

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 1**

4. Services: Provide copies of court motions, responses, court-martial rulings, appellate briefs and appellate decisions related to the 2012 amendment of Article 120 (including, but not limited to, constitutional challenges and challenges to military judge instructions). A representative sample is acceptable for issues that have been commonly raised.

USA	<p>See Enclosure 3.</p> <p>ENCLOSURE 3, Article 120 Motions:</p> <ol style="list-style-type: none"> a. Government Response to Defense Motion to Dismiss b. Ruling of Motion to Dismiss c. Defense Requested Instruction (Impairment) d. Government Response to Defense Requested Instruction (Impairment) e. Defense Request for Instruction (Impairment) f. Defense Motion for Appropriate Relief - Bill of Particulars g. Government Response to Motion for Appropriate Relief – Bill of Particulars h. Defense Motion to Dismiss for Failure to State an Offense i. Government Response to Defense Motion to Dismiss for Failure to State an Offense
USAF	<p>Defense counsel have filed motions to dismiss on the grounds that Article 120 is unconstitutionally vague and overbroad on its face, and because it fails to state an offense (Atch 4.1,4.8). None of these motions have been successful at the trial level.</p> <p>The Air Force located two cases that deal with a military judge’s denial of a requested defense instruction and they are attached (Atchs 4.2, 4.3)</p> <p><i>U.S. v. Waddell</i> - See Issue III (military judge refused to give defense requested instruction regarding mistake of fact as to consent). Included are the Appellant's Initial Assignment of Error, the Government's Answer, and the Appellant's Reply. There is no AFCCA opinion yet in this case.</p> <p><i>U.S. v. Little</i> - See Issue IV (military judge refused to give defense requested instruction regarding voluntary intoxication as a defense to a specific intent crime). Included are Appellant's Initial Assignment of Error, the Government's Answer, and the AFCCA's opinion (denying relief).</p> <p>ATTACHMENTS:</p> <ul style="list-style-type: none"> - Atch 4.1 – Motion to Dismiss as facially unconstitutional and failing to state an offense - Atch 4.2 – <i>U.S. v. Waddell</i>, Appellant’s Initial Assignment of Error - Atch 4.3 – <i>U.S. v. Waddell</i>, Government’s Answer to Initial Assignment of Error - Atch 4.4 – <i>U.S. v. Waddell</i>, Appellant’s Reply - Atch 4.5 – <i>U.S. v. Little</i>, Appellant’s Initial Assignment of Error - Atch 4.6 – <i>U.S. v. Little</i>, Government’s Answer to Initial Assignment of Error

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 1**

	<ul style="list-style-type: none"> - Atch 4.7 – <i>U.S. v. Little</i>, AFCCA’s Opinion - Atch 4.8 – Motion to Dismiss For Void for Vagueness and Failure to State an Offense
USN	<p>Copies of Responsive Documents are attached in Enclosure (1).</p> <p>ENCLOSURE 1:</p> <ol style="list-style-type: none"> 1. <i>U.S. v. Atulu</i> – Answer on Behalf of Appellee 2. <i>U.S. v. Atulu</i> – Brief and Assignments of Error 3. <i>U.S. v. Averell</i> – Answer on Behalf of Appellee 4. <i>U.S. v. Averell</i> – Appellant’s Brief and Assignments of Error 5. <i>U.S. v. Barsalou</i> – Defense Bench Brief: Prohibiting Contact Between Complaining Witness and her Counsel 6. <i>U.S. v. Barsalou</i> – Defense Motion to Motion to Dismiss the Additional Charge as Unconstitutionally Vague 7. <i>U.S. v. Barsalou</i> – Government Response to Motion to Dismiss the Additional Charge as Unconstitutionally Vague 8. <i>U.S. v. Bess</i> – Answer on Behalf of Appellee 9. <i>U.S. v. Booker</i> – Government Petition for Extraordinary Relief 10. <i>U.S. v. Booker</i> – Petition for Extraordinary Relief in the Nature of a Writ of Mandamus and Motion to Stay Proceedings Charge as Unconstitutionally Vague 11. <i>U.S. v. Booker</i> – Petitioner's Consent Motion for Leave to File and Motion for Expedited Ruling 12. <i>U.S. v. Booker</i> – Reply to Real Party in Interest's Opposition to Petition for Extraordinary Relief 13. <i>U.S. v. Booker</i> – Respondent's opposition to government's petition for Extraordinary Relief 14. <i>U.S. v. Boyd</i> – Supplement to Petition for Grant of Review 15. <i>U.S. v. Butters</i> – Answer on Behalf of Appellee 16. <i>U.S. v. Captain</i> – Answer on Behalf of Appellee 17. <i>U.S. v. Captain</i> – Supplemental Brief and Assignment of Error 18. <i>U.S. v. Corcoran</i> – Answer on Behalf of Appellee 19. <i>U.S. v. Corcoran</i> – Appellant’s Brief and Assignment of Error 20. <i>U.S. v. Doctor</i> – Answer on Brief of Appellee 21. <i>U.S. v. Dunton</i> – Answer on Behalf of Appellee 22. <i>U.S. v. Easterly</i> – Answer on Behalf of Appellee 23. <i>U.S. v. Edmond</i> – Brief and Assignments of Error 24. <i>U.S. v. Escamilla</i> – Brief and Assignments of Error 25. <i>U.S. v. Fairley</i> – Brief and Assignments of Error 26. <i>U.S. v. Florez</i> – Government Response to Defense Motion to Dismiss Specifications 3, 4, and 5 of Charge I as Unconstitutional 27. <i>U.S. v. Florez</i> – Motion to Dismiss Specifications 3, 4 and 5 of Charge I as Unconstitutional 28. <i>U.S. v. Garcia</i> – Appellant’s Brief and Assignment of Error 29. <i>U.S. v. Hasley</i> – Supplement to Petition for Grant of Review 30. <i>U.S. v. Hoffman</i> – Appellant’s Brief and Assignments of Error

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 1**

<ol style="list-style-type: none">31. <i>U.S. v. Howard</i> – Answer on Behalf of Appellee32. <i>U.S. v. Humphrey</i> – Bench Brief on Adequacy of Charge II and Specifications 1 & 233. <i>U.S. v. Hutchinson</i> – Answer on Behalf of Appellee34. <i>U.S. v. Hutchinson</i> – Appellant’s Brief and Assignment of Error35. <i>U.S. v. IS3</i> – Defense Motion for Appropriate Relief - Bill of Particulars36. <i>U.S. v. Januski</i> – Answer on Behalf of Appellee37. <i>U.S. v. Januski</i> – Brief and Assignments of Error38. <i>U.S. v. LaCount</i> – Supplement to Petition for Grant of Review39. <i>U.S. v. Maza</i> – Gov’t Interlocutory Appeal40. <i>U.S. v. Medina</i> – Defense Response to Gov’t Motion Concerning Maximum Punishment for Specification Under Article 12041. <i>U.S. v. Medina</i> – Military Judge's Ruling42. <i>U.S. v. Miles</i> – Appellant’s Brief and Assignments of Error43. <i>U.S. v. Oakley</i> – Answer on Behalf of Appellee44. <i>U.S. v. Oakley</i> – Brief and Assignments of Error45. <i>U.S. v. Owens</i> – Answer on Behalf of Appellee46. <i>U.S. v. Owens</i> – Appellant’s Brief and Assignment of Error47. <i>U.S. v. Parrett</i> – Answer on Behalf of Appellee48. <i>U.S. v. Pease</i> – Appellant’s Brief and Assignment of Error49. <i>U.S. v. Pease</i> – Gov’t Motion in Response to Def Motion to Dismiss50. <i>U.S. v. Pease</i> – Motion to Dismiss Charge I as Unconstitutionally Vague51. <i>U.S. v. Quick</i> – Answer on Behalf of Appellee52. <i>U.S. v. Quick</i> – Brief and Assignments of Error53. <i>U.S. v. Raines</i> – Answer on Behalf of Appellee54. <i>U.S. v. Raines</i> – Appellant’s Brief and Assignment of Error55. <i>U.S. v. Ramirez-Empuno</i> – Answer of Behalf of Appellee56. <i>U.S. v. Redmon</i> – Appellant’s Motion for en Banc Reconsideration of Panel 3 Decision57. <i>U.S. v. Redmon</i> – Opinion of the Court58. <i>U.S. v. Redmon</i> – Supplement to Petition for Grant of Review59. <i>U.S. v. Sager</i> – Defense Motion to Dismiss as Unconstitutionally Vague60. <i>U.S. v. Sager</i> – Government Supplemental Response to Defense Motion to Dismiss as Unconstitutionally Vague61. <i>U.S. v. Sager</i> – Military Judge's Ruling62. <i>U.S. v. Schaleger</i> – Answer on Behalf of Appellee63. <i>U.S. v. Schaleger</i> – Brief and Assignments of Error64. <i>U.S. v. Schaleger</i> – Defense Response to Gov’t Motion Concerning Maximum Punishment for Specifications Charged under Article 12065. <i>U.S. v. Schaleger</i> – Gov’t Writ – Appeal Answer66. <i>U.S. v. Schaleger</i> – Motion to Determine the Maximum Punishment for Article 120 Offenses67. <i>U.S. v. Schaleger</i> – Reply to Gov’t Writ – Appeal Answer68. <i>U.S. v. SH2</i> – Defense Motion for Appropriate Relief: Maximum Punishment Under UCMJ Art 12069. <i>U.S. v. SH2</i> – Defense Motion to Dismiss Based on Multiplicity and

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 1**

	<p>Unreasonable Multiplication of Charges</p> <p>70. <i>U.S. v. Shields</i> – Appellant’s Brief and Assignments of Error</p> <p>71. <i>U.S. v. Sipe</i> – Decision on Defense Motion to Dismiss</p> <p>72. <i>U.S. v. Sipe</i> – Defense Motion for Appropriate Relief</p> <p>73. <i>U.S. v. Sipe</i> – Gov’t Response to Defense Motion to Dismiss</p> <p>74. <i>U.S. v. Tabbitas</i> – Defense Pleading Concerning Maximum Punishment for Specifications Charged Under Article 120</p> <p>75. <i>U.S. v. Tabbitas</i> – Military Judge's Ruling</p> <p>76. <i>U.S. v. Tabbitas</i> – Motion to Determine the Maximum Punishment for Article 120 Offenses</p> <p>77. <i>U.S. v. Thomas</i> – Appellant’s Brief and Assignments of Error</p> <p>78. <i>U.S. v. Thompson</i> – Answer on Behalf of Appellee</p> <p>79. <i>U.S. v. Thompson</i> – Appellant’s Brief and Assignment of Error</p> <p>80. <i>U.S. v. Tienter</i> – Brief on Behalf of the U.S.</p> <p>81. <i>U.S. v. Tienter</i> – Defense Motion to Suppress</p> <p>82. <i>U.S. v. Tienter</i> – Ruling on Defense Motion to Suppress Evidence</p> <p>83. <i>U.S. v. Torres</i> – Appellant’s Brief and Assignments of Error</p> <p>84. <i>U.S. v. Ward</i> – Supplement to Petition for Grant of Review</p> <p>85. <i>U.S. v. Wilson</i> – Government Response to Defense Motion to Dismiss the Charge and Sole Specification as Unconstitutional</p> <p>86. <i>U.S. v. Wilson</i> – Motion to Dismiss the Charge and Sole Specification as Unconstitutional</p> <p>87. <i>U.S. v. Wilt</i> – Answer on Behalf of Appellee</p> <p>88. <i>U.S. v. Wilt</i> – Brief and Assignments of Error</p> <p>89. <i>U.S. v. HM3</i> – Defense Motion to Dismiss: Unconstitutionally Void for Vagueness</p>
<p>USMC</p>	<p>See Enclosure (1)</p> <p>ENCLOSURE (1) Representative Sample of Court Documents Related to the 2012 Amendment to Article 120:</p> <p>a) <i>U.S. v. Bates</i> – Charge Sheets</p> <p>b) <i>U.S. v. Bates</i> – Motion to Dismiss for Vagueness</p> <p>c) <i>U.S. v. Bates</i> – Response to Motion to Dismiss for Vagueness</p> <p>d) <i>U.S. v. Bates</i> – MJ Ruling on Motion to Dismiss for Vagueness</p> <p>e) <i>U.S. v. Bates</i> – Record of Trial</p> <p>f) <i>U.S. v. Newlan</i> – Charge Sheet – Referred Charges</p> <p>g) <i>U.S. v. Newlan</i> – Motion to Dismiss - Selective Prosecution</p> <p>h) <i>U.S. v. Newlan</i> – Response to Motion to Dismiss</p> <p>i) <i>U.S. v. Newlan</i> – MJ Ruling on Motion to Dismiss for Vagueness</p> <p>j) <i>U.S. v. Rojo</i> – Motion to Dismiss</p> <p>k) <i>U.S. v. Rojo</i> – Response to Motion to Dismiss</p> <p>l) <i>U.S. v. Rojo</i> – MJ Ruling on Motion to Dismiss- Findings of Fact, Conclusion of Law, and Decision</p> <p>m) <i>U.S. v. Entralgo</i> – Findings Instructions</p> <p>n) <i>U.S. v. Ahn</i> – Findings Instructions</p>

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 1**

USCG	<p>See Attachments (1)-(2):</p> <p>ATTACHMENTS 1 and 2:</p> <ul style="list-style-type: none">- Attachment (1): <i>U.S. v. Rogers</i> – Portions of Appellant’s Brief- Attachment (2): <i>U.S. v. Rogers</i> – Portions of United States’ Answer
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