

sembled, and the trial held, with not less than the number of primary members so specified. In any such case, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of primary members were not reasonably available.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2589; amended Pub. L. 112-81, div. A, title X, §1030(a), Dec. 31, 2011, 125 Stat. 1570; Pub. L. 113-66, div. A, title X, §1031(c), Dec. 26, 2013, 127 Stat. 850.)

#### PRIOR PROVISIONS

A prior section 949m, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2616, related to number of votes required for conviction and sentences and number of members required on military commission for penalty of death, prior to the general amendment of this chapter by Pub. L. 111-84.

#### AMENDMENTS

2013—Pub. L. 113-66, §1031(c)(1), inserted “primary” before “members” wherever appearing.

Subsec. (b)(4). Pub. L. 113-66, §1031(c)(2), added par. (4).

2011—Subsec. (b)(2)(C). Pub. L. 112-81, §1030(a)(1), inserted before semicolon “, or a guilty plea was accepted and not withdrawn prior to announcement of the sentence in accordance with section 949i(b) of this title”.

Subsec. (b)(2)(D). Pub. L. 112-81, §1030(a)(2), inserted “on the sentence” after “vote was taken”.

#### § 949n. Military commission to announce action

A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

#### PRIOR PROVISIONS

A prior section 949n, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, required a military commission to announce its findings and sentence as soon as determined, prior to the general amendment of this chapter by Pub. L. 111-84.

#### § 949o. Record of trial

(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the record of a military commission under this chapter may contain a classified annex.

(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings and testimony shall be prepared in every military commission under this chapter.

(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given

the accused as soon as it is authenticated. If the record contains classified information, or a classified annex, the accused shall receive a redacted version of the record consistent with the requirements of subchapter V of this chapter. Defense counsel shall have access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

#### PRIOR PROVISIONS

A prior section 949o, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2617, related to record of trial, prior to the general amendment of this chapter by Pub. L. 111-84.

### SUBCHAPTER V—CLASSIFIED INFORMATION PROCEDURES

- Sec.  
949p-1. Protection of classified information: applicability of subchapter.  
949p-2. Pretrial conference.  
949p-3. Protective orders.  
949p-4. Discovery of, and access to, classified information by the accused.  
949p-5. Notice by accused of intention to disclose classified information.  
949p-6. Procedure for cases involving classified information.  
949p-7. Introduction of classified information into evidence.

#### § 949p-1. Protection of classified information: applicability of subchapter

(a) PROTECTION OF CLASSIFIED INFORMATION.—Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. Under no circumstances may a military judge order the release of classified information to any person not authorized to receive such information.

(b) ACCESS TO EVIDENCE.—Any information admitted into evidence pursuant to any rule, procedure, or order by the military judge shall be provided to the accused.

(c) DECLASSIFICATION.—Trial counsel shall work with the original classification authorities for evidence that may be used at trial to ensure that such evidence is declassified to the maximum extent possible, consistent with the requirements of national security. A decision not to declassify evidence under this section shall not be subject to review by a military commission or upon appeal.

(d) CONSTRUCTION OF PROVISIONS.—The judicial construction of the Classified Information Procedures Act (18 U.S.C. App.) shall be authoritative in the interpretation of this subchapter, except to the extent that such construction is inconsistent with the specific requirements of this chapter.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2590.)

#### REFERENCES IN TEXT

The Classified Information Procedures Act, referred to in subsec. (d), is Pub. L. 96-456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

#### § 949p-2. Pretrial conference

(a) MOTION.—At any time after service of charges, any party may move for a pretrial con-