

35.160 Investigation of charges and specifications.

- (1) No charge or specification shall be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include inquiries as to the truth of the matter set forth in the charges, form of charges, and the disposition which should be made of the case in the interest of justice and discipline.
- (2) The accused shall be advised of the charges against him and of his right to be represented by counsel at such investigation. Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel be reasonably available, or by counsel detailed by the state judge advocate. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.
- (3) If an investigation of the subject matter of an offense has been conducted prior to the time the accused is charged with the offense, and if the accused was present at such investigation and afforded the opportunities for representation, cross-examination, and presentation as prescribed in subsection (2) of this section, no further investigation of that charge is necessary under this section unless it is demanded by the accused after he is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in his own behalf.
- (4) The requirements of this section shall be binding on all persons administering this code, but failure to follow them in any case shall not divest a military court of jurisdiction.

History: Amended 1972 Ky. Acts ch. 154, sec. 1. -- Amended 1970 Ky. Acts ch. 56, sec. 21. -- Created 1954 Ky. Acts ch. 99, sec. 31, effective July 1, 1954.