

48-2605. (KCMJ Art. 34) Advice of staff judge advocate and reference for trial. (a) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to the convening authority's staff judge advocate for consideration and advice. The convening authority may not refer a specification under a charge to a general court-martial for trial unless the convening authority has been advised in writing by the staff judge advocate that:

- (1) The specification alleges an offense under this code;
 - (2) the specification is warranted by the evidence indicated in the report of the investigation under K.S.A. 48-2603 and amendments thereto, if there is such a report; and
 - (3) a court-martial would have jurisdiction over the accused and the offense.
- (b) The advice of the staff judge advocate under subsection (a) with respect to a specification under a charge shall include a written and signed statement by the staff judge advocate:
- (1) Expressing the staff judge advocate's conclusions with respect to each matter set forth in subsection (a); and
 - (2) recommending action that the convening authority take regarding the specification.

If the specification is referred for trial, the recommendation of the staff judge advocate shall accompany the specification.

(c) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections, and such changes in the charges and specifications as are needed to make them conform to the evidence shall be made.

History: L. 1972, ch. 203, § 48-2605; L. 1988, ch. 191, § 22; July 1.