

35.170 Advice of judge advocate and reference for trial.

- (1) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to a judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court-martial for trial unless the convening authority has been advised in writing by a judge advocate that:
 - (a) The specification alleges an offense under this code;
 - (b) The specification is warranted by evidence indicated in the report of investigation under KRS 35.160, if there is a report; and
 - (c) A court-martial would have jurisdiction over the accused and the offense.
- (2) The advice of the judge advocate under subsection (1) of this section with respect to a specification under a charge shall include a written and signed statement by the judge advocate:
 - (a) Expressing conclusions with respect to each matter set forth in subsection (1) of this section; and
 - (b) Recommending action that the convening authority take regarding the specification.

If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

- (3) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

Effective: June 25, 2013

History: Amended 2013 Ky. Acts ch. 32, sec. 35, effective June 25, 2013. -- Created 1954 Ky. Acts ch. 99, sec. 33, effective July 1, 1954.