

Donald J. Trump
President
United States of America

**Executive Order 13825 - 2018 Amendments to the
Manual for Courts-Martial, United States**

March 1, 2018

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Chapter 47 of Title 10, *United States Code* [*Uniform Code of Military Justice (UCMJ)*, 10 USC 801 - 946], and in order to prescribe amendments to the *Manual for Courts-Martial, United States*, prescribed by *Executive Order 12473 of April 13, 1984*, as amended, it is hereby ordered as follows:

Section 1. Part II, Part III, and Part IV of the *Manual for Courts-Martial, United States*, are amended as described in *Annex 1*, which is attached to and made a part of this order.

Sec. 2. The amendments in *Annex 1* shall take effect on the date of this order, subject to the following:

(a) Nothing in *Annex 1* shall be construed to make punishable any act done or omitted prior to the date of this order that was not punishable when done or omitted.

(b) Nothing in *Annex 1* shall be construed to invalidate the prosecution of any offense committed before the date of this order. The maximum punishment for an offense committed before the date of this order shall not exceed the maximum punishment in effect at the time of the commission of such offense.

(c) Nothing in *Annex 1* shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to the date of this order, and any such nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action shall proceed in the same manner and with the same effect as if the amendments in *Annex 1* had not been prescribed.

Sec. 3. (a) Pursuant to Section 5542 of the *Military Justice Act* of 2016 (*MJA*), Division E of the *National Defense Authorization Act for Fiscal Year 2017*, Public Law 114 - 328, 130 Stat. 2000, 2967 (2016), except as otherwise provided by the *MJA* or this order, the *MJA* shall take effect on January 1, 2019.

(b) Nothing in the *MJA* shall be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted.

(c) Nothing in Title LX of the *MJA* shall be construed to invalidate the prosecution of any offense committed before January 1, 2019. The maximum punishment for an offense committed before January 1, 2019, shall not exceed the maximum punishment in effect at the time of the commission of such offense.

(d) Nothing in the *MJA* shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to January 1, 2019. Except as otherwise provided in this order, the *MJA* shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019. Except as otherwise provided in this order, proceedings in any such case shall be held in the same manner and with the same effect as if the *MJA* had not been enacted.

Sec. 4. The *Manual for Courts-Martial, United States*, as amended by Section 1 of this order, is amended as described in *Annex 2*, which is attached to and made a part of this order.

Sec. 5. The amendments in **Annex 2**, including **Appendix 12A**, shall take effect on January 1, 2019, subject to the following:

(a) Nothing in **Annex 2** shall be construed to make punishable any act done or omitted prior to January 1, 2019, that was not punishable when done or omitted.

(b) Nothing in Section 4 of **Annex 2** shall be construed to invalidate the prosecution of any offense committed before January 1, 2019. The maximum punishment for an offense committed before January 1, 2019, shall not exceed the maximum punishment in effect at the time of the commission of such offense.

(c) Nothing in **Annex 2** shall be construed to invalidate any nonjudicial punishment proceeding, restraint, investigation, referral of charges, trial in which arraignment occurred, or other action begun prior to January 1, 2019. Except as otherwise provided in this order, the amendments in **Annex 2** shall not apply in any case in which charges are referred to trial by court-martial before January 1, 2019. Except as otherwise provided in this order, proceedings in any such case shall be held in the same manner and with the same effect as if such amendments had not been prescribed.

Sec. 6. (a) The amendments to Articles 2, 56(d), 58a and 63 of the **UCMJ** enacted by Sections 5102, 5301, 5303 and 5327 of the **MJA** apply only to cases in which all specifications allege offenses committed on or after January 1, 2019.

(b) If the accused is found guilty of a specification alleging the commission of one or more offenses before January 1, 2019, Article 60 of the **UCMJ**, as in effect on the date of the earliest offense of which the accused was found guilty, shall apply to the convening authority, in addition to the suspending authority in Article 60a(c) as enacted by the **MJA**, to the extent that Article 60:

(1) requires action by the convening authority on the sentence;

(2) permits action by the convening authority on findings;

(3) authorizes the convening authority to modify the findings and sentence of a court-martial, dismiss any charge or specification by setting aside a finding of guilty thereto, or change a finding of guilty to a charge or specification to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification;

(4) authorizes the convening authority to order a proceeding in revision or a rehearing; or

(5) authorizes the convening authority to approve, disapprove, commute, or suspend a sentence in whole or in part.

Sec. 7. The amendment to Article 15 of the **UCMJ** enacted by Section 5141 of the **MJA** shall apply to any nonjudicial punishment imposed on or after January 1, 2019.

Sec. 8. The amendments to Articles 32 and 34 of the **UCMJ** enacted by Sections 5203 and 5205 of the **MJA** apply with respect to preliminary hearings conducted and advice given on or after January 1, 2019.

Sec. 9. The amendments to Article 79 of the **UCMJ** enacted by Section 5402 of the **MJA** and the amendments to **Appendix 12A** to the **Manual for Courts-Martial, United States**, made by this order apply only to offenses committed on or after January 1, 2019.

Sec. 10. Except as provided by **Rule for Courts-Martial 902A**, as promulgated by **Annex 2**, any change to sentencing procedures:

(a) made by Articles 16(c)(2), 19(b), 25(d)(2) and (3), 39(a)(4), 53, 53a, or 56(c) of the **UCMJ**, as enacted by Sections 5161, 5163, 5182, 5222, 5236, 5237 and 5301 of the **MJA**; or

(b) included in **Annex 2** in rules implementing those articles, applies only to cases in which all specifications allege offenses committed on or after January 1, 2019.

Sec. 11. The amendments to Article 146 of the *UCMJ* enacted by Section 5521 of the *MJA* and the new Article 146a enacted by Section 5522 of the *MJA* shall take effect on the day after the report for fiscal year 2017 required by Article 146(c) of the *UCMJ* (as in effect before the *MJA's* amendments) is submitted in accordance with Article 146(c)(1), but in no event later than December 1, 2018.

Sec. 12. In accordance with Article 33 of the *UCMJ*, as amended by Section 5204 of the *MJA*, the Secretary of Defense, in consultation with the Secretary of Homeland Security, will issue nonbinding guidance regarding factors that commanders, convening authorities, staff judge advocates, and judge advocates should take into account when exercising their duties with respect to the disposition of charges and specifications in the interest of justice and discipline under Articles 30 and 34 of the *UCMJ*. That guidance will take into account, with appropriate consideration of military requirements, the principles contained in official guidance of the Attorney General to attorneys for the Federal Government with respect to the disposition of Federal criminal cases in accordance with the principle of fair and evenhanded administration of Federal criminal law.

DONALD J. TRUMP

The White House,

March 1, 2018.