

**UNIFORM RULES OF PRACTICE BEFORE
DEPARTMENT OF THE AIR FORCE COURTS-MARTIAL
Effective 1 August 2025**

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PREAMBLE

These rules govern trial by courts-martial within the Department of the Air Force. They are effective upon approval of the Chief Trial Judge and supersede all rules previously published as Uniform Rules of Practice Before Department of the Air Force Courts-Martial.

Rule 1.1. OBJECTIVE OF UNIFORM RULES

Pursuant to Rule for Courts-Martial (RCM) 108, these rules, hereinafter referred to as the “Uniform Rules,” provide rules for conducting Department of the Air Force courts-martial and the orderly administration of justice by establishing the practices and procedures followed in Department of the Air Force courts-martial. The Uniform Rules are intended to inform Staff Judge Advocates (SJAs) and their staffs, military judges, and counsel of the rules of practice, and to promote uniformity in courts-martial practice.

Rule 1.2. UPDATES/CHANGES TO UNIFORM RULES

The Uniform Rules are ordinarily updated annually or otherwise as required. Please send all requests for additions/changes to the Central Docketing Office (CDO) Org Box at AF.JA.Central.Dock.Off.Workflow@us.af.mil.

Rule 1.3. APPLICATION OF UNIFORM RULES

(A) The Uniform Rules apply to all special and general courts-martial involving a Department of the Air Force accused, including those over which other service military judges preside. Counsel, as officers of the court, are required to be familiar with and comply with these rules, as well as the rules and standards contained in Department of the Air Force Instruction (DAFI) 51-110, *Professional Responsibility Program* (including the Department of the Air Force Rules of Professional Conduct; the Department of the Air Force Standards for Civility in Professional Conduct; and the Department of the Air Force Uniform Code of Judicial Conduct); the American Bar Association Criminal Justice Standards, insofar as they apply to Department of the Air Force practice; the Manual for Courts-Martial (MCM); military case law; and any other applicable service regulations. Except as otherwise noted below, the Uniform Rules apply equally to civilian counsel practicing in Department of the Air Force courts-martial.

(B) If the accused is represented by both military and civilian defense counsel, military defense counsel will provide civilian defense counsel a copy of the Uniform Rules, as well as DAFI 51-110 and its attachments. If the accused is represented only by civilian defense counsel, trial counsel will provide civilian defense counsel the Uniform Rules as well as DAFI 51-110 and its attachments.

(C) If a victim is represented solely by civilian counsel, trial counsel will provide civilian counsel a copy of the Uniform Rules as well as DAFI 51-110 and its attachments.

Rule 1.4. CONSTRUCTION AND ENFORCEMENT OF UNIFORM RULES

(A) CONSTRUCTION. The Uniform Rules will be construed to ensure simplicity in

procedure, fairness in administration, and speedy resolution of cases referred to courts-martial. As used in the Uniform Rules, the term “military judge” refers to both military judges generally and the military judge detailed to a specific case. The military judge has inherent authority to permit or require variations from the Uniform Rules. *See* RCM 801(a)(3).

(B) **REPORTING VIOLATIONS.** Violations of the Uniform Rules will be reported through counsel to the detailed military judge. After trial, the military judge may report alleged violations to their Chief District Military Judge (CDMJ) and the Chief Trial Judge (CTJ), regardless of whether action was taken by the military judge regarding the alleged violation(s).

(C) **ENFORCEMENT BY THE MILITARY JUDGE.** Noncompliance with the Uniform Rules, in and of itself, does not confer any rights or remedies on any party or person of limited standing. In the case of violations of the Uniform Rules, the military judge may, upon application of a party, counsel for persons of limited standing, or *sua sponte*, take such action as may be warranted by the circumstances and in the interests of justice. This may include, but is not limited to, addressing the alleged conduct on the record.

(D) **ENFORCEMENT BY THE CDMJ OR THE CTJ.** Military judges may report violations of the Uniform Rules to their CDMJ or the CTJ. In the case of military counsel, the CDMJ or the CTJ may forward the complaint of violation to the appropriate Senior Supervisory Attorney in accordance with DAFI 51-110. In the case of civilian counsel, the military judge or CDMJ may forward the complaint to the CTJ and, if warranted, the CTJ will forward to the Deputy Judge Advocate General, through The Judge Advocate General’s Professional Responsibility Administrator, in accordance with DAFI 51-110. The decision to forward such complaints is within the discretion of the military judge, CDMJ, or CTJ, taking into account the nature and circumstances of the alleged violation(s).

(E) **NOTIFICATION TO COUNSEL.** Counsel detailed to the case concerned will be notified what, if any, action was taken in response to an alleged violation of these rules.

PRELIMINARY MATTERS

Rule 2.1. DOCKETING AND DETAILING MILITARY JUDGES

(A) Docketing courts-martial and detailing military judges are judicial functions. The CTJ has worldwide authority and responsibility for docketing courts-martial and detailing military judges. The CTJ delegates the same authority to the Deputy Chief Trial Judge (DCTJ). The CTJ further delegates the authority to the CDMJs to docket courts-martial and detail military judges within their respective districts.

(B) The CDO serves as the focal point to assist in docketing courts-martial. The CDO’s administrative duties are normally performed by the Clerk of Trial Courts. However, the function of the CDO may be performed by other personnel assigned to the Air Force Trial Judiciary (AF/JAT).

(C) The CDO maintains a current docket of all pending courts-martial and other matters

to which a military judge has been detailed or assigned.

Rule 2.2. DETAILING COURT REPORTERS

(A) The Court Reporter Manager (CRM) manages detailing of AF/JAT court reporter personnel to support judicial and administrative proceedings. The Deputy CRM is delegated the authority to act with the same authority as the CRM. The CRM works in concert with the CDO and the CTJ to ensure AF/JAT court reporter personnel are detailed in the most efficient and expedient manner.

(B) After a court-martial has been docketed, the CRM identifies and details one or more court reporters to support. There is a general preference that a single court reporter be assigned to all sessions in a single case. If the installation at which the proceeding is being held has a resident court reporter, there is a preference for that court reporter to be detailed to support the proceeding.

(C) All court-martial personnel must keep the detailed court reporter(s) informed of any scheduling, venue, or other relevant changes in the case. The detailed court reporter should ordinarily be included on all correspondence to the military judge.

Rule 2.3. PRE-REFERRAL PROCEEDINGS

(A) SEARCH AUTHORIZATIONS.

(1) Only military judges, qualified commanders, and other competent authorities designated by the Secretary of Defense or Secretary of the Air Force have the authority to grant search authorizations. *See* Military Rule of Evidence (MRE) 315 and DAFI 51-201, *Administration of Military Justice*. Government counsel may seek a search authorization from a military judge only when a qualified commander is not reasonably available. Government counsel will take all reasonable steps to utilize a qualified commander before requesting a military judge in accordance with paragraph (2) below.

(2) Should a qualified commander not be reasonably available in accordance with Rule 2.3(A)(1), government counsel shall contact the CDO to request that a military judge be detailed at AF.JA.Central.Dock.Off.Workflow@us.af.mil. The request must include information about why a qualified commander is not reasonably available. After confirming no qualified commander is available, a military judge will be detailed to review the application for a search authorization. The application may be submitted via email or may be presented on a conference call with the detailed military judge. If necessary, government counsel will initiate a conference call with the military judge at the time prescribed by the CDO. If the request is urgent, during duty hours (Monday through Friday, excluding holidays and down days, 0730-1630 EST), the CDO can be reached on Microsoft Teams, or at DSN 612-4570, COMM (240) 612-4570. If government counsel tries to make contact during duty hours and there is no answer, the after-hours phone number should be used. The after-hours phone number for both the CDO and emergency search authorizations is the DCTJ's duty phone at (202) 706-0709.

(B) ARTICLE 30A INVESTIGATIVE SUBPOENAS, WARRANTS, OR ORDERS

(1) Upon application by government counsel, a military judge may issue a pre-referral investigative subpoena, warrant, or order pursuant to Article 30a, Uniform Code of Military Justice (UCMJ). *See also* RCM 309. Defense counsel may request that government counsel make an application for a pre-referral investigative subpoena, warrant, or order. Government counsel must then decide whether to submit it to the military judge. If submitted to the military judge, the military judge may, at his or her discretion, grant defense counsel an opportunity to be heard.

(2) A military judge, upon written application by law enforcement or government counsel in connection with an ongoing investigation of an offense under the UCMJ, may issue a warrant to a provider of an electronic communications service or remote computing service for the disclosure of the contents of wire or electronic communications, or may issue a warrant or order for information pertaining to subscribers of those services. Government counsel is responsible for requesting a detailed military judge and for presenting the application for a warrant or order to the military judge.

(3) Procedure:

i. Pre-referral proceedings related to requests for investigative subpoenas and warrants/orders for wire or electronic communications will ordinarily be conducted by the detailed military judge *ex parte* and *in camera*, without a hearing. The record of proceedings will consist of all documents considered or issued by the detailed military judge in acting upon such requests and must be preserved to be included in the record of trial in the event the case is referred to trial. *See* RCM 309(e). In rare circumstances, the military judge may, within his or her discretion, hold a hearing in relation to requests for investigative subpoenas and warrants/orders for wire or electronic communications. Government counsel shall submit an Article 30a proceeding request (Appendix B) **for each individual subject** to the CDO at AF.JA.Central.Dock.Off.Workflow@us.af.mil. Department of the Air Force judges will consider Article 30a applications only for Department of the Air Force subjects. DO NOT send or attach affidavits or draft warrants (DD Forms 3057, 3056) to the CDO. The CDO will arrange for detailing a military judge and, if a hearing is authorized, a court reporter as soon as practicable, but not later than one duty day from receipt of the request.

ii. Any request for reconsideration of an initial denial related to requests for investigative subpoenas and warrants/orders for wire or electronic communications must be submitted to the detailed military judge within 30 calendar days from the date of the military judge's determination. After 30 days, a request for a new Article 30a proceeding must be submitted to the CDO.

iii. When seeking to quash an investigative subpoena, warrant, or order, counsel shall e-mail the request to the CDO using the format found in Appendix B.

iv. All Article 30a, UCMJ, hearings will be recorded and transcribed verbatim and provided to government counsel for retention. Government counsel must ensure the record of proceedings is maintained on behalf of or by the appropriate convening authority or

commander. The CDO, detailed military judge, and Trial Judiciary are not responsible for maintaining the record of proceedings.

(C) OTHER PRE-REFERRAL PROCEEDINGS.

(1) Other pre-referral proceedings authorized by RCM 309 include requests for appointment of an Article 6b, UCMJ, representative, requests from an accused to review the propriety of pretrial confinement, requests for inquiry into the mental capacity or mental responsibility of an accused, requests for individual military counsel, victim petitions for relief during RCM 405 preliminary hearings, and pre-referral depositions.

(2) Requests for Article 30a proceedings other than those described in Rule 2.3(A), shall be in the form of a motion requesting such a proceeding and shall be submitted to the CTJ via the CDO Org Box at AF.JA.Central.Dock.Off.Workflow@us.af.mil. The motion will succinctly list the type of proceeding sought and a citation to the RCM authorizing such procedure. The requesting party will identify the judicial district and installation from which the request arises. The request must contain sufficient detail regarding primary and secondary available dates and participation of witnesses (indicate whether in-person or remote) for the CTJ to make a detailing decision.

(D) MILITARY JUDGES AS PRELIMINARY HEARING OFFICERS (PHOs).

(1) On a case-by-case basis, a military judge may be available to serve as a PHO.

(2) Procedure:

a. Coordinate the request with all interested parties (e.g., defense counsel, counsel for persons of limited standing, victim(s), other required witnesses) to identify an agreed-upon primary date and one or more agreed-upon alternate dates;

b. Redact Social Security Numbers (SSN) and Department of Defense Identification (DoD ID) Numbers from the charge sheet;

c. Provide supporting information, as necessary, for why the case requires a military judge to serve as a PHO;

d. Indicate whether the hearing will be held in person or via audiovisual technology (e.g., Microsoft Teams) and whether one or more alleged victims are expected to testify in person. If a victim is expected to testify in person, the hearing will ordinarily be conducted in person; otherwise, the hearing will ordinarily be conducted via audiovisual technology.

e. E-mail the items above, along with any other relevant information, as soon as they are available (but no later than seven (7) calendar days prior to the requested hearing date) to the CDO Org Box at AF.JA.Central.Dock.Off.Workflow@us.af.mil, defense counsel, counsel for persons of limited standing, courtesy copying the relevant CDMJ. The

CDO will ordinarily process the request within 48 hours.

(E) **POST-REFERRAL WARRANTS AND ORDERS.** After referral, applications for search warrants or orders will be submitted to the detailed military judge, who will determine whether an Article 39(a), UCMJ, session is required and whether the proceedings will be conducted *ex parte*.”

Rule 2.4. DETAILING/RETAINING COUNSEL

The information contained in the CDO Memorandum constitutes the formal notice of appearance for counsel. The CDO Memorandum will contain counsel’s full name; rank and duty title (as applicable); position (trial counsel, assistant trial counsel, military defense counsel, civilian defense counsel, counsel for persons of limited standing); and in the case of civilian counsel, e-mail address. Should counsel change after submission of the CDO Memorandum, each newly-detailed military counsel or newly-retained civilian counsel shall submit a notice of appearance to the CDO, the CDMJ, the detailed military judge, all parties, and counsel for persons of limited standing.

Rule 2.5. WITHDRAWAL BY COUNSEL

After docketing, if counsel withdraws from the case, counsel shall notify the CDO, the CDMJ, the detailed military judge, all parties, and counsel for persons of limited standing. Any substitute detailing or retention of counsel will be filed in accordance with Rule 2.4. After referral, withdrawal of counsel is subject to the following:

(A) **TRIAL COUNSEL.** Trial counsel may not withdraw unless qualified counsel is detailed prior to or simultaneously with the relief of the withdrawing counsel. *See* RCM 505(d)(1).

(B) **MILITARY DEFENSE COUNSEL.** Detailed and individual military defense counsel may not withdraw from representation of the accused without CDMJ or military judge approval, regardless of whether the accused desires to release them. *See* RCMs 505(d)(2) and 506(c).

(C) **CIVILIAN DEFENSE COUNSEL.** Civilian defense counsel may not withdraw from representation of the accused without CDMJ or military judge approval, regardless of whether the accused desires to release them. Willful failure of a fee-paying client to comply with the terms of the contract for representation may provide grounds for counsel to request to withdraw. The failure to pay the fee does not, however, terminate the attorney’s obligations as an officer of the court.

(D) **COUNSEL FOR PERSONS OF LIMITED STANDING.** Counsel for persons of limited standing will immediately notify the CDMJ or military judge when transferring or terminating their representation.

Rule 2.6. ESTABLISHING TRIAL DATES

(A) **GENERALLY.** Many factors are considered in setting trial dates. For example, factors that typically impact a trial date include: conflicts with docketed cases; estimated length of the trial; availability of witnesses, consultants, experts, detailed and civilian defense counsel, local counsel, district and special trial counsel, counsel for persons of limited standing; discovery; forensic tests, medical or psychiatric evaluations; and the existence of pending requests for individual military counsel, discharge, resignation, or retirement in lieu of trial. Taking all relevant factors into consideration, the parties must be prepared to engage in meaningful discussions about potential trial dates immediately after service of referred charges on the accused.

(B) **DATE FIRST JUDGE AVAILABLE.** Absent a waiver by the accused, the date the first military judge is available to preside over a court-martial is three (3) calendar days following service of referred charges for a special court-martial (SPCM) and five (5) calendar days following service of referred charges for a general court-martial (GCM), not counting the day of service and the day of trial.

(C) **PREFERENCE FOR AGREEMENT.** Counsel shall attempt to agree upon a trial date. Agreement between the parties is the preferred method of setting a trial date. If the parties agree upon a trial date, trial will usually be scheduled for that date. Trial counsel must consult with counsel for persons of limited standing prior to agreeing to a trial date.

(D) **SEPARATE ARTICLE 39(a) SESSIONS.** For purposes of these Uniform Rules, bifurcation refers to the scheduling of one or more Article 39(a), UCMJ, sessions in advance of the trial date. Cases requiring panel member randomization at an open session will necessitate a separate Article 39(a), UCMJ, session before trial. If there is an approved or anticipated plea agreement and the trial is docketed in anticipation of a guilty plea, panel member randomization may occur during the first scheduled Article 39(a), UCMJ, session immediately preceding trial. In all cases, counsel must coordinate and determine appropriate date(s) for arraignment, motions, and RCM 911 panel member randomization. When doing so, counsel should consider the efficiency of conducting arraignment (in person or virtually) separately from a subsequent motions and randomization session. If no motions are anticipated, arraignment and randomization should typically occur together. If motions are anticipated, the parties should consider conducting arraignment, motions, and randomization during a single Article 39(a), UCMJ, session. In selecting a date for such a session, counsel should weigh factors such as: the number and complexity of anticipated motions; the subject matter of those motions; the number of witnesses expected to testify at motion hearings; and the potential impact on the trial schedule if motions are not resolved in advance. Once the parties have reached an agreement and submitted the docketing request, the CDO will attempt to accommodate the parties' preferences. However, after a military judge is detailed to the case, the judge may require separate Article 39(a), UCMJ, sessions for arraignment, motions, and randomization, or otherwise adjust trial scheduling, at his or her discretion.

(E) **SPEEDY TRIAL EXCLUSIONS.** Requests for exclusion of time for RCM 707 speedy trial calculation made after referral, but prior to docketing, may be acted upon by the

CTJ, DCTJ, or the appropriate CDMJ. CDMJs have authority to exclude time under RCM 707 for all cases docketed within their respective districts.

(F) PROCEDURE.

(1) As soon as possible after service of charges upon the accused, the legal office prosecuting the case will provide the CDO, the appropriate CDMJ, trial and defense counsel, counsel for persons of limited standing, and the CRM the completed CDO Memorandum, following the format found in Appendix A. A fillable version of the CDO Memorandum, in PDF format, can be found on the JAT eViews from the Bench Microsoft Teams page, JAT's FLITE KM page, and the *Virtual Military Justice Deskbook*. The legal office must submit the completed CDO Memorandum, redacted referred charge sheet that reflects service upon the accused, and convening order as separate PDF documents. The counsel signing and submitting the CDO Memorandum is responsible for ensuring all SSNs and DoD ID numbers are redacted from the documents submitted along with the CDO Memorandum.

(2) If the parties have agreed on a trial date and an exclusion of time for purposes of RCM 707 speedy trial calculation, trial will generally be docketed for the agreed-upon date. If the agreed-upon trial date is greater than 120 days from the date of service of referred charges on the accused, the parties will submit a detailed week-by-week breakdown of their respective schedules, consolidated on a single Excel spreadsheet, up to the agreed-upon trial date to the CDO and the respective CDMJ with the docketing request. A sample consolidated schedule can be found on the JAT Flite KM page or on the JAT eViews from the Bench Microsoft Teams page. The respective CDMJ may then direct a docketing conference to be conducted by the CDO, the respective CDMJ, or his or her designee.

(3) If the parties are unable to agree upon a trial date, if there is a disagreement regarding the need to arraign the accused prior to trial, or upon the request of any party, a docketing conference will be scheduled as soon as practicable, to be conducted by the CDO, the respective CDMJ, or his or her designee. In these circumstances, the parties will submit a consolidated schedule to the CDMJ concerned, DCTJ, CTJ, or CDO prior to the docketing conference. *See* Rule 2.6(F)(2).

a. At any docketing conference, the parties shall be prepared to discuss their availability to try the case given the factors detailed in Rule 2.6(A). Trial counsel shall consult with any counsel for persons of limited standing to determine their availability for potential trial dates. If trial counsel disagrees with counsel for persons of limited standing on a desired trial date, trial counsel shall arrange for the presence of such counsel at the docketing conference.

b. Detailed military defense counsel will coordinate with civilian defense counsel prior to the docketing conference to discuss availability to try the case considering the factors detailed in Rule 2.6(A), and will alert civilian counsel to the pending docketing conference.

c. After a military judge has been detailed, the CDO will make the Confirmation Memorandum available to the parties, counsel for persons of limited standing, the

detailed military judge, and the applicable CDMJ through the case's SharePoint e-file site. The Confirmation Memorandum will set out the docketed trial date, the date of any additional Article 39(a), UCMJ, sessions, the detailing authority (CTJ, DCTJ, or CDMJ), identification of the detailed military judge, exclusions of time under RCM 707 (if any), and any other relevant data. In cases with civilian defense counsel, detailed military defense counsel will be responsible for transmitting information to and from the civilian defense counsel. If there is no detailed military defense counsel, trial counsel will be responsible for transmitting this information to and from civilian defense counsel. Similarly, trial counsel will be responsible for transmitting information to and from any civilian or sister-service counsel representing persons of limited standing, as they are unable to access the SharePoint e-file site.

Rule 2.7. PRETRIAL SCHEDULING CONFERENCES UNDER RCM 802

In all courts-martial, the military judge will, pursuant to RCM 802, conduct a scheduling conference as soon as practicable after detailing. This may occur in person, by remote means, or by e-mail, preferably within seven (7) days of receipt of the Confirmation Memorandum. Upon request from the military judge, trial counsel will coordinate all communications to include initiating the scheduling conference via remote means. During the conference, the military judge will conduct a detailed assessment of potential issues with the parties to promote the prompt and efficient disposition of the case. Additionally, the parties and the military judge will determine whether any additional Article 39(a), UCMJ, session(s) will be necessary prior to the docketed trial date, and if so, the dates of those session(s).

Rule 2.8. SCHEDULING ORDER

(A) After the scheduling conference, the military judge will generally issue a scheduling order to establish timelines, resolve issues, and ensure the orderly administration of justice. In cases where a formal scheduling order is not necessary (such as anticipated guilty plea cases in which the proceeding will occur within a relatively short period of time after docketing) the military judge may issue such orders as are required under the circumstances to ensure the orderly and timely administration of the case.

(B) Joint Status Updates. The scheduling order will require periodic joint status update e-mails to the detailed military judge. In each joint status update, counsel will provide relevant information regarding the topics prescribed in the scheduling order. The scheduling order will detail the dates required for the joint status updates.

Rule 2.9. CASE MANAGEMENT

Military judges proactively manage case progress, conducting additional RCM 802 conferences as needed. If the military judge determines an additional RCM 802 conference or Article 39(a), UCMJ, session is necessary, the military judge will schedule that session. The military judge and counsel will remain alert to opportunities to accelerate the trial to an earlier date, if feasible. The military judge will keep the appropriate CDMJ informed of the status of each case.

PRETRIAL MATTERS

Rule 3.1. COMMUNICATIONS WITH THE MILITARY JUDGE

(A) *EX PARTE* COMMUNICATIONS. Except as provided by the MCM, *ex parte* communications between counsel, SJAs, and counsel for persons of limited standing and the military judge concerning a case pending before that military judge are prohibited. Routine administrative matters are excluded from this prohibition.

(B) WRITTEN COMMUNICATIONS. For all written communications with the military judge, send a copy of the communication to opposing counsel and any counsel for persons of limited standing whose rights are implicated by the communication. *See e.g.*, MRE 412, 513, 514, and 615. Counsel will ordinarily copy the detailed court reporter on all written communications with the military judge.

(C) ORAL COMMUNICATIONS. For oral communications with the military judge, that military judge will determine whether the communication needs to be reduced to writing, and if so, by which party.

Rule 3.2. PRETRIAL NOTICE REQUIREMENTS

All parties and counsel for persons of limited standing are required to comply with the military judge's scheduling order. In the absence of any scheduling order, and unless an extension or waiver is granted by the military judge for good cause, the following notice requirements apply:

(A) IMPOSITION OF ANY FORM OF PRETRIAL RESTRAINT AND ANY STATUS CHANGE. E-mail a copy of the confinement order or document directing a status change to the CDO, detailed military judge, and CDMJ.

(B) WITHDRAWAL, DISMISSAL, ALTERNATE DISPOSITION, OTHER ACTION SHORT OF TRIAL. E-mail a copy of the convening authority action to the CDO, CRM, detailed court reporter, detailed military judge, and CDMJ.

(C) MAJOR MODIFICATION TO REFERRED CHARGES, ADDITION OF CHARGES. E-mail a copy of the modified and/or additional charge sheet to the CDO, CRM, court reporter, detailed military judge, and CDMJ.

(D) PLEAS AND FORUM. Defense counsel will file notice of probable pleas and choice of forum as set forth in the scheduling order or, if the order is silent, not later than ten (10) calendar days prior to the scheduled trial date. Pleas will be expressed in the precise form counsel anticipate announcing them. Defense counsel will promptly notify the military judge and trial counsel of any change in anticipated pleas or choice of forum.

(E) PLEA AGREEMENTS. Defense counsel will notify the military judge that an offer for plea agreement has been submitted to the government. The notification will indicate whether the offer will keep the case at a GCM or SPCM or will result in a different forum such a

summary court-martial or nonjudicial punishment. If the referral authority accepts the agreement, the trial counsel will notify the CDO, CRM, court reporter, detailed military judge, and CDMJ as soon as possible, but no later than 24 hours after the referral authority's decision.

(F) **ALTERNATE DISPOSITION.** Trial and defense counsel will notify the CDO, CRM, court reporter, detailed military judge, and CDMJ immediately whenever a request for discharge, resignation, retirement in lieu of court-martial, or any other agreement that would result in the withdrawal of all charges and specifications from the court-martial has been submitted. When applicable, indicate whether permission to proceed to trial will be sought, and whether approval or denial of the request is anticipated. If an alternate disposition is approved, the trial counsel will notify the CDO, CRM, court reporter, detailed military judge, and CDMJ as soon as possible, but no later than 24 hours after the decision.

(G) **NOTICES AND MOTIONS.** Counsel for both sides will file required notices in accordance with the scheduling order. In the absence of any scheduling order, notices must be filed not later than fourteen (14) calendar days prior to trial or, in the event of a bifurcated hearing, fourteen (14) calendar days before the scheduled hearing. Motions that involve MRE 412, 513, 514, 615, or any other motion that relates to Article 6b, UCMJ, will be served by the filing party on counsel for persons of limited standing representing affected clients. To avoid scheduling delays, the parties will notify the military judge as soon as possible if they believe any additional Article 39(a), UCMJ, sessions are required.

(H) **WITNESS LISTS.** Counsel for both sides will file a witness list containing the full name, unit/duty station (as applicable), address and telephone number of each anticipated witness for motions, findings, and sentencing phase of the trial, in accordance with the scheduling order. In the absence of a scheduling order, this notice must be filed not later than fourteen (14) calendar days prior to each scheduled hearing.

(I) **COURT REPORTER NOTICES.** The parties and counsel for persons of limited standing shall provide the detailed court reporter the witness lists discussed above, a list of complicated medical and other terms, if any, counsel expect to be used throughout the trial, and any case citations, statutory or secondary authorities expected to be referenced or argued in accordance with the scheduling order. In the absence of a scheduling order, these notices must be filed not later than fourteen (14) calendar days prior to trial, and is an ongoing obligation up to and through the completion of trial.

(J) **VOIR DIRE.** Counsel for both sides will provide a written copy of their proposed *voir dire* to the military judge, court reporter, and opposing counsel in accordance with the scheduling order. In the absence of any scheduling order, *voir dire* must be filed not later than three (3) duty days prior to trial. Counsel will conduct group *voir dire* utilizing only questions submitted in writing and approved by the military judge and will not vary from the approved questions unless given specific permission to do so by the military judge.

(K) Trial counsel shall prepare the flyer and tailored findings and sentencing worksheets and submit them to the military judge and opposing counsel in accordance with the scheduling order, or in the absence of a scheduling order, no later than three (3) duty days before trial. Trial

counsel should review the formats in the Military Judges' Benchbook (DA Pamphlet 27-9) when preparing the findings and sentencing worksheets. Any lesser-included offenses likely to be at issue should be reflected on the findings worksheet.

(L) **PROPOSED SPECIAL INSTRUCTIONS.** Requests for special instructions will be filed in accordance with the scheduling order. In the absence of any scheduling order, requests must be filed not later than three (3) duty days prior to trial. However, as evidence admitted at trial may affect what instructions are sought, counsel may request to amend special instructions during trial.

(M) **OTHER REQUIRED NOTIFICATIONS.** Counsel for both sides will file other notifications in accordance with the scheduling order or, in the absence of scheduling order deadlines, in accordance with the pertinent RCMs, MREs, or case law.

Rule 3.3. DISCOVERY

(A) **INITIAL DISCLOSURES.** Before or upon service of referred charges, the SJA or trial counsel will provide defense counsel with copies of the charge sheet, the commander's forwarding memorandum, the convening order(s), pertinent investigative reports, and statements related to any charged offense in the case. *See* RCM 701(a)(1). As soon as practicable, trial counsel will disclose RCM 701(a)(6) matters.

(B) **DISCOVERY REQUESTS.** Discovery requests will be made to the opposing party as soon as possible and otherwise in accordance with any scheduling order. In the absence of a scheduling order, parties will file their initial discovery request within five (5) calendar days of the initial RCM 802 Scheduling Conference. Formal replies will be made within five (5) calendar days of receipt. Counsel for both sides will promptly respond to and comply with all requests for discovery as required under RCMs 701 and 703. If production of discovery will require additional time, counsel will file a partial response and notify the opposing party and the Court of the anticipated completion date. The military judge should promptly be notified whenever discovery issues may require engagement or resolution by the judge.

Rule 3.4. PRETRIAL CONFERENCES

In addition to the initial scheduling conference discussed in Rule 2.7, pretrial RCM 802 conferences will be held as necessary. The accused is neither required nor prohibited from attending any such conference. Counsel representing persons of limited standing may be included in one or more of these conferences, at the discretion of the military judge.

Rule 3.5. ARTICLE 39(a), UCMJ, SESSIONS

The military judge may schedule an Article 39(a), UCMJ, session to conduct arraignment, randomization, and any other required pre-trial hearings. Such sessions may be conducted via remote means in accordance with the provisions of Rule 3.8, below, and applicable RCMs. AF/JAT shall be responsible for ensuring a detailed court reporter is present, physically or virtually, at all Article 39(a), UCMJ, sessions.

Rule 3.6. MOTIONS

(A) NOTICE AND FILING.

(1) Notice. In accordance with Rules 2.7 and 3.2(G), counsel will notify the detailed military judge, court reporter, opposing counsel, and counsel for persons of limited standing as appropriate of any motions, evidentiary objections, or other issues which may be litigated before or at trial.

(2) Filing. Motions will be in writing and electronically filed (e-filed) by the established date in the scheduling order or other order of the military judge. In addition to e-filing, the military judge may also require written motions to be provided to the Court via e-mail or by another electronic transfer medium. In the absence of deadlines established by the military judge, motions will be filed in accordance with the deadlines set forth in the applicable RCMs or MRE. *See* RCM 801(g). Every motion, pleading, or other document submitted to the Court by a party will be signed by at least one counsel of record. Trial counsel will notify any representative appointed under Article 6b, UCMJ, of any relevant hearings and Court rulings. Consistent with these rules, a party may supplement its filing with new evidence or law but may not use such a filing to submit new matters or a new motion that would have otherwise been precluded by a deadline, unless explicitly permitted by the military judge to do so.

(B) PERSONALLY IDENTIFIABLE INFORMATION (PII). PII will be removed to the maximum extent possible. Counsel shall redact all PII, with the exception of names of the accused and witnesses, from electronically submitted documents. This includes social security numbers, DoD ID numbers, home addresses, dates of birth, and names of minors. Alleged victims will be identified by initials, without reference to military rank. No names shall be redacted from the charge sheet.

(C) ONE ALLEGED VICTIM OR AFFECTED PERSON PER FILING. Any filing which includes matters which can reasonably be expected to be heard in a closed Article 39(a), UCMJ, session, without regard to whether such closed session hearing is actually held, shall be limited in that the filing will only reference one alleged victim or affected person per filing. Service of filings including matters expected to be held in closed session should only be upon opposing counsel and counsel for the alleged victim or affected person.

(D) OTHER REMEDIES. Prior to filing a motion, counsel will make reasonable efforts to secure the requested relief from opposing counsel. The Uniform Rules do not relieve the moving counsel from complying with applicable provisions of the MCM, including any requirement to seek relief from the convening authority before seeking relief from the Court.

(E) FORMAT AND CONTENT. Motions will be formatted in accordance with Appendix D and will include an unequivocal statement of whether the party requests or waives an Article 39(a), UCMJ, session to present witnesses, other evidence, and/or argument (equivocal requests may be deemed to waive the Article 39(a), UCMJ, session at the discretion of the military judge). Charge sheets will not be included as attachments to motions. Any attachment to a motion or motion response that includes video or audio content, in addition to the

video or audio file, shall be accompanied by a written transcript of the entirety of the audio or video content provided, or those portions of the same that the moving party offers as factual support for their respective position. This written transcript need not be “official” or certified (or generated by a court reporter). Transcription generated through the transcription function in Microsoft Teams or Microsoft Word (or similar program), reviewed and corrected for accuracy prior to filing, is acceptable. The transcript is intended to supplement, not replace, the actual video or audio content from which the transcript was generated.

(F) **RESPONSES.** Unless otherwise specified by the military judge, responses to motions should be filed no later than five (5) duty days following receipt. Responses will address the matters in the initial motion to include an unequivocal statement of agreement or disagreement with the proffered facts. Responses will be formatted in accordance with Appendix D and unequivocally state whether an Article 39(a), UCMJ, session is requested.

(G) **RULINGS.** Rulings issued prior to the start of trial will generally be provided in writing. Motions, responses, and written rulings are marked as appellate exhibits at trial. Prior to adjournment, military judges will announce whether they intend to reserve one or more appellate exhibits for a subsequent written ruling, which shall be provided prior to Entry of Judgment (EoJ). Ordinarily, military judges endeavor to provide rulings (or notice of rulings) within 14 days, but no more than 30 days, from the conclusion of any hearing concerning the motion. Counsel are encouraged to include in their Joint Status Updates the status of motions and whether rulings have been provided. Counsel should notify the military judge of any time-sensitive need for rulings, allowing for the prioritization of rulings by that particular judge.

(H) **RECONSIDERATION.** Rulings by a military judge are final and become the law of the case. If neither the law nor the facts have changed since the ruling was issued, reconsideration is ordinarily not warranted.

Rule 3.7. SPEEDY TRIAL CHRONOLOGY

In cases where the defense moves to dismiss for a violation of the accused’s right to a speedy trial, trial counsel will prepare a written chronology of events prior to trial. The chronology will be in the format approved by *United States v. Ramsey*, 28 M.J. 370, 374 (C.M.A. 1989).

Rule 3.8. USE OF AUDIOVISUAL TECHNOLOGY

(A) Video conferencing technology (e.g., Zoom, Microsoft Teams) is authorized for all preliminary matters, to include Article 39(a), UCMJ, sessions, with the approval of the detailed military judge. If either party proposes to utilize testimony by remote means after the court is assembled, such as Microsoft Teams, the proponent shall serve notice of its intent on the Court and opposing counsel in accordance with the scheduling order, or in the absence of a scheduling order, not later than ten (10) duty days prior to trial, in accordance with RCM 703(b)(1), RCM 804, RCM 914A, and/or RCM 914B. Any objection to the use of testimony by remote means shall be filed within two (2) duty days of receipt.

(B) Video conferencing technology will not be utilized to record any part of any

proceeding. The detailed court reporter is the only person authorized to record the proceedings, in accordance with DAFMAN 51-203. Court reporters may utilize the recording feature of certain video conferencing software suites, but only as a secondary or tertiary backup to the primary recording mechanism. If counsel become aware of any personnel recording any portion of the proceeding using any mechanism, they should bring it to the attention of the military judge immediately.

Rule 3.9. RELEASING AUDIO RECORDINGS/TRANSCRIBED RECORDS

Before the Statement of Trial Results (STR) is signed, neither audio recordings nor transcribed records of any proceeding will be released to any party or to any other entity without the prior approval of the military judge. Before approving such a release, the military judge may issue an appropriate protective order. In cases where the government has provided the military judge a notice of appeal under Article 62, UCMJ, or the Air Force Court of Criminal Appeals has ordered production of the record of trial, the military judge will ordinarily expeditiously approve the request for release of the relevant audio files and AF/JAT will facilitate the production of verbatim transcription required for appellate review.

Rule 3.10 E-FILING

(A) All motions, notices, and other matters required to be provided to opposing counsel shall be e-filed. Routine discovery requests and responses, court member data sheets, and other documents specified by the military judge are not required to be e-filed unless they are attachments to a motion. Charging documents will be uploaded by the CDO when the case file is created. Any questions as to whether a particular document should be filed should be directed to the military judge.

(B) E-filed motions and/or motion attachments should be filed as “combined” PDFs, rather than PDF Portfolio format. Military judges may include instructions in the scheduling order regarding whether to combine motions and their attachments into a single PDF exhibit or file the motion and its attachments as two separate exhibits. Regardless, any e-filed document should be clearly numbered to reflect the total number of pages in that document, using “page of page” format on every page, with placeholder pages inserted for any digital medium included as an attachment (e.g., DVD disc). For any digital medium which is its own exhibit, a separate document should be included as an appellate exhibit, identifying the exact contents of the digital medium, and the mechanism by which it can be viewed (e.g., file name, length of each video clip, software used for playback).

(C) Only counsel detailed to represent the Government, Accused, or named victim(s) will be granted access to the e-filing website.

DURING TRIAL

Rule 4.1. CONVENING THE COURT

The CTJ, DCTJ, or CDMJ will establish the time and date of the initial convening of the court.

The detailed military judge is responsible for establishing the time and date of sessions thereafter. All personnel of the court will be present and ready to proceed at the scheduled time and will be punctual for all sessions. Generally, trial should begin at 0830 and recess no later than 1700 local time, unless the military judge directs otherwise in accordance with RCM 801.

Rule 4.2. MILITARY JUDGE AND COURT REPORTER

All persons in the courtroom capable of rising, other than the court reporter, will rise when the detailed military judge enters or leaves the courtroom. A nameplate will be provided for the judge and will designate the judge as “Judge [Last name].” Military rank will not be placed on the nameplate. If designated, parking spaces reserved for use by the court personnel (i.e., military judge and court reporter) will not contain any personally or functionally identifying information (e.g., refrain from placing “military judge,” “court reporter” “Trial Judiciary,” “distinguished visitor,” the person’s name, etc., on any parking placard). Trial counsel or the case paralegal will clarify with the military judge or court reporter whether a parking space will be reserved for their use and what the placard will say so it can be easily identified. Parking spaces for visiting court reporters should be reserved to assist with transportation of required equipment.

Rule 4.3. ROBES

The judicial robe will be worn by the detailed military judge in all Department of the Air Force GCMs and SPCMs, including during all Article 39(a), UCMJ, sessions. For courts-martial conducted in deployed locations, the judicial robe will be worn when practicable.

Rule 4.4. COURT MEMBERS

All persons capable of rising, other than the military judge and court reporter, will rise when the members, as a group, enter or leave the courtroom.

(A) **INFORMATION PROVIDED TO COURT MEMBERS BEFORE ASSEMBLY.** Court members will not be advised of: (1) the reasons or responsibility for any delay in trial; (2) requests for an RCM 706 inquiry or administrative separation; or (3) projected pleas or forum. Either party may apply to the military judge for an order to the court members warning them to avoid anticipated pretrial publicity.

(B) **QUESTIONNAIRES.** Other than to obtain the information from potential members as identified in RCM 912(a)(1) and *United States v. Credit*, 2 M.J. 631 (A.F.C.M.R. 1976), no pretrial questionnaires will be sent to any court member, except upon approval of the military judge. No post-trial questionnaires or surveys will be sent to any member, except upon approval of the military judge. Counsel shall not contact members to receive feedback on counsel’s performance without prior notice to, and approval from, the military judge.

(C) **TELEPHONE STANDBY.** Unless otherwise directed by the military judge, court members will be on telephone standby, ready to report in a timely fashion (generally within 30 minutes) after notification. If there is a request for trial by military judge alone, members will

not be released until the request has been approved and the court is assembled.

(D) **APPROACHING MEMBERS.** Counsel will not approach or address court members without permission from the military judge.

(E) **MEMBERS' OATH.** Trial counsel will swear the members in accordance with the oath for members. *See* RCM 807(b)(2), *Discussion*. The parenthetical “(upon a challenge or)” will be omitted.

(F) **RANDOM ASSIGNMENT OF MEMBER NUMBERS [FOR CASES ARRAIGNED PRIOR TO 28 DECEMBER 2023 ONLY].** For cases arraigned prior to 28 December 2023, refer to the Military Judges' Benchbook for procedures on randomization.

(G) **RANDOM ASSIGNMENT OF MEMBER NUMBERS FOR CASES ARRAIGNED ON OR AFTER 28 DECEMBER 2023.** For cases arraigned on or after 28 December 2023, RCM 911 requires panel member randomization prior to assembly, at an open session of the court-martial. This requirement will necessitate an Article 39(a), UCMJ, session in advance of the docketed trial date. *See* Rule 2.6(D). Counsel may request an Article 39(a), UCMJ, session for randomization when docketing the court-martial or at any time thereafter. After a military judge is detailed, the military judge may change or require separate Article 39(a), UCMJ, sessions to accomplish arraignment, motions, and randomization, or other modifications to the trial dates at his or her discretion. During the randomization, the court reporter, or other individual designated by the military judge, will assign each remaining member a number randomly generated by the application available on the Army JAG Corps' website. *See* RCM 911.

Rule 4.5. MILITARY UNIFORM AND CIVILIAN ATTIRE

The default military uniform for all courts-martial is military service dress. The military judge may designate an alternate uniform if a military exigency exists. Civilian attorneys will wear appropriate court attire suitable for appearance in a federal court. Unless military exigencies exist, the military judge will wear the Class B uniform, long sleeves, and a tie/tie tab.

Rule 4.6. SIDEBAR CONFERENCES

Sidebar conferences will not be used in the presence of members. If matters must be discussed outside the presence of the court members, an Article 39(a), UCMJ, session or an RCM 802 conference will be used, as appropriate.

Rule 4.7. SPECTATORS

(A) The Sixth Amendment right to a public trial is applicable to courts-martial, and spectators are welcome to attend any open session. In accordance with the MREs, RCMs, and applicable case law, the military judge may close the court-martial, as required. Counsel will ensure that the military judge is notified if any spectator may be called as a witness prior to that spectator observing any portion of the court-martial.

(B) Spectators should be dressed in a manner as to show respect for the proceedings. Military personnel on duty are permitted to wear the authorized uniform of the day. Spectators dressed inappropriately may be removed from the courtroom at the discretion of the military judge. Spectators are expressly prohibited from bringing any weapon into the courtroom. Weapons include firearms, knives of any length, personal defense devices (e.g., tasers, mace, pepper spray), or any similar item designed or used for inflicting bodily harm or physical damage. This rule does not apply to personnel providing security for the court.

(C) Consult the military judge in advance if potential spectators exceed normal seating capacity. Standing-room access and/or remote viewing may only be approved by the military judge. If the military judge authorizes a remote viewing room, an additional bailiff will be required and should be detailed prior to trial.

(D) When an Article 39(a), UCMJ, session for arraignment, RCM 911 panel member randomization, or motions hearing is conducted via audiovisual technology, persons of limited standing and/or their counsel may attend via audiovisual technology with the approval of the detailed military judge.

(E) In a trial by military judge sitting alone, the court member seats may be used as spectator seating with approval of the military judge, and with the understanding that ingress and egress to such seats may be limited to court recesses.

Rule 4.8. CONDUCT DURING TRIAL

(A) Spectators ordinarily may enter or leave the courtroom while court is in session. Spectators will not disturb the proceedings in any way, including verbal expressions, whispering, shaking or nodding of the head, or similar displays. Spectators will refrain from any activities indicative of inattention to the proceedings (e.g., sleeping, personal grooming, eating, reading any material, and watching, listening to, or playing with any electronic device or game).

(B) All personal electronic devices, to include mobile phones, must be placed in silent mode prior to entering the courtroom. Trial counsel will post signs indicating this requirement outside the courtroom where spectators and the court members enter. Counsel for both sides are responsible for informing their witnesses of this requirement.

(C) Military and civilian law enforcement spectators will not enter the courtroom bearing arms while the court is in session without the prior approval of the military judge. *See also* Rule 6.5.

(D) Spectators who violate any rules may be warned that their behavior will not be tolerated and, at the discretion of the military judge, may be excluded from the courtroom. Contempt proceedings may be initiated when appropriate.

(E) The parties, counsel for persons of limited standing, paralegals specifically detailed to assist the parties, and expert consultants may use electronic devices inside the courtroom and

as necessary to assist in their trial practice only for that court-martial. These devices must be in silent mode when in the courtroom and shall not be used to record, broadcast, or project the current proceeding without express permission of the military judge. *See* RCM 1112(a), *Discussion*.

Rule 4.9. SMOKING, FOOD, AND BEVERAGES

Eating, chewing gum, smoking, and the use of e-cigarettes, smokeless tobacco, or vapes are prohibited in the courtroom. Trial participants and spectators may drink non-alcoholic beverages from an appropriate, conservative container.

Rule 4.10. PHOTOGRAPHY, RECORDINGS, AND BROADCASTING

Photographs, sound and video recordings (except those made for the purpose of preparing the official record of the proceedings), and radio, television, and internet broadcasts will not be made in or from the courtroom during trial proceedings. With the express knowledge and consent of the military judge, a closed circuit television system may be used under the circumstances set forth in MRE 611(d), RCM 804, RCM 914A, and RCM 914B, when an accused has been removed from the courtroom, or to accommodate members of the public who have been unable to obtain space in the courtroom. *See also* RCM 806(b) and Rule 4.7(C).

Rule 4.11. READING BACK PORTIONS OF THE RECORD

Portions of the record including prior questions or answers will be reread or replayed back to the court at the discretion of the military judge.

Rule 4.12. DELIBERATIONS

A deliberation room for use by the court members will be provided in every trial with court members. The court members will not deliberate in the courtroom unless exigent circumstances are found by the military judge. The bailiff must ensure that counsel, the accused, spectators, and witnesses do not stand at or near the doors or windows of the deliberation room. The bailiff also must ensure that no person causes any distraction to the court members during deliberations. Alternate members will not be permitted to participate in the deliberations of court members. *See* RCM 502(a)(2)(B).

Rule 4.13. BAILIFF

A bailiff should be present at every open session of a court-martial, to include Article 39(a), UCMJ, sessions for arraignment, RCM 911 panel member randomization, and motions hearings. The bailiff should be an active-duty member of high moral character with a record of service demonstrating discipline and excellence. The bailiff should not have an interest in the case, or a close association with the accused or with any witness. The trial counsel will ensure the bailiff is oriented to the courtroom and instructed on bailiff duties. If no bailiff is available, counsel shall notify the military judge to discuss an appropriate alternative consistent with RCM 502(e). There is no rank requirement for the bailiff; however, the bailiff should ordinarily be senior in

rank to the Accused.

Rule 4.14. COURTROOM SECURITY

(A) **GENERALLY.** The physical security of all trial participants is of vital importance to the fair and orderly administration of justice. While incidents of violence are infrequent in Department of the Air Force courtrooms, court proceedings are always at risk.

(B) **SECURITY CONCERNS.** If any party or counsel for persons of limited standing becomes aware of potential security concerns, immediately notify the military judge.

(C) **PREVENTIVE SECURITY MEASURES.**

(1) DAFI 51-201, Section 16E governs courtroom security. Specific security measures for each proceeding will be employed consistent with the applicable risk assessment level determined in accordance with the guidance of DAFI 51-201, Section 16E. Regardless of the specific risk assessment, all military proceedings shall employ security measures consistent with DAFI 51-201, paragraph 16.12.

(2) Duress alarms capable of directly alerting base security shall be equipped in all courtrooms. All installed duress alarms shall be tested at least quarterly to ensure connectivity (SFS notification) and functionality (SFS response) and shall be tested at least three duty days before the start of any military justice proceeding.

(3) **Courtroom Access:** All persons entering the legal office/courthouse shall be screened for weapons by designated security personnel. Entry through a single access point is preferred. Metal detection devices (walk-through or handheld detectors) shall be used to screen all persons. Where possible, walk-through metal detectors should be utilized rather than handheld detectors. To the extent possible, security screening shall be conducted at an appropriate location that does not distract from court proceedings. For example, screening should be conducted at a distance far enough from the entrance to the courtroom so conversations between security personnel and those being screened, or noise associated with weapon detection functions, are not audible in the courtroom.

(4) Prominent signage shall be displayed at entrances prior to the security screening area. Such signage shall clearly state, at a minimum, the following: “Weapons of any type are prohibited in the courtroom without the prior approval of this Court and the Security Forces Squadron commander. Violators will be subject to disciplinary action.”

(D) **CUSTODY OF ACCUSED.** The duties of prisoner escort are inconsistent with the duties of counsel at a court-martial. Neither trial counsel nor defense counsel nor the bailiff will sign for a prisoner, before or during trial. Ordinarily, a prisoner escort should be from the accused’s unit. However, if confinement is adjudged, trial counsel is responsible for custody of the accused until the accused is received for confinement by security forces.

(E) **SECURITY OF ACCUSED.** The accused will not be shackled, unshackled, or

otherwise physically restrained in the courtroom, in the presence of court members, except upon prior approval, and direction of, the military judge for good cause shown. Trial counsel shall ensure measures are in place to prevent any accused in pretrial confinement from being observed by court members outside of the courtroom while the accused is under physical restraint.

CONDUCT OF COUNSEL

Rule 5.1. RESPONSIBILITY OF COUNSEL

All counsel who enter into the courtroom are considered officers of the court and must abide by the rules of professional conduct and legal ethics. Counsel owe a duty to their client and to the Court. Counsel will assist the military judge in maintaining a dignified atmosphere. Counsel will not argue for jury nullification nor encourage court members to ignore the law in any other way. *See generally* DAFI 51-110.

Rule 5.2. COURTESY

Counsel will stand when addressing the military judge, court members, or witnesses. Counsel will address the military judge as “Your Honor” and will address the members by their grade and name. Counsel shall request permission to approach the military judge or the court reporter, unless directed otherwise by the military judge. Inappropriate or rude behavior or language, or any actions calculated to intimidate a witness, provoke opposing counsel, or improperly impede the proceedings are prohibited. Counsel will treat others with civility and respect. The bailiff, or in the absence of the bailiff, the trial counsel, will announce “all rise” whenever the military judge or the entire court member panel enters or leaves the courtroom.

Rule 5.3. AVOIDING UNDUE FAMILIARITY

Whether the court is in session or not, counsel shall refrain from undue familiarity amongst themselves, the members, witnesses, spectators, the court reporter, and the military judge throughout the court-martial proceeding.

Rule 5.4. ONE COUNSEL PER CAUSE

Except with the permission of the military judge, only one counsel for each party or person of limited standing, will examine any one witness or address the Court on any issue, motion, objection, or argument.

Rule 5.5. ENGLISH REQUIRED

Counsel will be fluent in written and spoken English.

Rule 5.6. PERSONAL OPINIONS

During trial, counsel will not assert their personal knowledge of the facts in issue, except when testifying as a witness. Counsel will not assert a personal opinion as to the justness of a cause,

the credibility of a witness, or the guilt or innocence of the accused except that counsel may argue for any position or conclusion based on an analysis of the evidence with respect to the matter stated.

Rule 5.7. STATING OBJECTIONS

When making objections, counsel will first state only the objection and the specific basis for it without further elaboration, counsel shall not make “speaking objections.” Counsel may present argument on invitation by the military judge.

Rule 5.8. RELATIONS WITH THE NEWS MEDIA

Counsel will review Department of the Air Force Rule of Professional Conduct 3.6, *Publicity*. Military judges will refer all media requests to the servicing SJA. Trial counsel shall inform the military judge when media coverage is present or anticipated.

Rule 5.9. LEAVING THE COURTROOM

The parties will not exit the courtroom during trial without permission from the military judge.

WITNESSES

Rule 6.1. COURTESY TO WITNESSES

Witnesses will be treated with courtesy, dignity, and respect. Counsel will not approach a witness during trial without permission from the military judge. At no time will the Court be called to attention for a witness, to include general, flag, commanding, or other officers.

Rule 6.2. PRETRIAL INSTRUCTIONS TO WITNESSES

Counsel will ensure their witnesses know the physical layout of the courtroom and proper decorum (Rules 4.9, 4.10). Counsel will instruct witnesses not to wear hats, caps, or sunglasses, or use profanity, slang, or colloquialisms except as required as part of their testimony. Witnesses will also be instructed regarding any excluded testimony or suppressed evidence, as necessary. Witnesses will be instructed to avoid casual conversation with the military judge and court members. Trial counsel shall administer the oath for all witnesses. Any witness sworn outside the presence of the members will also be sworn in front of the members.

Rule 6.3. NO SALUTING IN COURT

Military witnesses will not salute in the courtroom.

Rule 6.4. AVAILABILITY

(A) **AVAILABILITY.** Counsel will ensure witnesses will be immediately available when called. Counsel will inform the bailiff of the location of the witnesses and coordinate with

each other to minimize delays.

(B) **ON-CALL STATUS.** Counsel shall apply common sense when informing witnesses of the likely time of their testimony and shall inform the witnesses of where to wait prior to their testimony. Convenience to the witnesses and a smooth, orderly trial are not inconsistent goals when counsel plan ahead. Alert the military judge regarding anticipated issues of having witnesses present at the appropriate time.

(C) **WAITING AREA.** Sound discretion often requires segregation of witnesses from each other or others waiting for services in the legal office. Appropriate waiting areas should be prepared for witnesses, by trial counsel, based on the facts of the case.

(D) **PRESENCE IN COURTROOM.** A witness being called at the conclusion of a recess should be present at the witness stand upon resumption of trial. Prospective witnesses and witnesses subject to recall will not be present in the courtroom during proceedings except upon agreement by both sides and approval of the military judge, or as otherwise authorized under MRE 615 or Article 6b, UCMJ.

Rule 6.5. ATTIRE

Military members should normally testify in service dress. If approved by the military judge in advance, military members may testify in an alternate duty uniform. Military witnesses called or recalled unexpectedly during off-duty hours may testify in civilian attire if necessary to avoid inordinate delay. Civilian witnesses should testify in appropriate attire. Military investigators who routinely work in civilian attire may wear appropriate civilian attire. With approval from the military judge, on-duty military and civilian law enforcement personnel normally armed in the course of their duties may remain so armed during their testimony. *See also* Rule 4.9(C).

EVIDENCE

Rule 7.1. MARKING EXHIBITS

Generally, items intended to be used or introduced as prosecution or defense exhibits at trial will be marked and provided to the court reporter prior to trial. A combination of numeric and alphabetical exhibit markings should *not* be used (e.g., Pros Ex 1A, or Def Ex A1). Mark original documents using an ink stamp or electronic labeling method. Refer to DAFMAN 51-203 for suggested language and format for exhibit stamps.

(A) **PROSECUTION EXHIBITS.** Prosecution exhibits will be marked consecutively with Arabic numerals and will be labeled “for identification.” If more than one page in length, use the legend “Page ____ of ____ pages.”

(B) **DEFENSE EXHIBITS.** Defense exhibits will be marked consecutively with capital letters, using no more than double letters (for example, A-Z, AA, AB, AC-AZ, BA-BZ, CA-CZ, etc.), and will be labeled “for identification.” If more than one page in length, use the legend “Page ____ of ____ pages.”

(C) **COURT EXHIBITS.** Court Exhibits will be marked consecutively with capital letters at the direction of the military judge. Generally, victim impact statements will be marked as Court Exhibits. If more than one page in length, use the legend “Page ____ of ____ pages.”

(D) **APPELLATE EXHIBITS.** Appellate Exhibits will be marked consecutively with Roman numerals. If more than one page in length, use the legend “Page ____ of ____ pages.”

(E) **INDEXING EXHIBITS.** Voluminous exhibits (e.g., defense sentencing documents or a case-in-chief with numerous prosecution or defense exhibits) should be preceded by a descriptive index marked as an exhibit. This will expedite the proceedings by eliminating the necessity to describe the exhibits orally on the record.

(F) **REJECTED EXHIBITS.** With consent of the side proffering a rejected exhibit, it may be withdrawn at the direction of the military judge. Likewise, if an exhibit is modified prior to consideration by the factfinder, the original version may be withdrawn.

(G) **COPIES.** Counsel offering an exhibit shall ordinarily have copies made for the military judge, opposing counsel, and court members.

(H) **EXHIBIT LIST.** Prior to commencement of a motions hearing or trial, as appropriate, unless this requirement is excused by the detailed military judge, trial counsel shall compile a written index identifying all anticipated appellate exhibits that the parties expect to be made part of the record and provide the exhibit list to the military judge and court reporter. The index shall, at a minimum, identify the nature of the exhibit (e.g., Motion for Appropriate Relief), the date the exhibit was filed, and the number of pages and/or discs. Prior to submitting the proposed index to the court, the trial counsel shall provide the index to the defense counsel for review to ensure its accuracy and completeness.

(I) **ATTACHMENTS.** Exhibits with attachments will include attachments immediately following the exhibit. Unless otherwise directed by the military judge, the exhibit and all attachments will use the legend “Page ____ of ____ pages.” For example, for Appellate Exhibit V, if the exhibit is five pages and the attachments total 15 pages, the entire exhibit will be marked as page 1 of 20, 2 of 20, etc.

Rule 7.2. SUBSTITUTING EXHIBITS IN THE RECORD OF TRIAL

If the military judge approves the substitution of an exhibit in the record of trial, it may be photographed and the photograph substituted in the record, or it may be described by its relevant physical or identification characteristics (e.g., one 1992 Nissan 240SX, white, two-door, with a large dent in the right front fender). A photograph is preferable to a description. The copy or reproduction should mirror the actual exhibit as closely as possible, to include the use of color copies for photographs, or 8½ x 11 paper copies for charts or PowerPoint slides, as appropriate. For detailed guidance and instruction on Records of Trial, consult DAFMAN 51-203.

Rule 7.3. GUARDING EVIDENCE

(A) **CUSTODY OF EVIDENCE.** Counsel sponsoring the exhibit will exercise care to prevent loss or inappropriate use and will ensure exhibits not yet received into evidence are not displayed to court members. Counsel will notify the military judge prior to trial whenever any weapon, ammunition, or explosive is expected to be brought into the courtroom during trial. The counsel offering an exhibit remains responsible for safeguarding the exhibit until turned over to the court reporter or evidence custodian. Trial counsel are responsible for providing the court reporter an appropriate storage facility suitable for storage of sensitive or contraband evidence. Trial counsel shall make the court reporter aware, prior to trial, of the means, methods, and location of such storage that may be utilized during court recesses and overnight adjournments. If chain of custody may be in issue, counsel will not sign for the evidence until admissibility is decided. In that event, the evidence custodian may, with the approval of the military judge, remain in the courtroom or at counsel table.

(B) **WEAPONS AS EVIDENCE.** Whenever in the courtroom, weapons and objects capable of use as a weapon will be treated with appropriate precautions and will be kept under the personal supervision of the counsel offering them. Such evidence will be kept out of the reach of the accused, witnesses, alleged victims, and spectators, except upon approval of the military judge for purposes of identification or supervised demonstration.

(1) **Firearms.** Any firearm brought into the courtroom as evidence will be “broken” or disabled in a manner to make it visibly inoperable to all persons in the courtroom. Additionally, a pencil or inanimate carbon rod will be inserted prominently into the chamber end of the barrel (or a nylon “zip-cuff” or a bicycle lock may be securely fastened through the barrel and chamber) to demonstrate that no round is present in the firing position. If counsel has any doubt as to the meaning of this rule, or any terminology in this rule, or how to properly handle the firearm, counsel will seek and obtain appropriate expert guidance prior to trial. Do not point the barrel of any firearm at any person.

(2) **Ammunition.** Live rounds of ammunition for any firearm will not be present in the courtroom at the same time as the firearm, without permission of the military judge.

(3) **Other Weapons.** Other weapons (or items capable of use as a weapon), such as explosives, flammable or caustic liquids, or other hazardous materials, will not be brought into the courtroom except on prior approval of the military judge.

TRIAL PROCEDURE

Rule 8.1. TRIAL PROCEDURE GUIDE

The Trial Procedure Guide for use in Department of the Air Force courts-martial is derived from DA Pamphlet 27-9 (commonly known as the Military Judges’ Benchbook), as modified by the CTJ. Counsel may locate and download the most current version of the Trial Procedure Guide at the Judiciary Knowledge Management Site on FLITE and on the JAT eViews from the Bench

Microsoft Teams page. Military judges may depart from DA Pamphlet 27-9.

Rule 8.2. OFFERS OF PROOF

Offers of proof, or “proffers,” are not evidence. Proffers may only be utilized in those circumstances set out in MRE 103(a)(2).

Rule 8.3. STIPULATIONS

Counsel will attempt to narrow the issues to be litigated as much as possible through the use of stipulations of fact and expected testimony. Stipulations will normally be in writing. Oral stipulations on the merits will be offered only when circumstances have prevented preparation of a written stipulation.

Rule 8.4. PERSONS OF LIMITED STANDING AND THEIR COUNSEL

When a person of limited standing is permitted to address the Court, the individual and/or his or her counsel will enter the well of the courtroom. Military counsel will state their qualifications and detailing information. Civilian counsel will state they are members in good standing before the highest court of any State Bar. Counsel may employ a podium or witness stand as appropriate. At all other times, such persons and their counsel will refrain from entering the well of the court in any capacity except as a witness. Should counsel for persons of limited standing desire to be heard during trial, that counsel shall stand silently in the gallery until recognized by the military judge.

Rule 8.5. USE OF THE ECLIPSE AUTOMATED SPEECH RECOGNITION SYSTEM

All trial personnel are required to utilize the Eclipse Automated Speech Recognition (Eclipse ASR) system to ensure the complete, accurate, and speedy recording and transcription of all courts-martial. Court reporters assigned to AF/JAT are specially trained to deploy and operate the Eclipse ASR system. Every courtroom in the Department of the Air Force is equipped with standardized, interoperable Eclipse ASR components. Counsel and other trial participants are required to follow the direction of the detailed court reporter in the use of the system prior to and during trial. This includes ensuring all counsel are wearing the provided audio capture devices, placing area microphones in the appropriate spaces, and renewing/recharging battery packs during recesses. At the conclusion of trial, counsel are directed to assist the detailed court reporter in ensuring all Eclipse ASR hardware is returned and appropriately stored.

POST-TRIAL AND RECORDS OF TRIAL

Rule 9.1. STATEMENT OF TRIAL RESULTS/ENTRY OF JUDGMENT

(A) Trial counsel will prepare a draft STR and EoJ, in Microsoft Word format, and provide them to the military judge for review in accordance with the scheduling order, or in the absence of a scheduling order, seven (7) days before trial. For any litigated court-martial, trial counsel will also prepare and provide to the military judge and defense counsel a draft EoJ

reflecting a full acquittal. In preparing these drafts, trial counsel will utilize the current and approved format for the STR and EoJ located at the Virtual Military Justice Deskbook and shall prepare expurgated and unexpurgated versions of both documents, as appropriate. An EoJ is required for every case in which the Accused was arraigned, even if there is a subsequent withdrawal of the charges.

(B) The military judge shall complete and sign the STR (or in the event of an acquittal, the EoJ) the same day sentence is announced, and provide it to the servicing SJA for further distribution in accordance with DAFI 51-201. The military judge will only complete and sign the STR (or in the event of an acquittal, the EoJ) through the military judge's signature block, and will not provide any advice or guidance regarding indorsements, attachments, or other administrative matters subsequently attached to the STR or EoJ.

(C) After every litigated court-martial resulting in a conviction, servicing legal offices must forward all post-trial paperwork relating to the EoJ. This includes any matters submitted by the accused or victim(s) in the case, the convening authority's decision on action memorandum, and a receipt by counsel for the accused of that same memorandum. In accordance with RCM 1104(b)(2)(B), the military judge will review, complete, and sign the EoJ as soon as practicable, but not earlier than five (5) calendar days after service of the convening authority decision on action upon the defense counsel responsible for post-trial matters. The military judge will e-mail the completed EoJ to the servicing SJA or designee for further distribution in accordance with DAFI 51-201. Military judges may discuss these procedures and requirements with counsel before adjournment and may issue any necessary orders and directives to ensure their completion.

Rule 9.2. END OF TRIAL DOCUMENTS CHECKLIST

Immediately after trial adjourns, the detailed court reporter and trial counsel must complete the End of Trial Documents Checklist (EOTDC) together, in person, verifying that all required documents and audio files are present and complete. This is mandatory, even if it requires trial counsel and the court reporter to return to the courtroom the following day to verify the presence and accuracy of these items. One of the required documents is the STR, or in the case of a full acquittal, the EoJ. As such, the military judge, court reporter, and trial counsel must remain physically at the trial location until the STR (or in the event of an acquittal, the EoJ) is completed, to ensure the EOTDC can be finalized.

Rule 9.3. RETIREMENT/PCS/SEPARATION OF MILITARY JUDGE

Cases requiring post-trial judicial action involving a military judge who is no longer assigned to the trial judiciary should contact the CDO for assistance.

Rule 9.4. RECORDING AND DISTRIBUTING AUDIO

(A) The court reporter is responsible for providing audio files for all open proceedings as soon as possible after the trial is complete. Audio must be provided in either MP3 or Waveform Audio File (.wav) format, on a compact digital video disc (DVD). Rule 3.9 governs

the release of audio prior to the conclusion of trial. While court reporters endeavor to maintain primary and backup copies of all audio for purposes of both transcription and file maintenance, trial counsel is responsible for maintaining the “original” audio files on the provided disc(s) and distributing recorded audio to any applicable recipients. The court reporter will not give audio directly to the accused or victim(s). The court reporter will provide the audio to the trial counsel at the appropriate time, regardless of whether a request was made. *See* RCM 1106(c) and RCM 1106A(d).

(B) The court reporter will also provide the case paralegal or trial counsel a separate sealed disc, which will contain all closed proceedings, if applicable. The court reporter should label the sealed discs clearly to avoid improper or unintentional disclosure of the closed sessions. In no event should audio from closed and open sessions of the court-martial be included on the same disc.

(C) Audio discs must be distributed to the trial counsel as soon as possible at the conclusion of trial, and must be specifically accounted for in the EOTDC, as noted in Rule 9.2 above.

Rule 9.5. PREPARING AND CERTIFYING RECORDS OF TRIAL

(A) RCM 1112(b) VERIFICATION AND CHECKLIST. The detailed court reporter is responsible for verifying and certifying the required contents of the record of trial in accordance with RCM 1112(b), in partnership with the servicing legal office. Ensuring all required items under RCM 1112(b) are present is a shared responsibility between the detailed court reporter and servicing legal office personnel. To improve accuracy and accountability, AF/JAT utilizes a specific RCM 1112(b) checklist and certification process. Installation legal offices should diligently prepare and assemble the required documents under RCM 1112(b) as soon as trial concludes. After all required documents under RCM 1112(b) are completed, the detailed court reporter must conduct a live review, either in person or via Microsoft Teams, to physically verify the presence of all required items prior to certification. This meeting should occur within five (5) duty days of the detailed court reporter receiving notification from the installation legal office that all RCM 1112(b) items are present, accounted for, and ready for review and certification.

(B) RCM 1112(f) VERIFICATION AND CHECKLIST. The detailed court reporter is responsible for verifying and certifying the required contents of the record of trial in accordance with RCM 1112(f), in partnership with the installation legal office. Ensuring all required items under RCM 1112(f) are present is a shared responsibility between the detailed court reporter and servicing legal office personnel. To improve accuracy and accountability, AF/JAT utilizes a specific RCM 1112(f) checklist and certification process. Installation legal offices should diligently prepare and assemble the required documents under RCM 1112(f) in cases requiring attachments for appellate review. After the record of trial is assembled, the detailed court reporter must conduct a live review, either in person or via Microsoft Teams, to physically verify the presence of all attachments for appellate review under RCM 1112(f). This meeting should occur within five (5) duty days of the detailed court reporter receiving notification from the installation legal office that the record of trial is complete, accounted for,

and ready for review and certification.

PROMULGATION

Consistent with RCM 108, the foregoing Uniform Rules have been reviewed and approved by the Chief Trial Judge of the Air Force. These Uniform Rules supersede all previously promulgated versions of the same, to include those promulgated on 1 August 2024, and go into effect throughout the Department of the Air Force on 1 August 2025.

HERNANDEZ.ELIZABETH
H.MARIE.1279606660

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Date: 2025.08.01 04:19:24 -04'00'

ELIZABETH M. HERNANDEZ, Colonel, USAF
Chief Trial Judge of the Air Force

APPENDIX A: FORMAT FOR CENTRAL DOCKETING OFFICE MEMORANDUM

MEMORANDUM FOR CENTRAL DOCKETING OFFICE/CDMJ

FROM:

SUBJECT: Notice of Referral and Identification of Counsel, *United States v.* _____

Request that the above noted case be docketed for trial. The alleged offense(s) occurred between on or about _____ and on or about _____.

Trial Counsel: _____

Military Defense Counsel: _____

Civilian Defense Counsel (and e-mail): _____

Victims' Counsel (representing named victims only): _____

Installation SJA: _____ Installation NCOIC of MJ: _____

Estimated Length of Trial: _____

Government Trial Ready Date: _____ Defense Trial Ready Date: _____

Is there an agreed upon trial date?

Yes: _____

Yes, but the agreed-upon date(s) are greater than 120 days from service of the referred charge(s) on the accused. The agreed upon date(s) are _____ (consolidated schedules required).

No, a docketing conference is requested (consolidated schedules required).

A pre-trial Article 39(a), UCMJ, session for arraignment and randomization is required (all litigated cases). The agreed upon Arraignment and RCM 911 Randomization date is: _____

A pre-trial Article 39(a), UCMJ, session for motions is required. The agreed-upon motions hearing date(s) are: _____

Counsel agree to the exclusion of _____ days pursuant to RCM 707. The excluded dates are: _____

The Judiciary provided a military judge for a proceeding under Article 30a or Article 32, UCMJ. The detailed military judge(s) was/were: _____

SIGNATURE BLOCK

3 Attachments:

1. DD Form 458 (redacted, referred, served on the accused)
2. Convening Order
3. Consolidated Schedules (when required)

APPENDIX B: ARTICLE 30a, UCMJ, PROCEEDING REQUEST

Date

MEMORANDUM FOR CENTRAL DOCKETING OFFICE

FROM:

SUBJECT: Request for Military Judge, Pre-Referral Proceeding, *United States v. (Full Name and Rank of Accused – Rank, First Middle (if any) Last (Base of Assignment))*

1. In accordance with RCM 309, we request a military judge be detailed to conduct proceedings under Article 30a. Specifically, the government is requesting a military judge consider whether to issue (select one: an investigative subpoena under RCM 703(g)(3)(C) / a warrant for wire or electronic communications under RCM 703A / an order for wire or electronic communications under RCM 703A). The government will be submitting (#) application(s) to the detailed military judge. This is the first (second, etc.) request for an Article 30a proceeding.

2. The proceeding will be held *ex parte* and *in camera* unless the request is to quash a previously-issued warrant, order, or investigative subpoena, or a request for a hearing is approved by the detailed military judge. If counsel is requesting a hearing, please provide justification here or indicate “N/A”:

3. Is personal or confidential information about an alleged victim named in a specification being requested? (select one: Yes/No). If yes, has the victim been given notice? (select one: Yes/No)

4. Does the government request the electronic communications or remote computing service be ordered not to disclose the existence of a warrant, order, or investigative subpoena to any third party, including the subscriber? (select one: Yes/No).

5. If this is a request for relief from an investigative subpoena, was the investigative subpoena issued by a military judge? (select one: Yes/No).

6. The following additional information is provided:

Government Counsel: _____

Defense Counsel (if not *ex parte*): _____

Federal Law Enforcement Organization/Officer: _____

District where trial will occur if referred to trial: _____

SIGNATURE BLOCK

APPENDIX C: SAMPLE DOCKETING CONFERENCE SCHEDULE

***(CURRENT EXCEL FORMAT SPREADSHEET LOCATED ON JAT'S FLITE KM PAGE,
JAT'S eVIEWS FROM THE BENCH MICROSOFT TEAMS PAGE, AND
THE VIRTUAL MILITARY JUSTICE DESKBOOK)***

APPENDIX D: SAMPLE MOTION

**DEPARTMENT OF THE AIR FORCE
 TRIAL JUDICIARY**

UNITED STATES v. [RANK] JOHN Q. ACCUSED 123 Maintenance Squadron (AMC) Current Assignment AFB, California	DEFENSE MOTION TO DISMISS FOR UNREASONABLE MULTIPLICATION OF CHARGES XX Month 20XX
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MOTION

Pursuant to RCMs 307(c)(4) and 907(b)(3)(B), the defense moves this Honorable Court to dismiss Specification 2 of Charge II and merge it with Specification 1 of Charge II, and to dismiss Charge III and its Specification. The defense requests an Article 39(a), UCMJ, hearing to present (witness testimony) (additional evidence) (argument) on this motion.

SUMMARY

SSgt Accused faces three specifications stemming from an alleged single uninterrupted altercation with the named victim. The Government unreasonably has charged assault with a loaded firearm (Ch II, Spec 1), simple assault (Ch II, Spec 2), and drunk and disorderly conduct (Ch III). First, for the alleged assaults, this constitutes an impermissible “blow by blow” charging scheme under *Morris*. Second, the underlying facts supporting the allegation of drunk and disorderly conduct overlap exactly with the facts supporting the alleged assaults, a practice specifically frowned upon in *Doss*. Finally, all the *Quiroz* factors point to an unreasonable multiplication, requiring relief in the form of dismissal and merger of specifications.

FACTS

1. [Procedural background of the case. Generally, one paragraph is sufficient.]
2. [Facts relevant for resolution of the motion. Several paragraphs may be used.]

BURDEN

3. The burden of proof and persuasion rests on the Defense for this motion.

The standard as to any factual issue necessary to resolve this motion is to a preponderance of the evidence. RCM 905(c)(1).

LAW

4. The concept of unreasonable multiplication of charges stems from “those features of military law that increase the potential for overreaching in the exercise of prosecutorial discretion.” *United States v. Quiroz*, 55 M.J. 334, 337 (C.A.A.F. 2001); *see also* RCM 307(c)(4), Discussion (“What is substantially one transaction should not be made the basis for an unreasonable multiplication of charges against one person.”).
5. [More law, including the full citations for any cases referenced in the summary. Several paragraphs may be used.]

ARGUMENT

6. [Use the facts and law to convince the military judge to agree with your position. Several paragraphs may be used.]

RELIEF REQUESTED

7. Appellate courts have dealt with unreasonable multiplication of charges through combinations of dismissal and consolidation of specifications. Such action is appropriate here. The defense offers the following recommended action to aid the Court: dismiss Charge III and its Specification, and dismiss Specification 2 of Charge II and consolidate it with Specification 1 of Charge II as follows:

In that STAFF SERGEANT JOHN Q. ACCUSED, United States Air Force, 123d Maintenance Squadron, Current Assignment Air Force Base, California, did, at or near, Sacramento, California, on or about 2 December 2016, commit an assault upon Senior Airman Mark L. Complaining by displaying to him a dangerous weapon, to wit: a loaded firearm, and striking at him with his fist.

8. The defense requests an Article 39(a), UCMJ, hearing to present additional evidence and argument on this motion.

Respectfully submitted,
(Signature Block)

I certify that I have served a true copy (via e-mail) of the above on Judge (Name) and (Trial Counsel’s name) on XX Jan XX.

(Signature Block)