

(4) Nothing in this rule prohibits detailing to a court-martial a military judge, member, or counsel who is a member of an armed force different from that of the accused, the convening authority, or both.

(5) When a member of one armed force is tried by a court-martial convened by a member of another armed force, the court-martial will use the implementing regulations and procedures prescribed by the Secretary concerned of the military service of the accused. In all cases, departmental review after that by the officer with authority to convene a general court-martial for the command that held the trial, where that review is required by the UCMJ, shall be carried out by the department that includes the armed force of which the accused is a member.

(6) Unless otherwise directed by the President or Secretary of Defense, whenever action under this Manual is required or authorized to be taken by a person superior to—

(A) a commander of a unified or specified combatant command; or

(B) a commander of any other joint command or joint task force that is not part of a unified or specified combatant command,

the matter shall be referred to the Secretary of the armed force of which the accused is a member.

The Secretary may convene a court-martial, take other appropriate action, or, subject to R.C.M. 504(c), refer the matter to any person authorized to convene a court-martial of the accused.

(7) When there is a disagreement between the Secretaries of two military departments or between the Secretary of a military department and the commander of a unified or specified combatant command or other joint command or joint task force as to which organization should exercise jurisdiction over a particular case or class of cases, the Secretary of Defense or an official acting under the authority of the Secretary of Defense shall designate which organization will exercise jurisdiction.”

(c) R.C.M. 305(j) is amended to read as follows:

“(j) *Review by military judge.* Once the charges for which the accused has been confined are referred to trial, or in a pre-referral proceeding conducted in accordance with R.C.M. 309, the military judge shall review the propriety of pretrial confinement upon motion for appropriate relief.

(1) *Release.* The military judge shall order release from pretrial confinement only if:

(A) The 7-day reviewing officer’s decision was an abuse of discretion, and there is not sufficient information presented to the military judge justifying continuation of pretrial confinement under subparagraph (h)(2)(B) of this rule;

(B) Information not presented to the 7-day reviewing officer establishes that the confinee should be released under subparagraph (h)(2)(B) of this rule; or

(C) The provisions of paragraph (i)(1) or (2) of this rule have not been complied with and information presented to the military judge does not establish sufficient grounds for continued confinement under subparagraph (h)(2)(B) of this rule.

(2) *Credit.* Upon sentencing, the military judge shall order administrative credit under subsection (k) of this rule for any pretrial confinement served as a result of an abuse of discretion or failure to comply with the provisions of subsections (f), (h), or (i) of this rule.”

(d) R.C.M. 307(b) is amended to read as follows:

“(b) *How charges are preferred; oath.* In preferring charges and specifications —

(1) The person preferring the charges and specifications must sign them under oath before a commissioned officer of the armed forces authorized to administer oaths; and

(2) The writing under paragraph (b)(1) must state that—

(A) the signer has personal knowledge of, or has investigated, the matters set forth in the