

in the presence of the new military judge, the accused, and counsel for both sides.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47; Pub. L. 90-632, §2(11), Oct. 24, 1968, 82 Stat. 1337; Pub. L. 98-209, §3(d), Dec. 6, 1983, 97 Stat. 1394; Pub. L. 107-107, div. A, title V, §582(c), Dec. 28, 2001, 115 Stat. 1124.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
829(a)	50:593(a).	May 5, 1950, ch. 169, §1
829(b)	50:593(b).	(Art. 29), 64 Stat. 117.
829(c)	50:593(c).	

In subsections (a), (b), and (c), the word “may” is substituted for the word “shall”.

In subsections (b) and (c), the word “details” is substituted for the word “appoints”, since the filling of the position involved is not appointment to an office in the constitutional sense.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107-107 designated existing provisions as par. (1), substituted “the applicable minimum number of members” for “five members” in two places, and added par. (2).

1983—Subsec. (a). Pub. L. 98-209 substituted “unless excused as a result of a challenge, excused by the military judge for physical disability or other good cause, or excused by order of the convening authority for good cause” for “except for physical disability or as a result of a challenge or by order of the convening authority for good cause”.

1968—Subsec. (a). Pub. L. 90-632, §2(11)(A), substituted “court has been assembled for the trial of the accused” for “accused has been arraigned”.

Subsec. (b). Pub. L. 90-632, §2(11)(B), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and inserted provisions requiring that only the evidence which has been introduced before members of the court be read to the court and that all evidence, not merely testimony, be included.

Subsec. (c). Pub. L. 90-632, §2(11)(C), inserted reference to court-martial composed of a military judge alone, struck out reference to oath of members, and substituted evidence previously introduced for testimony of previously examined witnesses as the body of evidence which the verbatim record must cover.

Subsec. (d) Pub. L. 90-632, §2(11)(D), added subsec. (d).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 applicable with respect to offenses committed after Dec. 31, 2002, see section 582(d) of Pub. L. 107-107, set out as a note under section 816 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-209 effective first day of eighth calendar month beginning after Dec. 6, 1983, see section 12(a)(1) of Pub. L. 98-209, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-632 effective first day of tenth month following October 1968, see section 4 of Pub. L. 90-632, set out as a note under section 801 of this title.

SUBCHAPTER VI—PRE-TRIAL PROCEDURE

Sec.	Art.	
830.	30.	Charges and specifications.
831.	31.	Compulsory self-incrimination prohibited.
832.	32.	Investigation.

Sec.	Art.	
833.	33.	Forwarding of charges.
834.	34.	Advice of staff judge advocate and reference for trial.
835.	35.	Service of charges.

AMENDMENT OF ANALYSIS

Pub. L. 113-66, div. A, title XVII, §1702(a)(2), (d)(1), Dec. 26, 2013, 127 Stat. 955, 958, provided that, effective one year after Dec. 26, 2013, and applicable with respect to offenses committed under this chapter on or after that effective date, this analysis is amended by striking the item relating to section 832 and inserting the following new item:

Art.	
832.	32. Preliminary hearing.

See 2013 Amendment note below.

AMENDMENTS

2013—Pub. L. 113-66, div. A, title XVII, §1702(a)(2), Dec. 26, 2013, 127 Stat. 955, substituted “Preliminary hearing” for “Investigation” in item 832.

§ 830. Art. 30. Charges and specifications

(a) Charges and specifications shall be signed by a person subject to this chapter under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

(1) that the signer has personal knowledge of or has investigated, the matters set forth therein; and

(2) that they are true in fact to the best of his knowledge and belief.

(b) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges against him as soon as practicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 47.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
830(a)	50:601(a).	May 5, 1950, ch. 169, §1
830(b)	50:601(b).	(Art. 30), 64 Stat. 118.

In subsection (a), the word “they” is substituted for the words “the same”. The word “commissioned” is inserted for clarity.

§ 831. Art. 31. Compulsory self-incrimination prohibited

(a) No person subject to this chapter may compel any person to incriminate himself or to answer any question the answer to which may tend to incriminate him.

(b) No person subject to this chapter may interrogate, or request any statement from, an accused or a person suspected of an offense without first informing him of the nature of the accusation and advising him that he does not have to make any statement regarding the offense of which he is accused or suspected and that any statement made by him may be used as evidence against him in a trial by court-martial.

(c) No person subject to this chapter may compel any person to make a statement or produce

evidence before any military tribunal if the statement or evidence is not material to the issue and may tend to degrade him.

(d) No statement obtained from any person in violation of this article, or through the use of coercion, unlawful influence, or unlawful inducement may be received in evidence against him in a trial by court-martial.

(Aug. 10, 1956, ch. 1041, 70A Stat. 48.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
831(a)	50:602(a).	May 5, 1950, ch. 169, § 1 (Art 31), 64 Stat. 118.
831(b)	50:602(b).	
831(c)	50:602(c).	
831(d)	50:602(d).	

The word “may” is substituted for the word “shall” throughout the revised section.

§ 832. Art. 32. Investigation

(a) No charge or specification may be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.

(b) The accused shall be advised of the charges against him and of his right to be represented at that investigation by counsel. The accused has the right to be represented at that investigation as provided in section 838 of this title (article 38) and in regulations prescribed under that section. At that investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after the investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.

(c) If an investigation of the subject matter of an offense has been conducted before the accused is charged with the offense, and if the accused was present at the investigation and afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b), no further investigation of that charge is necessary under this article unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.

(d) If evidence adduced in an investigation under this article indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused—

(1) is present at the investigation;

(2) is informed of the nature of each uncharged offense investigated; and

(3) is afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (b).

(e) The requirements of this article are binding on all persons administering this chapter but failure to follow them does not constitute jurisdictional error.

(Aug. 10, 1956, ch. 1041, 70A Stat. 48; Pub. L. 97-81, §4(a), Nov. 20, 1981, 95 Stat. 1088; Pub. L. 104-106, div. A, title XI, § 1131, Feb. 10, 1996, 110 Stat. 464; Pub. L. 113-66, div. A, title XVII, § 1702(a)(1), Dec. 26, 2013, 127 Stat. 954.)

AMENDMENT OF SECTION

Pub. L. 113-66, div. A, title XVII, § 1702(a)(1), (d)(1), Dec. 26, 2013, 127 Stat. 954, 958, provided that, effective one year after Dec. 26, 2013, and applicable with respect to offenses committed under this chapter on or after that effective date, this section is amended to read as follows:

§ 832. Art. 32. Preliminary hearing

(a) *Preliminary Hearing Required.—(1) No charge or specification may be referred to a general court-martial for trial until completion of a preliminary hearing.*

(2) *The purpose of the preliminary hearing shall be limited to the following:*

(A) *Determining whether there is probable cause to believe an offense has been committed and the accused committed the offense.*

(B) *Determining whether the convening authority has court-martial jurisdiction over the offense and the accused.*

(C) *Considering the form of charges.*

(D) *Recommending the disposition that should be made of the case.*

(b) *Hearing Officer.—(1) A preliminary hearing under subsection (a) shall be conducted by an impartial judge advocate certified under section 827(b) of this title (article 27(b)) whenever practicable or, in exceptional circumstances in which the interests of justice warrant, by an impartial hearing officer who is not a judge advocate. If the hearing officer is not a judge advocate, a judge advocate certified under section 827(b) of this title (article 27(b)) shall be available to provide legal advice to the hearing officer.*

(2) *Whenever practicable, when the judge advocate or other hearing officer is detailed to conduct the preliminary hearing, the officer shall be equal to or senior in grade to military counsel detailed to represent the accused or the Government at the preliminary hearing.*

(c) *Report of Results.—After conducting a preliminary hearing under subsection (a), the judge advocate or other officer conducting the preliminary hearing shall prepare a report that addresses the matters specified in subsections (a)(2) and (f).*

(d) *Rights of Accused and Victim.—(1) The accused shall be advised of the charges against the accused and of the accused’s right to be represented by counsel at the preliminary hearing under subsection (a). The accused has the right to be represented at the preliminary hearing as provided in section 838 of this title (article 38) and in regulations prescribed under that section.*

(2) *The accused may cross-examine witnesses who testify at the preliminary hearing and present additional evidence in defense and mitigation, relevant*