

(3) *Persons subject to the UCMJ.* A general court-martial convening authority, a special trial counsel designated by the Secretary concerned, or their designees, may grant immunity to a person subject to the UCMJ. However, they may grant immunity to a person subject to the UCMJ extending to a prosecution in a United States District Court only when specifically authorized to do so by the Attorney General of the United States or other authority designated under chapter 601 of title 18 of the U.S. Code.

(4) *Persons not subject to the UCMJ.* A general court-martial convening authority, a special trial counsel designated by the Secretary concerned, or their designees, may grant immunity to persons not subject to the UCMJ only when specifically authorized to do so by the Attorney General of the United States or other authority designated in chapter 601 of title 18 of the U.S. Code.

(5) *Limitations on delegation.*

(A) Subject to Service regulations, the authority to grant immunity under this rule may be delegated in writing at the discretion of the general court-martial convening authority to a subordinate special court-martial convening authority. Further delegation is not permitted. The authority to grant immunity or delegate the authority to grant immunity may be limited by superior authority.

(B) Subject to Service regulations, the authority to grant immunity under this rule may be delegated at the discretion of a special trial counsel designated by the Secretary concerned to a subordinate special trial counsel. The authority to grant immunity or delegate the authority to grant immunity may be limited by superior authority. Any delegation shall be in writing.”

**(ccc) R.C.M. 704(d) is amended to read as follows:**

“(d) *Procedure.*

(1) A grant of immunity shall be written and signed by the individual convening authority, special trial counsel designated by the Secretary concerned, or designee who issues it. The grant shall include a statement of the authority under which it is made and shall identify the matters to which it extends.

(2) Subject to Service regulations, the convening authority shall order a person subject to the UCMJ who has received a grant of immunity, to answer questions by investigators or to testify or answer questions by counsel pursuant to that grant of immunity.”

**(ddd) R.C.M. 704(e) is amended to read as follows:**

“(e) *Decision to grant immunity.* Unless limited by superior competent authority, the decision to grant immunity is a matter within the sole discretion of the general court-martial convening authority, special trial counsel designated by the Secretary concerned, as applicable, or their designees. However, if a defense request to immunize a witness has been denied, the military judge may, upon motion by the defense, grant appropriate relief directing that either an appropriate convening authority or special trial counsel designated by the Secretary concerned, as applicable, grant testimonial immunity to a defense witness or, as to the affected charges and specifications, the proceedings against the accused be abated, upon findings that:

(1) The witness intends to invoke the right against self-incrimination to the extent permitted by law if called to testify;

(2) The Government has engaged in discriminatory use of immunity to obtain a tactical advantage, or the Government through its own overreaching, has forced the witness to invoke the privilege against self-incrimination; and