

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."

Changes to Appendix 21, Analysis of Rules for Courts-Martial

(a) Add the following to the Analysis accompanying R.C.M. 1106(d):

2010 Amendment: Subsection (d) is restated in its entirety to clarify that subsections (d)(4), (d)(5) and (d)(6) were not intended to be eliminated by the 2008 Amendment.

2008 Amendment: Subsections (d)(1) and (d)(3) were modified to simplify the requirements of the staff judge advocate's or legal officer's recommendation."

Changes to Appendix 23, Analysis of Punitive Articles

(a) Add the following to the Analysis accompanying Paragraph 44, Article 119 - Manslaughter:

b. Elements.

2010 Amendment: Paragraph (4) of the elements is corrected to properly reflect the 2007 Amendment, which corrected wording not included in the 2008 Amendment.

2008 Amendment: Notes were included to add an element if the person killed was a child under the age of 16 years.

e. Maximum punishment.

2008 Amendment: The maximum confinement for voluntary manslaughter when the person killed was a child under the age of 16 years was increased to 20 years. The maximum confinement for involuntary manslaughter when the person killed was a child under the age of 16 years was increased to 15 years."