held: “When a convening authority acts on an accused's request for deferment of all or part of an adjudged sentence, the action must be in writing (with a copy provided to the accused) and must include the reasons upon which the action is based. *Id.*”

Section 6. Appendix 16 of the Manual for Courts-Martial, United States, is amended as follows:

(a) The analysis for Mil. R. Evid. 106 is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 106 is amended to cover all statements, including unrecorded oral statements. It was also amended to provide that the complete statement is admissible over a hearsay objection. This change aligns M.R.E. 106 with a 2023 change to F.R.E. 106.”

(b) The analysis for the new rule, Mil. R. Evid. 107, is inserted immediately after the Mil. Rule Evid. 106 analysis to read as follows:

“2025 Amendment: Mil. R. Evid. 107 is added as a new M.R.E. to align with the 2024 addition of F.R.E. 107, explaining the difference between illustrative aids and evidence and establishing the parameters for using illustrative aids in member deliberations.”

(c) The analysis for Mil. R. Evid. 613(b) is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 613(b) is amended to align with the 2024 change to F.R.E. 613, prohibiting admission of extrinsic evidence of a prior inconsistent statement until the witness has had a chance to explain or deny the statement.”

(d) The analysis for Mil. R. Evid. 615 is amended as follows:

“2025 Amendment: Mil. R. Evid. 615 is amended by adding subsection (b) to the rule. This amendment adds language expressly permitting the court to issue orders to prevent disclosing and accessing witness testimony. This change aligns M.R.E. 615 with the 2023 change to F.R.E. 615.”

(e) The analysis for Mil. R. Evid. 702 is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 702 is amended to require the military judge to find that the requirements of the Rule must be proven by a preponderance of the evidence. This change aligns M.R.E. 702 with the 2023 change to F.R.E. 702.”

(f) The analysis for Mil. R. Evid. 801(d)(2)(E) is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 801(d)(2)(E) is amended to align with the 2024 change to F.R.E. 801(d)(2), adding an additional category to statements that are not hearsay.”

(g) The analysis for Mil. R. Evid. 804(b)(3)(B) is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 804(b)(3)(B) is amended to change the requirements for corroborating evidence demonstrating the trustworthiness of a statement introduced under the Rule. This change aligns M.R.E. 804(b)(3)(B) with the 2024 change to F.R.E. 804.”

(h) The analysis for Mil. R. Evid. 1006 is amended to read as follows:

“2025 Amendment: Mil. R. Evid. 1006 is amended to address the introduction of summaries, charts, or calculations to present the content of voluminous data or documents. Three separate subsections, (a), (b), and (c) were added. Subsection (a) provides that the voluminous data or documents are not required to be admitted into evidence before a summary, chart, or calculation is presented in court. However, the proponent must provide the original data or summaries to the other party before the introduction of the summaries, charts, or calculations. Subsection (b) provides that the military judge may require the proponent of the summaries to produce the original data in court. Subsection (c) provides that summaries, charts, or calculations that are presented as illustrative aids are not covered by this rule but will now be governed by new M.R.E. 107. This change aligns M.R.E. 1006 with the 2024 change to F.R.E. 1006.”