

application for registration of a mark under section 20 of the Trademark Act, 15 U.S.C. 1070. The USPTO administers the Trademark Act according to 37 CFR Part 2. These actions are governed by the Trademark Trial and Appeal Board (TTAB), an administrative tribunal empowered to determine the right to register and subsequently determine the validity of a trademark. If a mark is successfully opposed or canceled, registration will not take place. There are no paper forms associated with this collection; however, this collection contains two suggested formats and six electronic forms available through the Electronic System for Trademark Trials and Appeals (ESTTA).

**Affected Public:** Business or other for-profit and not-for-profit institutions.

**Frequency:** On occasion.

**Respondent's Obligation:** Required to obtain or retain benefits.

**OMB Desk Officer:** David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by any of the following:

**E-mail:** [Susan.Fawcett@uspto.gov](mailto:Susan.Fawcett@uspto.gov).

Include "0651-0040 copy request" in the subject line of the message.

**Fax:** 571-273-0112, marked to the attention of Susan K. Fawcett.

**Mail:** Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Written comments and recommendations for the proposed information collection should be sent on or before October 24, 2007 to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: September 17, 2007.

**Susan K. Fawcett,**

*Records Officer, USPTO, Office of the Chief Information Officer, Customer Information Services Group, Public Information Services Division.*

[FR Doc. E7-18739 Filed 9-21-07; 8:45 am]

**BILLING CODE 3510-16-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DOD-2007-OS-0104]

### Manual for Courts-Martial; Proposed Amendments

**AGENCY:** Joint Service Committee on Military Justice (JSC), DoD.

**ACTION:** Notice of proposed amendments to the Manual for Courts-Martial, United States (2005 ed.) and notice of public meeting.

**SUMMARY:** The Department of Defense is considering recommending changes to the *Manual for Courts-Martial, United States* (2005 ed.) (MCM). The proposed changes constitute the 2007 annual review required by the MCM and DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 3, 2003. The proposed changes concern the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters Testimony," June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

This notice also sets forth the date, time and location for the public meeting of the JSC to discuss the proposed changes.

This notice is provided in accordance with DoD Directive 5500.17, "Role and Responsibilities of the Joint Service Committee (JSC) on Military Justice," May 3, 2003. This notice is intended only to improve the internal management of the Federal Government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, its agencies, its officers, or any person.

In accordance with paragraph III.B.4 of the Internal Organization and Operating Procedures of the JSC, the committee also invites members of the public to suggest changes to the Manual for Courts-Martial in accordance with the described format.

**DATES:** Comments on the proposed changes must be received no later than November 27, 2007 to be assured consideration by the JSC. A public meeting will be held on October 19, 2007 at 10 a.m. in the 14th Floor Conference Room, 1777 N. Kent St., Rosslyn, VA 22209-2194.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

**Instructions:** All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Colonel Thomas E. Wand, Executive Secretary, Joint Service Committee on Military Justice, Air Force Legal Operations Agency, Military Justice Division, 112 Luke Avenue, Suite 343, Bolling Air Force Base, DC 20032, (202) 767-1539, e-mail [Thomas.wand@pentagon.af.mil](mailto:Thomas.wand@pentagon.af.mil).

**SUPPLEMENTARY INFORMATION:** The proposed amendments to the MCM are as follows:

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

(a) R.C.M. 103 is amended by adding the following new subparagraph (20) and re-designating the current subparagraph (20) as subparagraph (21): "(20) "Writing" includes printing and typewriting and reproductions of visual symbols by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation."

(b) R.C.M. 1103(b)(2)(B) is amended to read as follows:

"(B) *Verbatim transcript required.*

Except as otherwise provided in subsection (j) of this rule, the record of trial shall include a verbatim transcript of all sessions except sessions closed for deliberations and voting when:"

(c) R.C.M. 1103(e) is amended to read as follows:

"(e) *Acquittal; courts-martial resulting in findings of not guilty only by reason of lack of mental responsibility; termination prior to findings; termination after findings.*

Notwithstanding subsections (b), (c), and (d) of this rule, if proceedings resulted in an acquittal of all charges and specifications, in a finding of not guilty only by reason of lack of mental responsibility of all charges and specifications, or if the proceedings were terminated by withdrawal, mistrial, or dismissal before findings, or if the proceedings were terminated after findings by approval of an

administrative discharge in lieu of court-martial, the record may consist of the original charge sheet, a copy of the convening order and amending orders (if any), and sufficient information to establish jurisdiction over the accused and the offenses (if not shown on the charge sheet). The convening authority or higher authority may prescribe additional requirements.”

(d) R.C.M. 1103(g)(1)(A) is amended to read as follows:

“(A) *In general.* In general and special courts-martial which require a verbatim transcript under subsections (b) or (c) of this rule and are subject to a review by a Court of Criminal Appeals under Article 66, the trial counsel shall cause to be prepared an original record of trial.”

(e) R.C.M. 1103(j)(2) is amended to read as follows:

“(2) *Preparation of written record.* When the court-martial, or any part of it, is recorded by videotape, audiotape, or similar material under subsection (j)(1) of this rule, a written, as defined in R.C.M. 103, transcript or summary as required in subsection (b)(2)(A), (b)(2)(B), (b)(2)(C), or (c) of this rule, as appropriate, shall be prepared in accordance with this rule and R.C.M. 1104 before the record is forwarded under R.C.M. 1104(e), unless military exigencies prevent transcription.”

(f) R.C.M. 1104(a)(1) is amended to read as follows:

“(1) *In general.* A record is authenticated by the signature of a person specified in this rule who thereby declares that the record accurately reports the proceedings. An electronic record of trial may be authenticated with the electronic signature of the military judge or other authorized person. Service of an authenticated electronic copy of the record of trial with a means to review the record of trial satisfies the requirement of service under R.C.M. 1105(c) and 1305(d). No person may be required to authenticate a record of trial if that person is not satisfied that it accurately reports the proceedings.”

(g) R.C.M. 1106(d) is amended to read as follows:

“(d) *Form and content of recommendation.*

(1) The purpose of the recommendation of the staff judge advocate or legal officer is to assist the convening authority to decide what action to take on the sentence in the exercise of command prerogative. The staff judge advocate or legal officer shall use the record of trial in the preparation of the recommendation, and may also use the personnel records of the accused or other matters in advising the

convening authority whether clemency is warranted.

(2) *Form.* The recommendation of the staff judge advocate or legal officer shall be a concise written communication.

(3) *Required contents.* The staff judge advocate or legal advisor shall provide the convening authority with a copy of the report of results of trial, setting forth the findings, sentence, and confinement credit to be applied, a copy or summary of the pretrial agreement, if any, any recommendation for clemency by the sentencing authority, made in conjunction with the announced sentence, and the staff judge advocate’s concise recommendation.”

(h) R.C.M. 1111 is amended by inserting the following sentence at the end of the rule:

“Forwarding of an authenticated electronic copy of the record of trial satisfies the requirements under this rule.”

(i) R.C.M. 1113 is amended by adding the following new subparagraph (d) and re-designating the current subparagraph (d) as subparagraph (e):

“(d) *Self-executing punishments.* Under regulations prescribed by the Secretary concerned, a dishonorable or bad conduct discharge that has been approved by an appropriate convening authority may be self-executing after final judgment at such time as:

- (1) The accused has received a sentence of no confinement or has completed all confinement;
- (2) The accused has been placed on excess or appellate leave; and,
- (3) The appropriate official has certified that the accused’s case is final. Upon completion of the certification, the official shall forward the certification to the accused’s personnel office for preparation of a final discharge order and certificate.”

(j) R.C.M. 1114(a) is amended by inserting the following as subsection (a)(4):

“(4) *Self-executing final orders.* An order promulgating a self-executing dishonorable or bad conduct discharge need not be issued. The original action by a convening authority approving a discharge and certification by the appropriate official that the case is final may be forwarded to the accused’s personnel office for preparation of a discharge order and certificate.”

(k) R.C.M. 1305(b) is amended by changing the first sentence to read as follows:

“(b) *Contents.* The summary court-martial shall prepare a written record of trial, which shall include:”

(l) R.C.M. 1305(c) is amended to read as follows:

“(c) *Authentication.* The summary court-martial shall authenticate the record by signing the record of trial. An electronic record of trial may be authenticated with the electronic signature of the summary court-martial.”

(m) R.C.M. 1305(d)(1)(A) is amended to read as follows”

“(A) *Service.* The summary court-martial shall cause a copy of the record of trial to be served on the accused as soon as it is authenticated. Service of an authenticated electronic copy of the record of trial with a means to review the record of trial satisfies the requirement of service under this rule.”

(n) R.C.M. 1306(b)(3) is amended to read as follows:

“(3) *Signature.* The action on the record of trial shall be signed by the convening authority. The action on an electronic record of trial may be signed with the electronic signature of the convening authority.”

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

(a) Paragraph 14, Article 90, Assaulting or willfully disobeying superior commissioned officer, paragraph c.(2)(g) is amended to read as follows:

“c.(2)(g) *Time for compliance.* When an order requires immediate compliance, an accused’s declared intent not to obey and the failure to make any move to comply constitutes disobedience. Immediate compliance is required for any order which does not explicitly or implicitly indicate that delayed compliance is authorized or directed. If an order requires performance in the future, an accused’s present statement of intention to disobey the order does not constitute disobedience of that order, although carrying out that intention may.”

(b) Paragraph 44, Article 119, Manslaughter, paragraph b. is amended to read as follows:

“b. *Elements.*

- (1) Voluntary manslaughter.
  - (a) That a certain named or described person is dead;
  - (b) That the death resulted from the act or omission of the accused;
  - (c) That the killing was unlawful; and
  - (d) That, at the time of the killing, the accused had the intent to kill or inflict great bodily harm upon the person killed.

**Note:** Add the following if applicable.

(e) That the person killed was a child under the age of 16 years.

(2) Involuntary manslaughter.

(a) That a certain named or described person is dead;

(b) That the death resulted from the act or omission of the accused;

(c) That the killing was unlawful; and

(d) That this act or omission of the accused constituted culpable negligence, or occurred while the accused was perpetrating or attempting to perpetrate an offense directly affecting the person other than burglary, sodomy, rape, robbery, or aggravated arson.

**Note:** Add the following if applicable.

(e) That the person killed was a child under the age of 16 years.”

(c) Paragraph 44, Article 119, Manslaughter, paragraph c.(1)(c) is added following paragraph c.(1)(b):

“(c) *When committed upon a child under 16 years of age.* The maximum punishment is increased when voluntary manslaughter is committed upon a child under 16 years of age. The accused’s knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment.”

(d) Paragraph 44, Article 119, Manslaughter, paragraph c.(2)(c) is added following paragraph c.(2)(b):

“(c) *When committed upon a child under 16 years of age.* The maximum punishment is increased when involuntary manslaughter is committed upon a child under 16 years of age. The accused’s knowledge that the child was under 16 years of age at the time of the offense is not required for the increased maximum punishment.”

(e) Paragraph 44, Article 119, Manslaughter, paragraph e.(3) is added following paragraph e.(2):

“(3) *Voluntary manslaughter of a child under 16 years of age.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 20 years.”

(f) Paragraph 44, Article 119, Manslaughter, paragraph e.(4) is added following paragraph e.(3):

“(4) *Involuntary manslaughter of a child under 16 years of age.* Dishonorable discharge, forfeiture of all pay and allowances, and confinement for 15 years.”

(g) Paragraph 44, Article 119, Manslaughter, paragraph f. is amended to read as follows:

“f. *Sample specifications.*

(1) *Voluntary manslaughter.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board—location) (subject matter jurisdiction data, if required), on or about \_\_\_\_\_, willfully and unlawfully kill \_\_\_\_\_, (a child under 16 years of age) by \_\_\_\_\_ him/her (in) (on) the \_\_\_\_\_ with a \_\_\_\_\_.

(2) *Involuntary manslaughter.*

In that \_\_\_\_\_ (personal jurisdiction data), did, (at/on board location) (subject matter jurisdiction data, if required), on or about \_\_\_\_\_, (by culpable negligence) (while (perpetrating) (attempting to perpetrate) an offense directly affecting the person of \_\_\_\_\_, to wit: (maiming) (a battery) (\_\_\_\_\_)) unlawfully kill \_\_\_\_\_ (a child under 16 years of age) by \_\_\_\_\_ him/her (in) (on) the \_\_\_\_\_ with a \_\_\_\_\_.”

*Section 3.* These amendments shall take effect on [30 days after signature].

(a) Nothing in these amendments shall be construed to make punishable any act done or omitted prior to [30 days after signature] that was not punishable when done or omitted.

(b) Nothing in these amendments shall be construed to invalidate any nonjudicial punishment proceedings, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to [30 days after signature], and any such nonjudicial punishment, restraint, investigation, referral of charges, trial, or other action may proceed in the same manner and with the same effect as if these amendments had not been prescribed.

#### THE WHITE HOUSE

*Changes to the Discussion Accompanying the Manual for Courts Martial, United States*

(a) The following Discussion is added immediately after R.C.M. 103(20):

“The definition of ‘writing’ includes letters, words, or numbers set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or any other form of data compilation. This section makes it clear that computers and other modern reproduction systems are included in this definition, and consistent with the definition of ‘writing’ in Military Rule of Evidence 1001. The definition is comprehensive, covering all forms of writing or recording of words or word-substitutes.”

(b) The Discussion immediately following R.C.M. 1103(g)(1)(A) is amended to read as follows:

“An original record of trial includes any record of the proceedings recorded in a form that satisfies the definition of a ‘writing’ in R.C.M. 103. Any requirement to prepare a printed record of trial pursuant to this rule, either in lieu of or in addition to a record of trial recorded or compiled in some other

format, including electronic or digital formats, is subject to service regulation.”

*Changes to Appendix 11, Forms of Sentences*

(a) a. is amended to read as follows: “a. *Announcement of sentence* See R.C.M. 1007

In announcing the sentence, the president or, in cases tried by military judge alone, the military judge should announce:

“(Name of accused), this court-martial sentences you .”

The sentence should now be announced following one of the forms contained in *b* below, or any necessary modification or combination thereof. Each of the forms of punishment prescribed in *b* are separate, that is, the adjudging of one form of punishment is not contingent upon any other punishment also being adjudged. The forms in *b*, however, may be combined and modified so long as the punishments adjudged is not forbidden by the code and does not exceed the maximum authorized by this Manual (see R.C.M. 1003 and Part IV) in the particular case being tried. In announcing a sentence consisting of combined punishments, the president or military judge may, for example, state:

“To forfeit all pay and allowances, to be reduced to Private, E-1, to be confined for one year, and to be dishonorably discharged from the service.”

“To forfeit \$350.00 pay per month for six months, to be confined for six months, and to be discharged from the service with a bad conduct discharge.”

“To forfeit all pay and allowances, to be confined for one year and to be dismissed from the service.”

“To forfeit \$250.00 pay per month for one month, and to perform hard labor without confinement for one month.””

*Changes to Appendix 12, Maximum Punishment Chart*

Appendix 12 is amended as follows:

(a) Amend Article 119 by inserting the following:

“Voluntary manslaughter of a child under the age of 16 years DD, BCD 20 yrs. Total.

Involuntary manslaughter of a child under the age of 16 years DD, BCD 15 yrs. Total”.

*Changes to Appendix 22, Analysis of the Military Rules of Evidence*

(a) Amend the Analysis accompanying Mil. R. Evid. 801(d)(1)(B) to read as follows:

“Rule 801(d)(1)(B) makes admissible as substantive evidence on the merits a statement consistent with the in-court testimony of the witness and “offered to

rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive." Unlike Rule 801(d)(1)(A), the earlier consistent statement need not have been made under oath or at any type of proceeding. On its face, the Rule does not require that the consistent statement offered have been made prior to the time the improper influence or motive arose or prior to the alleged recent fabrication. Notwithstanding this, the Supreme Court has read such a requirement into the rule. *Tome v. United States*, 513 U.S. 150 (1995); see also *United States v. Allison*, 49 M.J. 54 (C.A.A.F. 1998). The limitation does not, however, prevent admission of a consistent statement made after an inconsistent statement but before the improper influence or motive arose. *United States v. Scholle*, 553 F. 2d 1109 (8th Cir. 1977). Rule 801(d)(1)(B) provides a possible means to admit evidence of fresh complaint in prosecution of sexual offenses. Although limited to circumstances in which there is a charge, for example, of recent fabrication, the Rule, when applicable, would permit not only fact of fresh complaint, as is presently possible, but also the entire portion of the consistent statement."

Dated: September 18, 2007.

**L.M. Bynum**,

*Alternate OSD Federal Register Liaison Officer, DoD.*

[FR Doc. E7-18787 Filed 9-21-07; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board

**AGENCY:** Department of Defense.

**ACTION:** Notice of Advisory Committee meetings.

**SUMMARY:** The Defense Science Board Task Force on Nuclear Weapons Surety will meet in closed session on October 10-11, 2007; at the Institute for Defense Analyses, 4850 Mark Center Drive, Alexandria, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting, the Defense Science Board Task Force will: Assess all aspects of nuclear weapons surety; continue to build on the work of the former Joint Advisory Committee on Nuclear

Weapons Surety, the Nuclear C2 System End-to-End Review and the Drell Panel; and review and recommend methods and strategies to maintain a safe, secure and viable nuclear deterrent.

The task force's findings and recommendations, pursuant to 41 CFR 102-3.140 through 102-3.165, will be presented and discussed by the membership of the Defense Science Board prior to being presented to the Government's decision maker.

Pursuant to 41 CFR 102-3.120 and 102-3.150, the Designated Federal Officer for the Defense Science Board will determine and announce in the **Federal Register** when the findings and recommendations of the October 10-11, 2007, meeting are deliberated by the Defense Science Board.

Interested persons may submit a written statement for consideration by the Defense Science Board. Individuals submitting a written statement must submit their statement to the Designated Federal Official at the address detailed below; at any point, however, if a written statement is not received at least 10 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Science Board. The Designated Federal Official will review all timely submissions with the Defense Science Board Chairperson, and ensure they are provided to members of the Defense Science Board before the meeting that is the subject of this notice.

**FOR FURTHER INFORMATION CONTACT:** Mr. David McDarby, HQ DTRA/OP-CSNS, 8725 John J. Kingman Road, Stop 6201, Ft. Belvoir, VA 22060; via e-mail at [david.mcdarby@dtra.mil](mailto:david.mcdarby@dtra.mil); or via phone at (703) 767-4364.

Dated: September 17, 2007.

**L.M. Bynum**,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 07-4707 Filed 9-21-07; 8:45 am]

**BILLING CODE 5001-06-M**

## DEPARTMENT OF EDUCATION

### Submission for OMB Review; Comment Request

**AGENCY:** Department of Education.

**SUMMARY:** The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before October 24, 2007.

**ADDRESSES:** Comments should be e-mailed to [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov) or faxed to (202) 245-6623. Commenters should include the following subject line in their response "Comment: [insert OMB number], [insert abbreviated collection name, e.g., "Upward Bound Evaluation"]". Persons submitting comments electronically should not submit paper copies.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: September 18, 2007.

**James Hyler**,

*Acting Leader, Information Management Case Services Team, Regulatory Information Management Services, Office of Management.*

### Institute of Education Sciences

*Type of Review:* Revision.

*Title:* National Assessment of Educational Progress 2008-2010 Operational and Pilot Surveys System Clearance—Wave 3.

*Frequency:* One time.

*Affected Public:* Individuals or household; not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

*Reporting and Recordkeeping Hour Burden:*

*Responses:* 3,270.

*Burden Hours:* 1,082.

*Abstract:* These materials are questionnaires to be used in 2008 for the NAEP for administrators/teachers to complete to describe students identified