

tence, procedures for execution of sentence of death, and suspension of sentence prior to the general amendment of this chapter by Pub. L. 111-84.

§ 950j. Finality of proceedings, findings, and sentences

The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, subject only to action by the Secretary or the convening authority as provided in section 950i(c) of this title and the authority of the President.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2605.)

PRIOR PROVISIONS

A prior section 950j, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2623; amended Pub. L. 110-181, div. A, title X, §1063(a)(7), Jan. 28, 2008, 122 Stat. 322, related to finality of proceedings, findings, and sentences, prior to the general amendment of this chapter by Pub. L. 111-84.

SUBCHAPTER VIII—PUNITIVE MATTERS

Sec.

950p.	Definitions; construction of certain offenses; common circumstances.
950q.	Principals.
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950s.	Conviction of lesser offenses.
950t.	Crimes triable by military commission.

§ 950p. Definitions; construction of certain offenses; common circumstances

(a) DEFINITIONS.—In this subchapter:

(1) The term “military objective” means combatants and those objects during hostilities which, by their nature, location, purpose, or use, effectively contribute to the war-fighting or war-sustaining capability of an opposing force and whose total or partial destruction, capture, or neutralization would constitute a definite military advantage to the attacker under the circumstances at the time of an attack.

(2) The term “protected person” means any person entitled to protection under one or more of the Geneva Conventions, including civilians not taking an active part in hostilities, military personnel placed out of combat by sickness, wounds, or detention, and military medical or religious personnel.

(3) The term “protected property” means any property specifically protected by the law of war, including buildings dedicated to religion, education, art, science, or charitable purposes, historic monuments, hospitals, and places where the sick and wounded are collected, but only if and to the extent such property is not being used for military purposes or is not otherwise a military objective. The term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

(b) CONSTRUCTION OF CERTAIN OFFENSES.—The intent required for offenses under paragraphs (1), (2), (3), (4), and (12) of section 950t of this title precludes the applicability of such offenses with regard to collateral damage or to death, damage, or injury incident to a lawful attack.

(c) COMMON CIRCUMSTANCES.—An offense specified in this subchapter is triable by military commission under this chapter only if the offense is committed in the context of and associated with hostilities.

(d) EFFECT.—The provisions of this subchapter codify offenses that have traditionally been triable by military commission. This chapter does not establish new crimes that did not exist before the date of the enactment of this subchapter, as amended by the National Defense Authorization Act for Fiscal Year 2010, but rather codifies those crimes for trial by military commission. Because the provisions of this subchapter codify offenses that have traditionally been triable under the law of war or otherwise triable by military commission, this subchapter does not preclude trial for offenses that occurred before the date of the enactment of this subchapter, as so amended.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2606.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, as amended by the National Defense Authorization Act for Fiscal Year 2010, referred to in subsec. (d), is the date of enactment of Pub. L. 111-84, which was approved Oct. 28, 2009.

PRIOR PROVISIONS

A prior section 950p, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to statement of substantive offenses, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 950q. Principals

Any person punishable under this chapter who—

(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

(3) is a superior commander who, with regard to acts punishable by this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof,

is a principal.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2606.)

PRIOR PROVISIONS

A prior section 950q, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to principals, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 950r. Accessory after the fact

Any person subject to this chapter who, knowing that an offense punishable by this chapter

has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2607.)

PRIOR PROVISIONS

A prior section 950r, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to accessory after the fact, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 950s. Conviction of lesser offenses

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2607.)

PRIOR PROVISIONS

A prior section 950s, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2624, related to conviction of lesser included offense, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 950t. Crimes triable by military commission

The following offenses shall be triable by military commission under this chapter at any time without limitation:

(1) **MURDER OF PROTECTED PERSONS.**—Any person subject to this chapter who intentionally kills one or more protected persons shall be punished by death or such other punishment as a military commission under this chapter may direct.

(2) **ATTACKING CIVILIANS.**—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(3) **ATTACKING CIVILIAN OBJECTS.**—Any person subject to this chapter who intentionally engages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

(4) **ATTACKING PROTECTED PROPERTY.**—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

(5) **PILLAGING.**—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

(6) **DENYING QUARTER.**—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, shall be punished as a military commission under this chapter may direct.

(7) **TAKING HOSTAGES.**—Any person subject to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(8) **EMPLOYING POISON OR SIMILAR WEAPONS.**—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(9) **USING PROTECTED PERSONS AS A SHIELD.**—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack,¹ or to shield, favor, or impede military operations, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(10) **USING PROTECTED PROPERTY AS A SHIELD.**—Any person subject to this chapter who positions, or otherwise takes advantage of the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

(11) **TORTURE.**—

(A) **OFFENSE.**—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical

¹ So in original. The period probably should be a comma.