

(B) the conviction was for a crime punishable by death, dishonorable discharge, or imprisonment for more than a year;

(C) the evidence is admitted to prove any fact essential to the judgment; and

(D) when offered by the prosecution for a purpose other than impeachment, the judgment was against the accused.

The pendency of an appeal may be shown but does not affect admissibility. In determining whether a crime tried by court-martial was punishable by death, dishonorable discharge, or imprisonment for more than one year, the maximum punishment prescribed by the President under Article 56 of the Uniform Code of Military Justice at the time of the conviction applies without regard to whether the case was tried by general, special, or summary court-martial.

(I) Mil. R. Evid. 807 is amended to read as follows:

“(a) *In General.* Under the following conditions, a hearsay statement is not excluded by the rule against hearsay even if the statement is not admissible under a hearsay exception in Mil. R. Evid. 803 or 804:

(1) the statement is supported by sufficient guarantees of trustworthiness—after considering the totality of circumstances under which it is made and evidence, if any, corroborating the statement; and

(2) the statement is more probative on the point for which it is offered than any other evidence that the proponent can obtain through reasonable efforts.

(b) *Notice.* The statement is admissible only if the proponent gives an adverse party reasonable notice of the intent to offer the statement—including its substance and the declarant’s name—so that the party has a fair opportunity to meet it. The notice must be provided in writing before the trial or hearing—or in any form during the trial or hearing if the court, for good cause, excuses a

lack of earlier notice.”

(m) A new Mil. R. Evid. 902(12) is inserted immediately after Mil. R. Evid. 902(11) to read as follows:

“(12) Reserved.”

(n) A new Mil. R. Evid. 902(13) is inserted immediately after new Mil. R. Evid. 902(12) to read as follows:

“(13) *Certified Records Generated by an Electronic Process or System.* A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Mil. R. Evid. 902(11). The proponent also must meet the notice requirements of Mil. R. Evid. Rule 902(11).”

(o) A new Mil. R. Evid. 902(14) is inserted immediately after new Mil. R. Evid. 902(13) to read as follows:

“(14) *Certified Data Copied from an Electronic Device, Storage Medium, or File.* Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Mil. R. Evid. 902(11). The proponent also must meet the notice requirements of Mil. R. Evid. 902(11).”

Section 3. Part IV of the Manual for Courts-Martial, United States, is amended as follows:

(a) Paragraph 3.b.(4) is amended to read as follows:

“(4) *Sua sponte duty.* Subject to R.C.M. 920(g), a military judge must instruct panel members on lesser included offenses reasonably raised by the evidence.”