

ANNEX 3

Section 1. Part II of the Manual for Courts-Martial, United States, is amended as follows:**(a) R.C.M. 502(a)(2)(A) is amended to read as follows:**

“(A) *Members.* The members of a court-martial shall determine whether the accused is proved guilty and, in a capital case in which the accused is unanimously found guilty of a capital offense, the members shall make a determination in accordance with Article 53(c)(1)(A). Each member has an equal voice and vote with other members in deliberating upon and deciding all matters submitted to them. No member may use rank or position to influence another member. No member of a court-martial may have access to or use in any open or closed session this Manual, reports of decided cases, or any other reference material.”

(b) R.C.M. 902A is deleted.**(c) R.C.M. 906(b)(12)(B) is amended to read as follows:**

“(B) *As applied to sentence.* Where the military judge finds that the unreasonable multiplication of charges requires a remedy that focuses more appropriately on punishment than on findings, the military judge may find that there is an unreasonable multiplication of charges as applied to sentence. If the military judge makes such a finding, the remedy shall be as set forth in R.C.M. 1002(d)(2). A ruling on this motion ordinarily should be deferred until after findings are entered.”

(d) A new R.C.M. 925 is inserted immediately after R.C.M. 924 to read as follows:**“Rule 925. Application of sentencing rules**

(a) Only one set of sentencing rules shall apply in a court-martial.

(b) If convicted of any offense for which death may be adjudged, the accused shall be sentenced in accordance with R.C.M. 1004.

(c) Except as provided in R.C.M. 925(b):

(1) If convicted of any offense committed on or before December 27, 2023, the accused shall be sentenced in accordance with the Rules for Courts-Martial in effect prior to December 28, 2023. The military judge shall inquire into the accused's election of sentencing rules after the announcement of findings and before any matter is presented in the presentencing phase.

(2) If convicted of only offenses committed after December 27, 2023, the accused shall be sentenced by a military judge in accordance with R.C.M. 1002(a)(2).

(d) Any elections made by the accused pursuant to R.C.M. 925(c)(1) shall be made orally on the record or be in writing and signed by the accused. The military judge shall ascertain whether the accused has consulted with defense counsel and has been informed of the right to make the election of the applicable sentencing rules.”

(e) R.C.M. 1001(a)(1) is amended to read as follows:

“(1) *Procedure.* After findings of guilty have been announced, the Government and defense may present matters pursuant to this rule to aid the court-martial in determining an appropriate sentence. Such matters shall ordinarily be presented in the following sequence:

(A) Presentation by the trial counsel of:

(i) service data relating to the accused taken from the charge sheet;

(ii) personal data relating to the accused and of the character of the

accused's prior service as reflected in the personnel records of the accused.

(B) Crime victim's right to be reasonably heard.

(C) Presentation by the defense of evidence in extenuation or mitigation or both.

(D) Rebuttal.

(E) Argument by the trial counsel on sentence.