

117TH CONGRESS
1ST SESSION

H. R. 3647

To improve the military justice system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2021

Mr. GOHMERT (for himself and Mr. GOSAR) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To improve the military justice system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Justice for Warriors Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Pretrial confinement.
- Sec. 3. Qualifications and selection of members for courts-martial.
- Sec. 4. Preliminary hearings and investigations.
- Sec. 5. Role of convening authority.

- Sec. 6. Prohibition on certain communications regarding courts-martial.
 Sec. 7. Adequate representation of defendants.
 Sec. 8. Votes required for conviction, sentencing, and other matters.
 Sec. 9. Electronic records of trial.
 Sec. 10. Petition for new trial.
 Sec. 11. Defense investigators for individuals accused of offenses under the
 Uniform Code of Military Justice.
 Sec. 12. Prohibition on involuntary separation as nonjudicial punishment for a
 charge brought under the Uniform Code of Military Justice.
 Sec. 13. Certiorari to the United States Court of Appeals for the Armed
 Forces.
 Sec. 14. Treatment of certain records of criminal investigations.

1 SEC. 2. PRETRIAL CONFINEMENT.

2 (a) STANDARD FOR PRETRIAL CONFINEMENT.—Sec-
 3 tion 809(d) of title 10, United States Code (article 9(d)
 4 of the Uniform Code of Military Justice), is amended to
 5 read as follows:

6 “(d)(1) No person may be ordered into arrest except
 7 for probable cause.

8 “(2)(A) Except as provided in subparagraph (B), no
 9 person may be ordered into confinement for more than
 10 seven days unless it is beyond a reasonable doubt that the
 11 person committed the offense for which confinement is or-
 12 dered.

13 “(B) In the event that a determination with respect
 14 to reasonable doubt has not been made by the expiration
 15 of the seven day period described in the subparagraph (A),
 16 a person may be placed under in-home confinement pend-
 17 ing such determination.”.

18 (b) STANDARD OF PROOF FOR REVIEWS OF PRE-
 19 TRIAL CONFINEMENT.—Not later than 180 days after the
 20 date of the enactment of this Act, the President shall issue

1 regulations revising subsection (i)(2)(A)(iii) of Rule For
2 Courts-Martial 305 (as set forth in the Manual for Courts-
3 Martial, 2019 edition, or any successor to such rule) to
4 provide that the requirements for confinement under sub-
5 section (h)(2)(B) of such rule must be proved beyond a
6 reasonable doubt.

7 (c) SENTENCING CREDIT FOR PRETRIAL CONFINE-
8 MENT.—Not later than 180 days after the date of the en-
9 actment of this Act, the President shall issue regulations
10 revising subsection (k) of Rule for Courts-Martial 305 (as
11 set forth in the Manual for Courts-Martial, 2019 edition,
12 or any successor to such rule) to provide that—

13 (1) the remedy for noncompliance with sub-
14 section (f), (h), (i), or (j) of such rule shall be an
15 administrative credit against the sentence adjudged
16 for any confinement served as the result of such
17 noncompliance; and

18 (2) such credit shall be computed at the rate of
19 20 days credit for each day of confinement served as
20 a result of such noncompliance.

21 **SEC. 3. QUALIFICATIONS AND SELECTION OF MEMBERS**
22 **FOR COURTS-MARTIAL.**

23 (a) MEMBER QUALIFICATIONS.—Section 825 of title
24 10, United States Code (article 25 of the Uniform Code

1 of Military Justice), is amended by striking “on active
2 duty” each place it appears.

3 (b) SELECTION PROCESS.—Section 825(e) of title 10,
4 United States Code (article 25 of the Uniform Code of
5 Military Justice), is amended—

6 (1) by amending paragraph (2) to read as fol-
7 lows:

8 “(2)(A) When convening a court-martial, the
9 convening authority shall notify the Judge Advocate
10 General of the armed force of which the convening
11 authority is a member who shall select the members
12 of the court-martial in accordance with subpara-
13 graph (B).

14 “(B)(i) After receiving a notification under sub-
15 paragraph (A), the Judge Advocate General shall de-
16 tail members of the armed forces at random to serve
17 as members of the court-martial. The selection of
18 members shall be made from a randomized list of
19 potential members generated using a computer data-
20 base that includes all members of the armed forces
21 (including members serving on active duty and mem-
22 bers of the reserve components) who are eligible to
23 serve as members of the court martial.

24 “(ii) The Judge Advocate General shall detail
25 not less than the number of members necessary to

1 impanel the court-martial under section 829 of this
2 title (article 29).

3 “(iii) When convening a court-martial in which
4 the accused is a member of the reserve components,
5 the Judge Advocate General shall ensure that not
6 less than half of the panel members selected to serve
7 on the court-martial are members of the reserve
8 components.

9 “(C) No member of an armed force is eligible
10 to serve as a member of a general or special court-
11 martial in a case in which that member—

12 “(i) is the accuser or a witness for the
13 prosecution;

14 “(ii) has acted as preliminary hearing offi-
15 cer or as counsel in the same case; or

16 “(iii) is assigned to the same unit as the
17 accused.”; and

18 (2) by striking paragraph (3).

19 **SEC. 4. PRELIMINARY HEARINGS AND INVESTIGATIONS.**

20 (a) PRELIMINARY HEARING AND INVESTIGATION.—

21 (1) IN GENERAL.—Section 832 of title 10,
22 United States Code (article 32 of the Uniform Code
23 of Military Justice) is amended—

1 (A) in the section heading by inserting
2 **“and investigation”** after **“Preliminary**
3 **hearing”**;

4 (B) in subsection (a)—

5 (i) in paragraph (1)(B)—

6 (I) by striking “Under regula-
7 tions” and inserting “(i) Under regu-
8 lations”; and

9 (II) by adding at the end the fol-
10 lowing:

11 “(ii) In a case in which an a preliminary
12 hearing is waived under clause (i), the con-
13 vening authority shall make a determination as
14 to the disposition which shall be made of the
15 case in the interest of justice and discipline, in-
16 cluding whether the case should be referred for
17 trial by general court-martial in accordance
18 with section 834(b) of this title (article
19 34(B)).”.

20 (ii) by striking paragraph (2) and in-
21 serting the following new paragraphs:

22 “(2) A preliminary hearing shall include—

23 “(A) a thorough and impartial investiga-
24 tion of all the matters set forth in the charges
25 and specifications, including inquiry as to the

1 truth of the matter set forth in the charges and
2 specifications;

3 “(B) a determination, which shall be bind-
4 ing on the convening authority as described in
5 section 834 of this title (article 34), as to—

6 “(i) whether or not the specification
7 alleges an offense under this chapter;

8 “(ii) whether or not it is beyond a
9 reasonable doubt that the accused com-
10 mitted the offense charged;

11 “(iii) whether or not the convening
12 authority has court-martial jurisdiction
13 over the accused and over the offense; and

14 “(iv) whether or not the case shall be
15 referred for trial by general court-martial;
16 and

17 “(C) if the case shall not be referred for
18 trial by general court-martial, a recommenda-
19 tion as to the disposition which shall be made
20 of the case in the interest of justice and dis-
21 cipline.

22 “(3) The standards for the admissibility of evi-
23 dence in a preliminary hearing shall be the same as
24 the standards for the admissibility of evidence in a
25 court-martial.”;

1 (C) in subsection (b), by striking “con-
2 ducted by” and inserting “presided over by”;

3 (D) by redesignating subsections (c)
4 through (h) as subsections (d) through (i), re-
5 spectively;

6 (E) by inserting after subsection (b) the
7 following new subsection:

8 “(c) PANEL.—

9 “(1) IN GENERAL.—The determinations under
10 subsection (a)(2)(B) shall be made by an impartial
11 panel composed of three members of the armed
12 forces who—

13 “(A) are eligible to serve on a court-mar-
14 tial under section 825 of this title (article 25);
15 and

16 “(B) may not be in a rank that is—

17 “(i) more than three ranks higher
18 than the accused; or

19 “(ii) more than two ranks lower than
20 the accused.

21 “(2) DETAIL OF PANEL MEMBERS.—

22 “(A) The preliminary hearing officer shall
23 detail members to serve on the panel.

24 “(B) In addition to the members detailed
25 under subparagraph (A), the preliminary hear-

1 ing officer shall detail alternate members who
2 may serve on the panel in the event that a
3 panel member cannot fulfill the member's du-
4 ties.

5 “(3) LEVEL OF CONCURRENCE REQUIRED.—All
6 matters to be decided by the preliminary hearing
7 panel shall be determined by the unanimous concur-
8 rence of all members present.”; and

9 (F) in subsection (d), as so redesignated—

10 (i) in paragraph (1), by striking “rea-
11 soning and conclusions of the hearing offi-
12 cer with respect to the determinations
13 under subsection (a)(2)” and inserting
14 “reasoning and conclusions of the prelimi-
15 nary hearing panel with respect to deter-
16 minations under subsection (a)(2)”;

17 (ii) in paragraph (2), by striking
18 “Recommendations for” and inserting “A
19 determination with respect to”.

20 (2) CLERICAL AMENDMENT.—The table of sec-
21 tions at the beginning of subchapter VI of chapter
22 47 of title 10, United States Code (the Uniform
23 Code of Military Justice), is amended by striking the
24 item relating to section 832 (article 32) and insert-
25 ing the following new item:

“832. 32. Preliminary hearing and investigation required before referral to general court-martial.”.

1 (b) INVESTIGATIVE SUBPOENA.—Section 846(d) of
2 title 10, United States Code (article 46 of the Uniform
3 Code of Military Justice) is amended—

4 (1) in paragraph (1)(C), by striking the semi-
5 colon and inserting “, including an investigation con-
6 ducted as part of a preliminary hearing under sec-
7 tion 832 of this title (article 32);”; and

8 (2) by amending paragraph (2) to read as fol-
9 lows:

10 “(2) INVESTIGATIVE SUBPOENA.—An investiga-
11 tive subpoena under paragraph (1)(C) may be issued
12 before referral of charges to a court-martial only
13 if—

14 “(A) a general court-martial convening au-
15 thority has authorized counsel for the Govern-
16 ment to issue such a subpoena;

17 “(B) a military judge issues such a sub-
18 poena pursuant to section 830a of this title (ar-
19 ticle 30a); or

20 “(C) an officer presiding over a prelimi-
21 nary hearing under section 832 of this title (ar-
22 ticle 32) issues such a subpoena.”.

1 **SEC. 5. ROLE OF CONVENING AUTHORITY.**

2 (a) REFERRAL FOR TRIAL BY CONVENING AUTHOR-
3 ITY.—

4 (1) IN GENERAL.—Section 834 of title 10,
5 United States Code (article 33 of the Uniform Code
6 of Military Justice) is amended—

7 (A) in the section heading by striking
8 **“Advice to convening authority be-**
9 **fore referral for trial”** and inserting **“Re-**
10 **ferral for trial by convening author-**
11 **ity”**;

12 (B) by redesignating subsections (a)
13 through (d) as subsections (b) through (e), re-
14 spectively;

15 (C) by inserting before subsection (b) the
16 following new subsection:

17 **“(a) REFERRAL TO GENERAL COURT-MARTIAL.—**

18 **“(1) The convening authority may not refer a**
19 **specification under a charge to a general court-mar-**
20 **tial unless—**

21 **“(A) the report of the preliminary hearing**
22 **under section 832(d) of this title (article 32(d))**
23 **concludes that—**

24 **“(i) the specification alleges an of-**
25 **fense under this chapter;**

1 “(ii) it is beyond a reasonable doubt
2 that the accused committed the offense
3 charged;

4 “(iii) a court-martial would have juris-
5 diction over the accused and the offense;
6 and

7 “(iv) the specification shall be referred
8 to a general court-martial; or

9 “(B) the accused has waived a preliminary
10 hearing under section 832(a)(B) of this title
11 (article 32) and the convening authority deter-
12 mines, in accordance with subsection (b) of this
13 section (article), that referral of the specifica-
14 tion to a general court-martial is appropriate.

15 “(2)(A) Except as provided in subparagraph
16 (B), if the report of the preliminary hearing indi-
17 cates that charges and specifications shall be re-
18 ferred for trial by general court-martial, the con-
19 vening authority shall make such referral.

20 “(B) The convening authority may elect not to
21 make the referral required under subparagraph (A)
22 only if the convening authority becomes aware of
23 new evidence that was not considered at the prelimi-
24 nary hearing under section 832 of this title (article

1 32) and such evidence creates reasonable doubt with
2 respect to the guilt of the accused.

3 “(3)(A) Except as provided in subparagraph
4 (B), if the report of the preliminary hearing indi-
5 cates that charges and specifications shall not be re-
6 ferred for trial by general court-martial, the con-
7 vening authority shall—

8 “(i) dismiss the charges; or

9 “(ii) determine whether to dispose of the
10 charges and specifications through a special
11 court-martial, a summary court-martial, or
12 through another authority or proceeding au-
13 thorized under this chapter other than a gen-
14 eral court martial.

15 “(B) In a case in which the convening authority
16 becomes aware of new evidence that was not consid-
17 ered at the preliminary hearing under section 832 of
18 this title (article 32), and such evidence indicates
19 the guilt of the accused, the convening authority
20 may order a new preliminary hearing to include con-
21 sideration of such evidence.”; and

22 (D) in subsection (b), as so redesignated—

23 (i) in the subsection heading, by strik-
24 ing “GENERAL COURT-MARTIAL” and in-

1 serting “ADVICE BEFORE REFERRAL
2 WITHOUT PRELIMINARY HEARING”; and

3 (ii) in paragraph (1)—

4 (I) in the matter preceding sub-
5 paragraph (A), by striking “Before re-
6 ferral” and inserting “In a case in
7 which the accused has waived a pre-
8 liminary hearing under section
9 832(a)(1)(B) of this title (article
10 32(a)(1)(B)), before referral”; and

11 (II) in subparagraph (B), by
12 striking “there is probable cause to
13 believe” and inserting “it is beyond a
14 reasonable doubt”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of subchapter VI of chapter
17 47 of such title is amended by striking the item re-
18 lating to section 834 and inserting the following new
19 item:

“834. 34. Referral for trial by convening authority.”.

20 (b) WHO MAY CONVENE GENERAL COURTS-MAR-
21 TIAL.—Section 822(a) of title 10, United States Code (ar-
22 ticle 22 of the Uniform Code of Military Justice), is
23 amended by striking “General courts-martial” and insert-
24 ing “Subject to section 834 of this title (article 34), gen-
25 eral courts-martial”.

1 **SEC. 6. PROHIBITION ON CERTAIN COMMUNICATIONS RE-**
2 **GARDING COURTS-MARTIAL.**

3 Section 837 of title 10, United States Code (article
4 37 of the Uniform Code of Military Justice), is amended
5 by adding at the end the following new subsection:

6 “(e)(1) No court-martial convening authority, nor
7 any other commanding officer, may provide a briefing con-
8 cerning a pending court-martial, or allegations that may
9 lead to a court-martial, to any subordinate who may be
10 selected to serve as a member of such court-martial.

11 “(2) The prohibition in paragraph (1) shall not apply
12 to a briefing provided in the course of a court-martial pro-
13 ceeding to a member of the armed forces who is partici-
14 pating in such proceeding.”.

15 **SEC. 7. ADEQUATE REPRESENTATION OF DEFENDANTS.**

16 (a) ADEQUATE REPRESENTATION.—Section 838(b)
17 of title 10, United States Code (article 38(b) of the Uni-
18 form Code of Military Justice) is amended by adding at
19 the end the following new paragraph:

20 “(8) Each Secretary of a military department shall
21 ensure that—

22 “(A) an accused who is represented by military
23 or civilian counsel has access to the investigative, ex-
24 pert, and other services that defense counsel deter-
25 mines is necessary for adequate representation
26 under this subsection; and

1 **SEC. 9. ELECTRONIC RECORDS OF TRIAL.**

2 Section 854 of title 10, United States Code (article
3 54 of the Uniform Code of Military Justice), is amended—

4 (1) by redesignating subsections (d) and (e) as
5 subsections (e) and (f), respectively;

6 (2) by inserting after subsection (c) the fol-
7 lowing new subsection:

8 “(c) FORM OF RECORD.—The record shall be kept
9 in electronic format. A hard copy of the record shall not
10 be kept or maintained except under such circumstances
11 as the President may prescribe by regulation. The Presi-
12 dent shall issue regulations establishing a process by
13 which a court reporter or official described in subsection
14 (a) may certify the electronic version of the record.”;

15 (3) in subsection (e), as so redesignated, by
16 striking “copy” and inserting “electronic and hard
17 copy”; and

18 (4) in subsection (f), as so redesignated, by
19 striking “copy” and inserting “electronic and hard
20 copy”.

21 **SEC. 10. PETITION FOR NEW TRIAL.**

22 Section 873 of title 10, United States Code (article
23 73 of the Uniform Code of Military Justice) is amended—

24 (1) by striking “At any time within three years
25 after” and inserting the following:

1 “(a) IN GENERAL.—Except as provided in subsection
2 (b), at any time after”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(b) LIMITATION.—For any offense that is subject
6 to a statute of limitations, the right of an accused to peti-
7 tion for a new trial under subsection (a) shall terminate
8 three years after the date of the entry of judgment on
9 the offense under section 860c of this title (article 60c).”.

10 **SEC. 11. DEFENSE INVESTIGATORS FOR INDIVIDUALS AC-**
11 **CUSED OF OFFENSES UNDER THE UNIFORM**
12 **CODE OF MILITARY JUSTICE.**

13 (a) IN GENERAL.—Chapter 53 of title 10, United
14 States Code, is amended by inserting after section 1044e
15 the following new section:

16 **“§ 1044f. Defense investigators for individuals ac-**
17 **cused of offenses under the Uniform Code**
18 **of Military Justice**

19 “(a) DESIGNATION; PURPOSES.—The Secretary con-
20 cerned shall establish, within the department over which
21 the Secretary has jurisdiction, an organization (to be
22 known as a ‘Defense Investigator Unit’) for the purpose
23 of providing investigative assistance to individuals who are
24 accused of offenses under chapter 47 of this title (the Uni-
25 form Code of Military Justice).

1 “(b) ADMINISTRATIVE INDEPENDENCE.—Each De-
2 fense Investigator Unit shall be funded and maintained
3 independently from any military criminal investigative or-
4 ganization in the department over which the Secretary
5 concerned has jurisdiction.

6 “(c) EQUITABLE SUPPORT.—The Secretary con-
7 cerned shall provide to the Defense Investigator Unit a
8 level of support, including funding, staffing, and adminis-
9 trative support, that is sufficient to ensure that an accused
10 has access to the investigative services necessary for ade-
11 quate representation, as required under section 838 of this
12 title (article 38 of the Uniform Code of Military Justice).

13 “(d) EQUITABLE ACCESS TO INVESTIGATIONS.—The
14 Secretary concerned shall issue guidance under which a
15 member of a Defense Investigator Unit—

16 “(1) may access a crime scene in the same
17 manner and to the same extent that a member of a
18 military criminal investigative organization may ac-
19 cess a crime scene; and

20 “(2) to the extent practicable, shall be present
21 during any investigative activities conducted by a
22 military criminal investigative organization, includ-
23 ing the processing of crime scenes and witness inter-
24 views.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 at the beginning of such chapter is amended by inserting
 3 after the item relating to section 1044e the following new
 4 item:

“1044f. Defense investigators for individuals accused of offenses under the Uni-
 form Code of Military Justice.”.

5 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 6 are authorized to be appropriated to carry out section
 7 1044f of title 10, United States Code, as added by sub-
 8 section (a), such sums as may be necessary for each fiscal
 9 year.

10 **SEC. 12. PROHIBITION ON INVOLUNTARY SEPARATION AS**
 11 **NONJUDICIAL PUNISHMENT FOR A CHARGE**
 12 **BROUGHT UNDER THE UNIFORM CODE OF**
 13 **MILITARY JUSTICE.**

14 (a) IN GENERAL.—Chapter 59 of title 10, United
 15 States Code, is amended by inserting after section 1167
 16 the following new section:

17 **“§ 1167a. Prohibition on involuntary separation as**
 18 **nonjudicial punishment for a charge**
 19 **brought under the Uniform Code of Mili-**
 20 **tary Justice**

21 “(a) IN GENERAL.—Except as provided in section
 22 1167, a member charged with an offense under chapter
 23 47 of this title (the Uniform Code of Military Justice) may

1 not be involuntarily separated from the armed forces solely
 2 on the basis of such charge unless—

3 “(1) the member is convicted of the offense by
 4 a court-martial; and

5 “(2) separation of the member from the armed
 6 forces is prescribed as a sentence by the court mar-
 7 tial.

8 “(b) RULE OF CONSTRUCTION.—Nothing in this sec-
 9 tion shall be construed to prohibit the involuntary separa-
 10 tion of a member from the armed forces for misconduct
 11 that is not subject to a charge brought under chapter 47
 12 of this title (the Uniform Code of Military Justice).”.

13 (b) CLERICAL AMENDMENT.—The table of sections
 14 at the beginning of such chapter is amended by inserting
 15 after the item relating to section 1067 the following new
 16 item:

“1067a. Prohibition on involuntary separation as nonjudicial punishment for a
 charge brought under the Uniform Code of Military Justice.”.

17 **SEC. 13. CERTIORARI TO THE UNITED STATES COURT OF**
 18 **APPEALS FOR THE ARMED FORCES.**

19 (a) COURT OF APPEALS FOR THE ARMED FORCES;
 20 CERTIORARI.—

21 (1) IN GENERAL.—Section 1259 of title 28,
 22 United States Code, is amended—

23 (A) in paragraph (3), by inserting “or de-
 24 nied” after “granted”; and

1 (B) in paragraph (4), by inserting “or de-
2 nied” after “granted”.

3 (2) TECHNICAL AND CONFORMING AMEND-
4 MENTS.—

5 (A) TITLE 10.—Section 867a(a) of title 10,
6 United States Code (article 67a of the Uniform
7 Code of Military Justice), is amended by strik-
8 ing “The Supreme Court may not review by a
9 writ of certiorari under this section any action
10 of the United States Court of Appeals for the
11 Armed Forces in refusing to grant a petition
12 for review.”.

13 (B) TIME FOR APPLICATION FOR WRIT OF
14 CERTIORARI.—Section 2101(g) of title 28,
15 United States Code, is amended to read as fol-
16 lows:

17 “(g) The time for application for a writ of certiorari
18 to review a decision of the United States Court of Appeals
19 for the Armed Forces, or the decision of a Court of Crimi-
20 nal Appeals that the United States Court of Appeals for
21 the Armed Forces refuses to grant a petition to review,
22 shall be as prescribed by rules of the Supreme Court.”.

23 (b) EFFECTIVE DATE.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 the amendments made by this section shall take ef-

1 fect upon the expiration of the 180-day period begin-
2 ning on the date of the enactment of this Act and
3 shall apply to any petition granted or denied by the
4 United States Court of Appeals for the Armed
5 Forces on or after that effective date.

6 (2) **AUTHORITY TO PRESCRIBE RULES.**—The
7 authority of the Supreme Court to prescribe rules to
8 carry out section 2101(g) of title 28, United States
9 Code, as amended by subsection (a)(2)(B) of this
10 Act, shall take effect on the date of the enactment
11 of this Act.

12 **SEC. 14. TREATMENT OF CERTAIN RECORDS OF CRIMINAL**
13 **INVESTIGATIONS.**

14 (a) **GUIDANCE REQUIRED.**—The Secretary of De-
15 fense, in consultation with the Secretaries of the military
16 departments, shall develop and implement uniform guid-
17 ance to modify the systems used by Defense criminal in-
18 vestigative organizations to document records of criminal
19 investigations (commonly known as “title systems”) to en-
20 sure that a record identifying a member of the Armed
21 Forces as the subject of a criminal investigation is re-
22 moved from such system if that member is cleared of
23 wrongdoing as described in subsection (d).

24 (b) **DOCUMENTATION BY JUDGE ADVOCATE.**—As
25 soon as practicable after a member of the Armed forces

1 is cleared of wrongdoing as described in subsection (d),
2 a judge advocate in the chain of command of the member
3 shall submit to the Defense criminal investigative organi-
4 zation concerned a written notice verifying that the mem-
5 ber has been cleared of wrongdoing.

6 (c) DEADLINE FOR REMOVAL.—A record described in
7 subsection (a) shall be removed from the title system of
8 a Defense criminal investigative organization not later
9 than 30 days after the date on which the organization re-
10 ceives the notice described in subsection (b).

11 (d) DISPOSITION OF INVESTIGATIONS.—A member of
12 the Armed Forces who is the subject of a criminal inves-
13 tigation shall be considered to have been cleared of wrong-
14 doing for purposes of subsection (a) if—

15 (1) the member is found not guilty, not respon-
16 sible, or it is found that the reasons specified for the
17 proceeding are unsupported by the evidence of the
18 offense for which the member was under investiga-
19 tion—

20 (A) through a court-martial or other pro-
21 ceeding brought under the chapter 47 of title
22 10, United States Code (the Uniform Code of
23 Military Justice);

1 (B) through an administrative proceeding
2 within the Department of Defense or the Armed
3 Force concerned; or

4 (C) by a civilian court; or

5 (2) the Government makes a final determina-
6 tion not to prosecute the member for the criminal of-
7 fense for which the member was under investigation.

8 (e) DEFENSE CRIMINAL INVESTIGATIVE ORGANIZA-
9 TION DEFINED.—In this section, the term “Defense crimi-
10 nal investigative organization” means any organization or
11 element of the Department of Defense or an Armed Force
12 that is responsible for conducting criminal investigations,
13 including—

14 (1) the Army Criminal Investigation Command;

15 (2) the Naval Criminal Investigative Service;

16 (3) the Air Force Office of Special Investiga-
17 tions;

18 (4) the Coast Guard Investigative Service; and

19 (5) the Defense Criminal Investigative Service.

○