**Section 400.110 Persons Subject to the Code; Jurisdiction**

a) General Statement. No person may be punished under the Code for any offense provided for in the Code, unless there is jurisdiction over the person and jurisdiction over the offense.

b) Jurisdiction Over the Person. There is jurisdiction over the person if, at both the time the offense was committed and the time of trial, that person:

1) *is a member of the SMF*; and

2) is, for a *day or a portion of a day, in State Active Duty status or OTAD, and at no other times*. (Code Section 2(a))

c) Jurisdiction Over the Offense. Subject matter jurisdiction is established if the person:

1) commits a military offense as defined in Code Section 1(a)(14); or

2) commits an offense not in Code Section 1(a)(14) (non-military offense) that is in violation of either the Code or the criminal law of the state in which it was committed, or that of the United States; and

A) the appropriate civil authority has provided the NGIL-JA a declination to prosecute; or

B) a civil court of competent jurisdiction has dismissed the charge, and the appropriate civil authority has provided the NGIL-JA a declination to further prosecute, provided jeopardy has not attached.

d) Persons Assigned and Attached to Other Commands. For jurisdiction issues based on assignment or attachment, each service component shall refer to the current service component guidance, including regulations and policy directives. Prior to the initiation of any military justice action, the judge advocate will ensure that the commander will resolve any military justice authority issue regarding assigned or attached personnel.