

outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76; Pub. L. 114-328, div. E, title LX, §5451, Dec. 23, 2016, 130 Stat. 2958.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
934	50:728.	May 5, 1950, ch. 169, §1 (Art. 134), 64 Stat. 142.

The words “shall be” are inserted before the word “punished”.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328 inserted at end “As used in the preceding sentence, the term ‘crimes and offenses not capital’ includes any conduct engaged in outside the United States, as defined in section 5 of title 18, that would constitute a crime or offense not capital if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of title 18.”

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.

INCLUSION OF SEXUAL HARASSMENT AS GENERAL PUNITIVE ARTICLE

Pub. L. 117-81, div. A, title V, §539D, Dec. 27, 2021, 135 Stat. 1699, provided that:

“(a) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act [Dec. 27, 2021], the President shall—

“(1) prescribe regulations establishing sexual harassment, as described in this section, as an offense punishable under section 934 of title 10, United States Code (article 134 of the Uniform Code of Military Justice); and

“(2) revise the Manual for Courts-Martial to include such offense.

“(b) ELEMENTS OF OFFENSE.—The regulations and the revisions to the Manual for Courts-Martial required under subsection (a) shall provide that the required elements constituting the offense of sexual harassment are—

“(1) that the accused knowingly made sexual advances, demands or requests for sexual favors, or knowingly engaged in other conduct of a sexual nature;

“(2) that such conduct was unwelcome;

“(3) that, under the circumstances, such conduct—

“(A) would cause a reasonable person to believe, and a certain person did believe, that submission to such conduct would be made, either explicitly or implicitly, a term or condition of that person’s job, pay, career, benefits, or entitlements;

“(B) would cause a reasonable person to believe, and a certain person did believe, that submission to, or rejection of, such conduct would be used as a basis for decisions affecting that person’s job, pay, career, benefits, or entitlements; or

“(C) was so severe, repetitive, or pervasive that a reasonable person would perceive, and a certain person did perceive, an intimidating, hostile, or offensive working environment; and

“(4) that, under the circumstances, the conduct of the accused was—

“(A) to the prejudice of good order and discipline in the armed forces;

“(B) of a nature to bring discredit upon the armed forces; or

“(C) to the prejudice of good order and discipline in the armed forces and of a nature to bring discredit upon the armed forces.”

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS

Sec.	Art.	
935.	135.	Courts of inquiry.
936.	136.	Authority to administer oaths.
937.	137.	Articles to be explained.
938.	138.	Complaints of wrongs.
939.	139.	Redress of injuries to property.
940.	140.	Delegation by the President.
940a.	140a.	Case management; data collection and accessibility.

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, made technical amendment to Pub. L. 114-328, §5541(7). See 2016 Amendment note below.

2016—Pub. L. 114-328, div. E, title LXIII, §5541(7), Dec. 23, 2016, 130 Stat. 2967, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(19)(A), Dec. 12, 2017, 131 Stat. 1601, added item 940a and substituted “Authority to administer oaths” for “Authority to administer oaths and to act as notary” in item 936.

§ 935. Art. 135. Courts of inquiry

(a) Courts of inquiry to investigate any matter may be convened by any person authorized to convene a general court-martial or by any other person designated by the Secretary concerned for that purpose, whether or not the persons involved have requested such an inquiry.

(b) A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

(c)(1) Any person subject to this chapter whose conduct is subject to inquiry shall be designated as a party.

(2) Any person who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court.

(3) Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

(d) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(e) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath to faithfully perform their duties.

(f) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

(g) Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

(h) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

(Aug. 10, 1956, ch. 1041, 70A Stat. 76; Pub. L. 114-328, div. E, title LXI, §5501, Dec. 23, 2016, 130 Stat. 2960.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
935(a)	50:731(a).	May 5, 1950, ch. 169, §1 (Art. 135), 64 Stat. 143.
935(b)	50:731(b).	
935(c)	50:731(c).	
935(d)	50:731(d).	
935(e)	50:731(e).	
935(f)	50:731(f).	
935(g)	50:731(g).	
935(h)	50:731(h).	

In subsection (a), the words “Secretary concerned” are substituted for the words “Secretary of a Department”.

In subsection (b), the word “commissioned” is inserted for clarity. The word “consists” is substituted for the words “shall consist”.

In subsection (c), the word “has” is substituted for the words “shall have”.

In subsection (e), the words “or affirmation” are omitted as covered by the definition of the word “oath” in section 1 of title 1.

In subsection (g), the word “may” is substituted for the word “shall”.

In subsection (h), the word “If” is substituted for the words “In case”.

Editorial Notes

AMENDMENTS

2016—Subsec. (c). Pub. L. 114-328 designated first through third sentences as pars. (1) to (3), respectively, and, in par. (2), substituted “who is (A) subject to this chapter, (B) employed by the Department of Defense, or (C) with respect to the Coast Guard, employed by the department in which the Coast Guard is operating when it is not operating as a service in the Navy, and” for “subject to this chapter or employed by the Department of Defense”.

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.

§ 936. Art. 136. Authority to administer oaths

(a) The following persons on active duty or performing inactive-duty training may administer oaths for the purposes of military administration, including military justice:

- (1) All judge advocates.
- (2) All summary courts-martial.

(3) All adjutants, assistant adjutants, acting adjutants, and personnel adjutants.

(4) All commanding officers of the Navy, Marine Corps, and Coast Guard.

(5) All staff judge advocates and legal officers, and acting or assistant staff judge advocates and legal officers.

(6) All other persons designated by regulations of the armed forces or by statute.

(b) The following persons on active duty or performing inactive-duty training may administer oaths necessary in the performance of their duties:

(1) The president, military judge, trial counsel, and assistant trial counsel for all general and special courts-martial.

(2) The president and the counsel for the court of any court of inquiry.

(3) All officers designated to take a deposition.

(4) All persons detailed to conduct an investigation.

(5) All recruiting officers.

(6) All other persons designated by regulations of the armed forces or by statute.

(c) Each judge and senior judge of the United States Court of Appeals for the Armed Forces shall have the powers relating to oaths, affirmations, and acknowledgments provided to justices and judges of the United States by section 459 of title 28.

(Aug. 10, 1956, ch. 1041, 70A Stat. 77; Pub. L. 86-589, July 5, 1960, 74 Stat. 329; Pub. L. 90-179, §1(7), Dec. 8, 1967, 81 Stat. 546; Pub. L. 90-632, §2(34), Oct. 24, 1968, 82 Stat. 1343; Pub. L. 98-209, §2(f), Dec. 6, 1983, 97 Stat. 1393; Pub. L. 99-661, div. A, title VIII, §804(c), Nov. 14, 1986, 100 Stat. 3907; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101-510, div. A, title V, §551(b), Nov. 5, 1990, 104 Stat. 1566; Pub. L. 110-181, div. A, title V, §542, Jan. 28, 2008, 122 Stat. 114; Pub. L. 114-328, div. A, title V, §541(a), div. E, title LXI, §5502, Dec. 23, 2016, 130 Stat. 2124, 2960.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
936(a)	50:732(a).	May 5, 1950, ch. 169, §1 (Art. 136), 64 Stat. 143.
936(b)	50:732(b).	
936(c)	50:732(c).	
936(d)	50:732(d).	

In subsection (a), the word “may” is substituted for the words “shall have authority to”. The word “shall” before the words “have the general powers” is omitted as surplusage. The words “the continental limits” are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsections (a) and (b), the words “in the armed forces” are omitted as surplusage.

In subsection (b), the word “may” is substituted for the words “shall have authority to”.

In subsection (c), the words “of any character” are omitted as surplusage. The word “may” is substituted for the word “shall”.

In subsection (d), the word “is” is substituted for the words “shall be”.

Editorial Notes

AMENDMENTS

2016—Pub. L. 114-328, §5502, struck out “and to act as notary” after “oaths” in section catchline.