

(d) Paragraph 46, Larceny and wrongful appropriation, is amended by re-lettering paragraph 46.c.(1)(h) as paragraph 46.c.(1)(i), and adding a new paragraph 46.c.(1)(h) as follows:

"(h) *Military Property.* Military property is all property, real or personal, owned, held, or used by one of the armed forces of the United States. Military property is a term of art, and should not be confused with government property. The terms are not interchangeable. While all military property is government property, not all government property is military property. An item of government property is not military property unless the item in question meets the definition provided above. Retail merchandise of service exchange stores is not military property under this article."

Changes to the Discussion accompanying the Manual for
Courts-Martial, United States

(a) Paragraph (4) of the Discussion immediately after R.C.M. 202(a) is amended to read as follows:

"(4) *Limitations on jurisdiction over civilians.*

Court-martial jurisdiction over civilians under the code is limited by the Constitution and other applicable laws, including as construed in judicial decisions. The exercise of jurisdiction under Article 2(a)(11) in peace time has been held unconstitutional by the Supreme Court of the United States. Before initiating court-martial proceedings against a civilian, relevant statutes, decisions, service regulations, and policy memoranda should be carefully examined."

(b) The first paragraph of the Discussion following R.C.M. 1003(b)(3) is amended to read as follows:

"A fine is in the nature of a judgment and, when ordered executed, makes the accused immediately liable to the United States for the entire amount of money specified in the sentence. A fine normally should not be adjudged against a member of the armed forces unless the accused was unjustly enriched as a result of the offense of which convicted. In the case of a civilian subject to military law, a fine, rather than a forfeiture, is the proper monetary penalty to be adjudged, regardless of whether unjust enrichment is present."