

such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

(h) INFORMATION FROM FEDERAL AGENCIES.—Upon request of the chair of the Panel, a department or agency of the Federal Government shall provide information that the Panel considers necessary to carry out its duties under this section.

(i) ADMINISTRATIVE MATTERS.—

(1) MEMBERS TO SERVE WITHOUT PAY.—Members of the Panel shall serve without pay, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Panel.

(2) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the Panel.

(j) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Panel.

See 2016 Amendment note below.

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to establishment, membership, and duties of Code committee.

2013—Subsec. (c)(2)(B), (C). Pub. L. 112-239 added subpar. (B) and redesignated former subpar. (B) as (C).

2002—Subsec. (c)(1)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (c)(1)(A). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (c)(1)(A). Pub. L. 104-106 substituted “Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives” for “Committees on Armed Services of the Senate and House of Representatives”.

1994—Subsec. (b)(1). Pub. L. 103-337 substituted “Court of Appeals for the Armed Forces” for “Court of Military Appeals”.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as a note under section 801 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

§ 946a. Art. 146a. Annual reports

(a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 each year,

the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of completed and pending cases before the Court, and such other matters as the Court considers appropriate regarding the operation of this chapter.

(b) SERVICE REPORTS.—Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

(1) Data on the number and status of pending cases.

(2) Information on the appellate review process, including—

(A) information on compliance with processing time goals;

(B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies; and

(C) an analysis of each case in which a provision of this chapter was held unconstitutional.

(3)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates—

(i) to participate competently as trial counsel and defense counsel in cases under this chapter;

(ii) to preside as military judges in cases under this chapter; and

(iii) to perform the duties of Special Victims’ Counsel, when so designated under section 1044e of this title.

(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

(4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

(5) Such other matters regarding the operation of this chapter as may be appropriate.

(c) SUBMISSION.—Each report under this section shall be submitted—

(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.

(Added Pub. L. 114-328, div. E, title LXII, § 5522, Dec. 23, 2016, 130 Stat. 2964.)

DELAYED EFFECTIVE DATE

For delayed effective date of section, see Effective Date note below.

EFFECTIVE DATE

Section effective on the date designated by the President, not later than the first day of the first calendar month beginning two years after Dec. 23, 2016, with implementing regulations prescribed by the President not later than one year after Dec. 23, 2016, and with provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328, set out as an Effective Date of 2016 Amendment note under section 801 of this title.

CHAPTER 47A—MILITARY COMMISSIONS

Subchapter	Sec.
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II. Composition of Military Commissions ..	948h.
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CODIFICATION

This chapter was originally added by Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2600, and amended by Pub. L. 110-181, Jan. 28, 2008, 122 Stat. 3. This chapter is shown here, however, as having been added by Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574, without reference to those intervening amendments because of the general amendment of this chapter by Pub. L. 111-84.

SUBCHAPTER I—GENERAL PROVISIONS

Sec.	
948a.	Definitions.
948b.	Military commissions generally.
948c.	Persons subject to military commissions.
948d.	Jurisdiction of military commissions.

§ 948a. Definitions

In this chapter:

(1) **ALIEN.**—The term “alien” means an individual who is not a citizen of the United States.

(2) **CLASSIFIED INFORMATION.**—The term “classified information” means the following:

(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

(3) **COALITION PARTNER.**—The term “coalition partner”, with respect to hostilities engaged in by the United States, means any State or armed force directly engaged along with the United States in such hostilities or providing direct operational support to the United States in connection with such hostilities.

(4) **GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR.**—The term “Geneva Convention Relative to the Treatment of Prisoners of War” means the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316).

(5) **GENEVA CONVENTIONS.**—The term “Geneva Conventions” means the international conventions signed at Geneva on August 12, 1949.

(6) **PRIVILEGED BELLIGERENT.**—The term “privileged belligerent” means an individual belonging to one of the eight categories enumerated in Article 4 of the Geneva Convention Relative to the Treatment of Prisoners of War.

(7) **UNPRIVILEGED ENEMY BELLIGERENT.**—The term “unprivileged enemy belligerent” means an individual (other than a privileged belligerent) who—

(A) has engaged in hostilities against the United States or its coalition partners;

(B) has purposefully and materially supported hostilities against the United States or its coalition partners; or

(C) was a part of al Qaeda at the time of the alleged offense under this chapter.

(8) **NATIONAL SECURITY.**—The term “national security” means the national defense and foreign relations of the United States.

(9) **HOSTILITIES.**—The term “hostilities” means any conflict subject to the laws of war.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2574.)

PRIOR PROVISIONS

A prior section 948a, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2601, related to definitions, prior to the general amendment of this chapter by Pub. L. 111-84.

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title XVIII, §1801, Oct. 28, 2009, 123 Stat. 2574, provided that: “This title [enacting this chapter, amending sections 802 and 839 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 801 of this title] may be cited as the ‘Military Commissions Act of 2009.’”

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109-366, §1(a), Oct. 17, 2006, 120 Stat. 2600, provided that: “This Act [see Tables for classification] may be cited as the ‘Military Commissions Act of 2006.’”

PROHIBITION ON ENFORCEMENT OF MILITARY COMMISSION RULINGS PREVENTING MEMBERS OF THE ARMED FORCES FROM CARRYING OUT OTHERWISE LAWFUL DUTIES BASED ON MEMBER SEX

Pub. L. 114-328, div. A, title X, §1056, Dec. 23, 2016, 130 Stat. 2400, provided that:

“(a) **PROHIBITION.**—No order, ruling, finding, or other determination of a military commission may be construed or implemented to prohibit or restrict a member of the Armed Forces from carrying out duties otherwise lawfully assigned to such member to the extent that the basis for such prohibition or restriction is the sex of such member.

“(b) **APPLICABILITY TO PRIOR ORDERS, ETC.**—The prohibition or restriction described in subsection (a) shall, upon motion, apply to any order, ruling, finding, or other determination described in that subsection that was issued before the date of the enactment of this Act [Dec. 23, 2016] in a military commission and is still effective as of the date of such motion.

“(c) **MILITARY COMMISSION DEFINED.**—In this section, the term ‘military commission’ means a military commission established under chapter 47A of title 10, United States Code, and any military commission otherwise established or convened by law.”

PROCEEDINGS UNDER PRIOR STATUTE

Pub. L. 111-84, div. A, title XVIII, §1804, Oct. 28, 2009, 123 Stat. 2612, provided that:

¹ So in original. Does not conform to subchapter heading.