§ 946. Art. 146. Code committee

(a) Annual survey. A committee shall meet at least annually and shall make an annual comprehensive survey of the operation of this chapter.

(b) Composition of committee. The committee shall consist of--

(1) the judges of the United States Court of Appeals for the Armed Forces;

(2) the Judge Advocates General of the Army, Navy, and Air Force, the Chief Counsel of the Coast Guard, and the Staff Judge Advocate to the Commandant of the Marine Corps; and

(3) two members of the public appointed by the Secretary of Defense.

(c) Reports.

(1) After each such survey, the committee shall submit a report--

(A) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(B) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Homeland Security.

(2) Each report under paragraph (1) shall include the following:

(A) Information on the number and status of pending cases.

(B) Information from the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the following:

(i) The appellate review process, including--

(I) information on compliance with processing time goals;

(II) discussions of the circumstances surrounding cases in which general court-martial or special court-martial convictions are reversed as a result of command influence or denial of the right to a speedy review or otherwise remitted due to loss of records of trial or other administrative deficiencies; and

(III) discussions of cases in which a provision of this chapter is held unconstitutional.

(ii) Measures implemented by each armed force to ensure the ability of judge advocates to competently participate as trial and defense counsel in, and preside as military judges over, capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

(iii) The independent views of the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps on the sufficiency of resources available within their respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

(C) Any recommendation of the committee relating to--

(i) uniformity of policies as to sentences;

(ii) amendments to this chapter; and

(iii) any other matter the committee considers appropriate.

(d) Qualifications and terms of appointed members. Each member of the committee appointed by the Secretary of Defense under subsection (b)(3) shall be a recognized authority in military justice or criminal law. Each such member shall be appointed for a term of three years.

(e) Applicability of Federal Advisory Committee Act. The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply to the committee.

History

(Added Nov. 29, 1989, *P.L. 101-189*, Div A, Title XIII, § 1301(c), *103 Stat. 1574*; Oct. 5, 1994, *P.L. 103-337*, Div A, Title IX, Subtitle C, § 924(c)(1), *108 Stat. 2831*; Feb. 10, 1996, *P.L. 104-106*, Div A, Title XV, § 1502(a)(1), *110 Stat. 502*; Oct. 5, 1999, *P.L. 106-65*, Div A, Title X, Subtitle G, § 1067(1), *113 Stat. 774*.)

(As amended Nov. 25, 2002, *P.L. 107-296*, Title XVII, § 1704(b)(1), *116 Stat. 2314*; Jan. 2, 2013, *P.L. 112-239*, Div A, Title V, Subtitle D, § 532, *126 Stat. 1726*.)

Annotations

Notes

Amendments:

1994 . Act Oct. 5, 1994, in subsec. (b)(1), substituted "Court of Appeals for the Armed Forces" for "Court of Military Appeals".

1996 . Act Feb. 10, 1996, in subsec. (c)(1)(A), substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and House of Representatives".

1999 . Act Oct. 5, 1999, in subsec. (c)(1)(A), substituted "Committee on Armed Services" for "Committee on National Security" preceding "of the House".

2002 . Act Nov. 25, 2002 (effective on 3/1/2003 pursuant to § 1704(g) of such Act, which appears as *10 USCS § 101* note), in subsec. (c)(1)(B), substituted "of Homeland Security" for "of Transportation".

2013 . Act Jan. 2, 2013, in subsec. (c)(2), redesignated subpara. (B) as subpara. (C), and inserted new subpara. (B).

Case Notes

Even though *10 USCS § 941* does not specify location of United States Court of Appeals for Armed Forces for nonadministrative purposes, *10 USCS §§ 867*, *942(c)*, and *946* make clear that court is within executive branch. *Edmond v United States (1997) 520 US 651, 137 L Ed 2d 917, 117 S Ct 1573, 97 CDOS 3728, 97 Daily Journal DAR 6292, 10 FLW Fed S 459.*

Research References & Practice Aids

Code of Federal Regulations:

Office of the Secretary of Defense--Sexual assault prevention and response program procedures, *32 CFR 105.1* et seq.