Amendment to Rules Committee Print 116-19

Offered by Mr. Gohmert of Texas

At the end of subtitle D of title V, add the following new section:

1 SEC. 5. CODIFICATION OF RULES RELATING TO SELF
2 DEFENSE IN UNIFORM CODE OF MILITARY
3 JUSTICE.

(a) In General.—Subchapter X of chapter 47 of
4 title 10, United States Code (the Uniform Code of Military
5 Justice), is amended by adding at the end the following
6 new section:

“§934a. Art. 134a. Self defense

“(a) HOMICIDE OR ASSAULT CASES INVOLVING
10 DEADLY FORCE.—It is a defense to a homicide, assault
11 involving deadly force, or battery involving deadly force
12 that the accused—

“(1) apprehended, on reasonable grounds, that
14 death or grievous bodily harm was about to be in-
15 fflicted wrongfully on the accused; and
16 “(2) believed that the force the accused used
17 was necessary for protection against death or griev-
18 ous bodily harm.
“(b) CERTAIN AGGRAVATED ASSAULT CASES.—It is a defense to assault with a dangerous weapon or means likely to produce death or grievous bodily harm that the accused—

“(1) apprehended, on reasonable grounds, that bodily harm was about to be inflicted wrongfully on the accused; and

“(2) in order to deter the assailant, offered but did not actually apply or attempt to apply such means or force as would be likely to cause death or grievous bodily harm.

“(c) OTHER ASSAULTS.—It is a defense to any assault punishable under section 889, 891, or 928 (article 89, 91, or 128) and not listed in subsections (a) or (b) that the accused—

“(1) apprehended, upon reasonable grounds, that bodily harm was about to be inflicted wrongfully on the accused; and

“(2) believed that the force that accused used was necessary for protection against bodily harm, provided that the force used by the accused was less than force reasonably likely to produce death or grievous bodily harm.

“(d) LOSS OF RIGHT TO SELF-DEFENSE.—The right to self-defense is lost and the defenses described in sub-

sections (a) through (c) shall not apply if the accused was an aggressor, engaged in mutual combat, or provoked the attack which gave rise to the apprehension, unless the accused had withdrawn in good faith after the aggression, combat, or provocation and before the offense alleged occurred.

“(e) DEFENSE OF ANOTHER.—The principles of self-defense under subsections (a) through (d) apply to defense of another. It is a defense to homicide, attempted homicide, assault with intent to kill, or any assault under section 889, 891, or 928 (article 89, 91, or 128) that the accused acted in defense of another, provided that the accused may not use more force than the person defended was lawfully entitled to use under the circumstances.

“(f) SELF-DEFENSE AND DEFENSE OF A THIRD PARTY IN A COMBAT THEATRE.—It is a defense to a crime of violence, including homicide and assault, if at the time of the commission of the acts constituting the offense, the accused was deployed to a combat theater of operations and reasonably believed that such acts would protect the accused or a fellow member of the armed forces from death or grievous bodily harm from subversive enemy activity.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by insert-
ing after the item relating to section 934 (article 134) the following new item:

“934a. Art. 134a. Self defense.”.