

*** CURRENT THROUGH PL 111-145, APPROVED 3/4/2010 ***

TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART II. CRIMINAL PROCEDURE
CHAPTER 212. MILITARY EXTRATERRITORIAL JURISDICTION

18 U.S.C. § 3265

§ 3265. Initial proceedings.

(a)

(1) In the case of any person arrested for or charged with a violation of section 3261(a) [18 USCS § 3261(a)] who is not delivered to authorities of a foreign country under section 3263 [18 USCS § 3263], the initial appearance of that person under the Federal Rules of Criminal Procedure—

(A) shall be conducted by a Federal magistrate judge; and

(B) may be carried out by telephony or such other means that enables voice communication among the participants, including any counsel representing the person.

(2) In conducting the initial appearance, the Federal magistrate judge shall also determine whether there is probable cause to believe that an offense under section 3261(a) [18 USCS § 3261(a)] was committed and that the person committed it.

(3) If the Federal magistrate judge determines that probable cause exists that the person committed an offense under section 3261(a) [18 USCS § 3261(a)], and if no motion is made seeking the person's detention before trial, the Federal magistrate judge shall also determine at the initial appearance the conditions of the person's release before trial under chapter 207 of this title [18 USCS §§ 3141 et seq.].

(b) In the case of any person described in subsection (a), any detention hearing of that person under section 3142(f) [18 USCS § 3142(f)]—

(1) shall be conducted by a Federal magistrate judge; and

(2) at the request of the person, may be carried out by telephony or such other means that enables voice communication among the participants, including any counsel representing the person.

(c)

(1) If any initial proceeding under this section with respect to any such person is conducted while the person is outside the United States, and the person is entitled to have counsel appointed for purposes of such proceeding, the Federal magistrate judge may appoint as such counsel for purposes of such hearing a qualified military counsel.

(2) For purposes of this subsection, the term "qualified military counsel" means a judge advocate made available by the Secretary of Defense for purposes of such proceedings, who—

(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

(B) is certified as competent to perform such duties by the Judge Advocate General of the armed force of which he is a member.