

matter is appropriate for later consideration or decision by the members;

(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

(2) Except as provided in subsections (b), (c), and (d), any proceedings under paragraph (1) shall be conducted in the presence of the accused, defense counsel, and trial counsel, and shall be made part of the record.

(b) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

(c) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter.

(2) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

(B) ensure the physical safety of individuals.

(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

(d) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

(1) to ensure the physical safety of individuals; or

(2) to prevent disruption of the proceedings by the accused.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2585.)

PRIOR PROVISIONS

A prior section 949d, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2611, related to sessions of military commissions, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 949e. Continuances

The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2586.)

PRIOR PROVISIONS

A prior section 949e, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2613, related to continuances, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 949f. Challenges

(a) CHALLENGES AUTHORIZED.—The military judge and primary or alternate members of a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the military commission. The military judge shall determine the relevance and validity of challenges for cause, and may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

(b) PEREMPTORY CHALLENGES.—The accused and trial counsel are each entitled to one peremptory challenge, but the military judge may not be challenged except for cause. Nothing in this section prohibits the military judge from awarding to each party such additional peremptory challenges as may be required in the interests of justice.

(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, and after any challenges for cause against such additional members are presented and decided, the accused and trial counsel are each entitled to one peremptory challenge against members not previously subject to peremptory challenge.

(Added Pub. L. 111-84, div. A, title XVIII, § 1802, Oct. 28, 2009, 123 Stat. 2586; amended Pub. L. 113-66, div. A, title X, § 1031(b), Dec. 26, 2013, 127 Stat. 850.)

PRIOR PROVISIONS

A prior section 949f, added Pub. L. 109-366, § 3(a)(1), Oct. 17, 2006, 120 Stat. 2613, related to challenges, prior to the general amendment of this chapter by Pub. L. 111-84.

AMENDMENTS

2013—Subsec. (a). Pub. L. 113-66, § 1031(b)(1), inserted “primary or alternate” before “members”.

Subsec. (b). Pub. L. 113-66, § 1031(b)(2), inserted at end “Nothing in this section prohibits the military judge from awarding to each party such additional peremptory challenges as may be required in the interests of justice.”

§ 949g. Oaths

(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording thereof, and whether the oath shall be taken for all cases in which duties are to be performed or for a particular case, shall be as provided in regulations prescribed by the Secretary of Defense. The regulations may provide that—

(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified or competent for the duty; and

(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.