

son objects thereto for provisions allowing such trial over the person's objection if he has previously been offered and has refused article 15 punishment.

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 effective on Jan. 1, 2019, as designated by the President, with implementing regulations and provisions relating to applicability to various situations, see section 5542 of Pub. L. 114-328 and Ex. Ord. No. 13825, set out as notes 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.

§ 821. Art. 21. Jurisdiction of courts-martial not exclusive

The provisions of this chapter conferring jurisdiction upon courts-martial do not deprive military commissions, provost courts, or other military tribunals of concurrent jurisdiction with respect to offenders or offenses that by statute or by the law of war may be tried by military commissions, provost courts, or other military tribunals. This section does not apply to a military commission established under chapter 47A of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 109-366, § 4(a)(2), Oct. 17, 2006, 120 Stat. 2631.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
821	50:581.	May 5, 1950, ch. 169, § 1 (Art. 21), 64 Stat. 115.

The words "do not deprive" are substituted for the words "shall not be construed as depriving". The words "with respect to" are substituted for the words "in respect of".

AMENDMENTS

2006—Pub. L. 109-366 inserted last sentence.

SUBCHAPTER V—COMPOSITION OF COURTS-MARTIAL

Sec.	Art.	
822.	22.	Who may convene general courts-martial.
823.	23.	Who may convene special courts-martial.
824.	24.	Who may convene summary courts-martial.
825.	25.	Who may serve on courts-martial.
825a.	25a.	Number of court-martial members in capital cases.
826.	26.	Military judge of a general or special court-martial.
826a.	26a.	Military magistrates.
827.	27.	Detail of trial counsel and defense counsel.
828.	28.	Detail or employment of reporters and interpreters.
829.	29.	Assembly and impaneling of members; detail of new members and military judges.

AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, § 1081(d)(19)(A), (B), Dec. 12, 2017, 131 Stat. 1601, amended Pub. L. 114-328, § 5541(2). See 2016 Amendment note below.

2016—Pub. L. 114-328, div. E, title LXIII, § 5541(2), Dec. 23, 2016, 130 Stat. 2965, as amended by Pub. L. 115-91, div. A, title X, § 1081(d)(19)(A), (B), Dec. 12, 2017, 131

Stat. 1601, added items 825a, 826a, and 829 and struck out former items 825a "Art. 25a. Number of members in capital cases" and 829 "Art. 29. Absent and additional members".

2001—Pub. L. 107-107, div. A, title V, § 582(b)(2), Dec. 28, 2001, 115 Stat. 1124, added item 825a.

1968—Pub. L. 90-632, § 2(8), Oct. 24, 1968, 82 Stat. 1336, substituted "Military judge of a general or special court-martial" for "Law officer of a general court-martial" in item 826.

§ 822. Art. 22. Who may convene general courts-martial

(a) General courts-martial may be convened by—

- (1) the President of the United States;
- (2) the Secretary of Defense;
- (3) the commanding officer of a unified or specified combatant command;
- (4) the Secretary concerned;
- (5) the commanding officer of an Army Group, an Army, an Army Corps, a division, a separate brigade, or a corresponding unit of the Army or Marine Corps;
- (6) the commander of a fleet; the commanding officer of a naval station or larger shore activity of the Navy beyond the United States;
- (7) the commanding officer of an air command, an air force, an air division, or a separate wing of the Air Force or Marine Corps;
- (8) any other commanding officer designated by the Secretary concerned; or
- (9) any other commanding officer in any of the armed forces when empowered by the President.

(b) If any such commanding officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by such authority if considered desirable by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 44; Pub. L. 99-433, title II, § 211(b), Oct. 1, 1986, 100 Stat. 1017; Pub. L. 109-163, div. A, title X, § 1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; Pub. L. 114-328, div. E, title LV, § 5181, Dec. 23, 2016, 130 Stat. 2899.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
822(a)	50:586(a).	May 5, 1950, ch. 169, § 1 (Art. 22), 64 Stat. 115.
822(b)	50:586(b).	

Subsection (a)(2) is substituted for the words "the Secretary of a Department".

In subsection (a)(4), the words "continental limits of the" are omitted, since section 101(1) of this title defines the United States to include the States and the District of Columbia.

In subsection (a)(6), the words "any other commanding officer" are substituted for the words "such other commanding officers as may be".

In subsection (b), the word "If" is substituted for the word "When". The words "if considered" are substituted for the words "when deemed".

AMENDMENTS

2016—Subsec. (a)(6). Pub. L. 114-328 struck out "in chief" after "the commander".

2006—Subsec. (a)(5). Pub. L. 109-163 struck out "a Territorial Department," before "an Army Group".

1986—Subsec. (a)(2) to (9). Pub. L. 99-433 added pars. (2) and (3) and redesignated existing pars. (2) to (7) as (4) to (9), respectively.