

## HAWAII ADMINISTRATIVE RULES

### TITLE 7

### DEPARTMENT OF DEFENSE

### SUBTITLE 1 MILITARY JUSTICE

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## CHAPTER 8

## GENERAL ADMINISTRATIVE PROCEDURES AND REPORTS

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### **§7-8-1 Forms of process.**

The trial counsel, defense counsel, courts-martial, courts of inquiry, and boards of investigation shall have the opportunity to obtain witnesses and other evidence. Process issued to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to those issued by the courts of Hawaii having criminal jurisdiction and shall run to any part of the state. Sample forms of process are listed in the exhibits entitled "[Annex 15](#)", "[Annex 16](#)", and "[Annex 17](#)", all dated 1 November 1984, located at the end of this subtitle. Chapter XXIII, Manual of Courts-Martial, United States, as it existed on 1 July 1984, shall be used as a procedural guide; provided chapter 124A, HRS, and this subtitle shall govern in the event of conflict. Sections 124A-71 to 74, 124A-161, 124A-166, and 124A-167, HRS shall control in matters regarding witnesses, depositions, contempt, and expenses.

[Eff: FEB 11 1985] (Auth: HRS §§124A-71, 124A-171) (Imp: HRS §§124A-71, 124A-74, 124A-167)

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### **§7-8-2 Witnesses.**

Subpoenas or other process issued to witnesses shall be served as provided by section 124A-71, HRS. The process shall be accompanied by a letter explaining the penalty for failure to obey the process as outlined in section 124A-72, HRS. The letter shall also advise the witness of entitlement to expenses and the procedure for collecting payment. Witnesses shall be compensated in the same manner as witnesses in civilian criminal trials are compensated in the circuit courts of the State. Examples of the letter are contained in the exhibits entitled "[Annex 15](#)", "[Annex 16](#)", and "[Annex 17](#)", all dated 1 November 1984, located at the end of this subtitle.

[Eff: FEB 11 1985] (Auth: HRS §§124A-71, 124A-171) (Imp: HRS §§124A-71, 124A-72)

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### **§7-8-3 Court reporters and interpreters.**

Court reporters and interpreters may be employed when required by chapter 124A, HRS, or when directed by the adjutant general. A court reporter shall not be provided in a nonjudicial punishment proceeding or a summary court-martial. A defendant may provide a court reporter in a nonjudicial punishment or summary court-martial proceeding at the defendant's own expense.

[Eff: FEB 11 1985] (Auth: HRS §§124A-47, 124A-171) (Imp: HRS §§124A-21, 124A-47, 124A-161)

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### **§7-8-4 Lesser included offenses.**

Lesser included offenses shall be as provided in Appendix 12, Table of Commonly Included Offenses, Manual for Courts-Martial, United States, as it existed on 1 July 1984 to the extent that punitive sections found in chapter 124A, HRS, correspond to articles of the Uniform Code of Military Justice. The lesser included offense exists where a section and article are in agreement in the two codes.

[Eff: FEB 11 1985] (Auth: HRS §124A-171) (Imp: None)

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## **Amendments to Chapter 7-8**

### **§7-8-1 Forms of process.**

The trial counsel, defense counsel, courts-martial, courts of inquiry, and boards of investigation shall have the opportunity to obtain witnesses and other evidence. Process issued to compel witnesses to appear and testify and to compel the production of other evidence shall be similar to those issued by the courts of Hawaii having criminal jurisdiction and shall run to any part of the State. Sample forms of process are listed in the exhibits entitled "[Annex 15](#)", "[Annex 16](#)", and "[Annex 17](#)", all dated 1 November 1984, located at the end of this subtitle. Part II, Chapter 7, Manual for Courts-Martial, United States, 1984, as it existed on 1 July 1988, shall be used as a procedural guide: provided chapter 124A, HRS, and this subtitle shall govern in the event of conflict. Sections 124A-71 to 124A-74, 124A-161, 124A-166, and 124A-167, HRS, shall control in matters regarding witnesses, depositions, contempt, and expenses.

[Eff: FEB 11 1985; **am APR 27 1989**] (Auth: HRS §§124A-71, 124A-171) (Imp: §§124A-71, 124A-74, 124A-167)

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**§7-8-4 Lesser included offenses.**

Lesser included offenses shall be as provided in the exhibit entitled "Annex 24, Table of Commonly Included Offenses", dated 1 July 1988, to the extent that punitive sections found in chapter 124A, HRS, and chapter 7-9, correspond to articles of the Uniform Code of Military Justice. The lesser included offense exists where a section and article are in agreement in the two codes.

[Eff: FEB 11 1985; **am APR 27 1989**] (Auth: HRS §124A-171) (Imp: None)

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