

“(2) has been provided a means for reimbursement from the Government for fees and mileage at the rates allowed to witnesses attending the courts of the United States or, in the case of extraordinary hardship, is advanced such fees and mileage; and

“(3) willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce; is guilty of an offense against the United States.”

2013—Subsec. (a)(1). Pub. L. 113-66 substituted “a preliminary hearing pursuant to section 832 of this title (article 32)” for “an investigation pursuant to section 832(b) of this title (article 32(b))”.

2011—Subsec. (a). Pub. L. 112-81, § 542(b), substituted “subpoenaed” for “subpenaed” in two places.

Subsec. (a)(1). Pub. L. 112-81, § 542(a)(1)(A), substituted “board, or has been duly issued a subpoena duces tecum for an investigation pursuant to section 832(b) of this title (article 32(b));” for “board;”.

Subsec. (a)(2). Pub. L. 112-81, § 542(a)(1)(B), substituted “provided a means for reimbursement from the Government for fees and mileage” for “duly paid or tendered the fees and mileage of a witness” and inserted “or, in the case of extraordinary hardship, is advanced such fees and mileage” before semicolon.

Subsec. (c). Pub. L. 112-81, § 542(a)(2), substituted “board, or convening authority” for “or board”.

2006—Subsec. (b). Pub. L. 109-163 substituted “Commonwealths or possessions” for “Territories, Commonwealths, or possessions”.

1996—Subsec. (b). Pub. L. 104-106 inserted “indictment or” after “shall be tried on” and substituted “shall be fined or imprisoned, or both, at the court’s discretion” for “shall be punished by a fine of not more than \$500, or imprisonment for not more than six months, or both”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2016 AMENDMENT**

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

**EFFECTIVE DATE OF 2013 AMENDMENT**

Amendment by Pub. L. 113-66 effective on the later of Dec. 26, 2014, or the date of the enactment of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Dec. 19, 2014) and applicable with respect to preliminary hearings conducted on or after that effective date, see section 1702(d)(1) of Pub. L. 113-66, set out as a note under section 802 of this title.

**EFFECTIVE DATE OF 2011 AMENDMENT**

Pub. L. 112-81, div. A, title V, § 542(c), Dec. 31, 2011, 125 Stat. 1411, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to subpoenas issued after the date of the enactment of this Act [Dec. 31, 2011].”

**§ 848. Art. 48. Contempt**

(a) **AUTHORITY TO PUNISH.**—(1) With respect to any proceeding under this chapter, a judicial officer specified in paragraph (2) may punish for contempt any person who—

(A) uses any menacing word, sign, or gesture in the presence of the judicial officer during the proceeding;

(B) disturbs the proceeding by any riot or disorder; or

(C) willfully disobeys a lawful writ, process, order, rule, decree, or command issued with respect to the proceeding.

(2) A judicial officer referred to in paragraph (1) is any of the following:

(A) Any judge of the Court of Appeals for the Armed Forces and any judge of a Court of Criminal Appeals under section 866 of this title (article 66).

(B) Any military judge detailed to a court-martial, a provost court, a military commission, or any other proceeding under this chapter.

(C) Any military magistrate designated to preside under section 819 of this title (article 19).

(D) The president of a court of inquiry.

(b) **PUNISHMENT.**—The punishment for contempt under subsection (a) may not exceed confinement for 30 days, a fine of \$1,000, or both.

(c) **REVIEW.**—A punishment under this section—

(1) if imposed by a military judge or military magistrate, may be reviewed by the Court of Criminal Appeals in accordance with the uniform rules of procedure for the Courts of Criminal Appeals under section 866(h) of this title (article 66(h));

(2) if imposed by a judge of the Court of Appeals for the Armed Forces or a judge of a Court of Criminal Appeals, shall constitute a judgment of the court, subject to review under the applicable provisions of section 867 or 867a of this title (article 67 or 67a); and

(3) if imposed by a court of inquiry, shall be subject to review by the convening authority in accordance with rules prescribed by the President.

(d) **INAPPLICABILITY TO MILITARY COMMISSIONS UNDER CHAPTER 47A.**—This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 109-366, § 4(a)(2), Oct. 17, 2006, 120 Stat. 2631; Pub. L. 111-383, div. A, title V, § 542(a), Jan. 7, 2011, 124 Stat. 4218; Pub. L. 114-328, div. E, title LVII, § 5230, Dec. 23, 2016, 130 Stat. 2913; Pub. L. 115-91, div. A, title X, § 1081(c)(1)(F), Dec. 12, 2017, 131 Stat. 1598.)

**HISTORICAL AND REVISION NOTES**

Revised section	Source (U.S. Code)	Source (Statutes at Large)
848 .....	50:623.	May 5, 1950, ch. 169, § 1 (Art. 48), 64 Stat. 123.

The word “may” is substituted for the word “shall”.

**Editorial Notes**

**AMENDMENTS**

2017—Subsec. (c)(1). Pub. L. 115-91 substituted “section 866(h) of this title (article 66(h))” for “section 866(g) of this title (article 66(g))”.

2016—Pub. L. 114-328, § 5230(c), amended section catchline generally, substituting “Contempt” for “Contempts”.

Subsec. (a). Pub. L. 114-328, § 5230(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “A judge detailed to a court-martial, a court of inquiry, the United States Court of Appeals for the Armed Forces, a military Court of Criminal Appeals, a provost court, or a military commission may punish for contempt any person who—

“(1) uses any menacing word, sign, or gesture in the presence of the judge during the proceedings of the court-martial, court, or military commission;

“(2) disturbs the proceedings of the court-martial, court, or military commission by any riot or disorder; or

“(3) willfully disobeys the lawful writ, process, order, rule, decree, or command of the court-martial, court, or military commission.”

Subsecs. (c), (d). Pub. L. 114-328, § 5230(b), added subsec. (c) and redesignated former subsec. (c) as (d).

2011—Pub. L. 111-383 amended section generally. Prior to amendment, text read as follows: “A court-martial, provost court, or military commission may punish for contempt any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder. The punishment may not exceed confinement for 30 days or a fine of \$100, or both. This section does not apply to a military commission established under chapter 47A of this title.”

2006—Pub. L. 109-366 inserted last sentence.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-91 effective immediately after the amendments made by div. E (§§ 5001-5542) of Pub. L. 114-328 take effect as provided for in section 5542 of that Act (10 U.S.C. 801 note), see section 1081(c)(4) of Pub. L. 115-91, set out as a note under section 801 of this title.

##### EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes under section 801 of this title.

##### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title V, § 542(b), Jan. 7, 2011, 124 Stat. 4218, provided that: “Section 848 of title 10, United States Code (article 48 of the Uniform Code of Military Justice), as amended by subsection (a), shall apply with respect to acts of contempt committed after the date of the enactment of this Act [Jan. 7, 2011].”

#### § 849. Art. 49. Depositions

(a) IN GENERAL.—(1) Subject to paragraph (2), a convening authority or a military judge may order depositions at the request of any party.

(2) A deposition may be ordered under paragraph (1) only if the requesting party demonstrates that, due to exceptional circumstances, it is in the interest of justice that the testimony of a prospective witness be preserved for use at a court-martial, military commission, court of inquiry, or other military court or board.

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

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

(A) Whenever practicable, by an impartial judge advocate certified under section 827(b) of this title (article 27(b)).

(B) In exceptional circumstances, by an impartial military or civil officer authorized to administer oaths by (i) the laws of the United States or (ii) the laws of the place where the deposition is taken.

(b) REPRESENTATION BY COUNSEL.—Representation of the parties with respect to a deposition

shall be by counsel detailed in the same manner as trial counsel and defense counsel are detailed under section 827 of this title (article 27). In addition, the accused shall have the right to be represented by civilian or military counsel in the same manner as such counsel are provided for in section 838(b) of this title (article 38(b)).

(c) ADMISSIBILITY AND USE AS EVIDENCE.—A deposition order under subsection (a) does not control the admissibility of the deposition in a court-martial or other proceeding under this chapter. Except as provided by subsection (d), a party may use all or part of a deposition as provided by the rules of evidence.

(d) CAPITAL CASES.—Testimony by deposition may be presented in capital cases only by the defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 53; Pub. L. 90-632, § 2(20), Oct. 24, 1968, 82 Stat. 1340; Pub. L. 98-209, § 6(b), Dec. 6, 1983, 97 Stat. 1400; Pub. L. 109-163, div. A, title X, § 1057(a)(3), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 113-291, div. A, title V, § 532, Dec. 19, 2014, 128 Stat. 3366; Pub. L. 114-328, div. E, title LVII, § 5231, Dec. 23, 2016, 130 Stat. 2914.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
849(a) .....	50:624(a).	May 5, 1950, ch. 169, § 1 (Art. 49), 64 Stat. 123.
849(b) .....	50:624(b).	
849(c) .....	50:624(c).	
849(d) .....	50:624(d).	
849(e) .....	50:624(e).	
849(f) .....	50:624(f).	

In subsection (a), the word “commissioned” is inserted for clarity.

In subsection (d), the word “Commonwealth” is inserted to reflect the present status of Puerto Rico. The words “of Columbia” are inserted after the word “District” for clarity. The words “the distance of” are omitted as surplusage.

In subsections (e) and (f), the words “the requirements of” and the words “of this article” are omitted as surplusage. The word “presented” is substituted for the word “adduced” in subsection (e).

In subsection (f), the word “directs” is substituted for the words “shall have directed”. The words “by law” are omitted as surplusage.

#### Editorial Notes

##### AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f) relating to ordering depositions, notice, military and civil officers authorized to take depositions, use of depositions as evidence, testimony by deposition by the defense in capital cases, and use of deposition as evidence in cases in which the death penalty is authorized, respectively.

2014—Subsec. (a). Pub. L. 113-291 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “At any time after charges have been signed as provided in section 830 of this title (article 30), any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, such an authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.”