Judicial Proceedings Panel
Minutes of May 19, 2015 Public Meeting

AUTHORIZATION: The Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (JPP), is a federal advisory committee established pursuant to Section 576(a)(2) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, as amended by section 1731(b) of the NDAA for FY 2014 and section 546 of the NDAA for FY 2015, and in accordance with the Federal Advisory Committee Act of 1972, the Government in Sunshine Act of 1976, and governing federal regulations.

EVENT: The JPP held a public meeting on May 19, 2015, from 8:51 a.m. to 4:59 p.m. The Panel continued its review of retaliation against victims of sexual assault crimes in the military. The meeting began with a briefing from Human Rights Watch (HRW) on its May 18, 2015 report, which contained recommendations regarding retaliation against sexual assault victims in the military. The Panel next heard from a victims' attorney and two of her clients about retaliation and the remedies for survivors. Following that session, the JPP heard from active duty and former Service members along with one military dependent about the retaliation they experienced after having made a report of sexual assault or harassment.

During the afternoon sessions, sexual assault response coordinators (SARCs) and victim advocates (VAs) spoke about the assistance they provide to help victims with retaliation claims and the kinds of issues they are observing in the field. The JPP also heard from Service non-commissioned officers about how they train and manage their subordinates to prevent retaliation within the ranks. Lastly, installation-level commanders appeared before the JPP and explained what they are doing to prevent, manage, and respond to retaliation within their organizations.

LOCATION: The meeting was held in Courtroom 20, 6th Floor, U.S. District Court for the District of Columbia, 333 Constitution Avenue, NW, Washington DC 20001.

MATERIALS: A verbatim transcript of the meeting was made and is incorporated herein. It is available on the JPP website: http://jpp.whs.mil.

PARTICIPANTS

Participating JPP Members:
The Honorable Elizabeth Holtzman, Chair
The Honorable Barbara Jones (by phone)
Mr. Victor Stone
Professor Thomas W. Taylor
Vice Admiral (Retired) Patricia A. Tracey

Attending JPP Staff:
Lieutenant Colonel Kyle Green, United States Air Force, JPP Staff Director

Other Participants:
Ms. Maria Fried, Office of the General Counsel, Department of Defense, Designated Federal Official

Presenters:*
Ms. Sara Darehshori, Senior Counsel, Human Rights Watch, U.S. Program
Ms. Meghan Rhoad, Researcher, Human Rights Watch, Women's Rights Division
Ms. V.P., Retired U.S. Army Captain
Master Sergeant T.S., U.S. Air Force
Petty Officer Third Class D.M., U.S. Coast Guard
Ms. C.B., Retired U.S. Air Force Senior Airman
First Lieutenant C.B., U.S. Army
Ms. J.S., Retired U.S. Air Force Technical Sergeant
Ms. Susan L. Burke, Victim Counsel, Law Offices of Susan L. Burke
Major K.V., U.S. Air Force
Staff Sergeant E.A., U.S. Army
Petty Officer First Class S.F., U.S. Coast Guard
Ms. A.N., Former U.S. Navy Petty Officer 2nd Class
Staff Sergeant N.L., U.S. Air Force
Ms. A.H., Spouse of U.S. Air Force Staff Sergeant
Lance Corporal J.J., U.S. Marine Corps
Ms. Nancy Pike, U.S. Air Force SARC, Seymour-Johnson Air Force Base, North Carolina
Mr. Michael Starkey, U.S. Air Force SAPR, Davis-Monthan Air Force Base, Arizona
Mr. Magnus Graham, U.S. Coast Guard SARC Coordinator, Portsmouth, Virginia
Ms. Marie A. Brodie, U.S. Marine Corps SARC, Marine Corps Base Camp Lejeune, North Carolina
Sergeant First Class Bridgett Joseph, U.S. Army SARC, Schofield Barracks, Hawaii
Ms. Kim Agnew, U.S. Navy SARC, Naval Support Activity, Bethesda, Maryland
Army Retaliation Video featuring First Sergeant Katrina Moerk, U.S. Army
Chief Master Sergeant Craig A. Neri, U.S. Air Force, 45 Space Wing, Patrick Air Force Base, Florida
Command Master Chief Kevin Goodrich, U.S. Navy, Naval Air Station, Hampton Roads, Virginia
Command Master Chief Jason D. Griffin, U.S. Coast Guard, 7th District
Master Sergeant Michelle M. Johnson, U.S. Army, Pentagon, Virginia
Staff Sergeant LeeAnn B. Nelson, U.S. Marine Corps Uniformed Victim Advocate, Marine Corps Base Quantico, Virginia
Brigadier General David Harris, U.S. Air Force, Commander, 96 Test Wing, Eglin Air Force Base, Florida
Captain Heidi Fleming, U.S. Navy, Commanding Officer, Naval Air Station, Patuxent River, Maryland
Captain Jeffrey C. Westling, U.S. Coast Guard, Commander, U.S. Coast Guard Base Kodiak, Alaska
Colonel Allen Broughton, U.S. Marine Corps, Chief of Staff, Marine Corps Installations National Capital Region/Marine Corps Base Quantico, Virginia
Colonel Brian Foley, U.S. Army, Garrison Commander, Fort Meade, Maryland

*To protect their privacy, certain presenters requested that they be identified only by initials rather than their full names. The Chair and the DFO agreed to accommodate this request.

Public Comments:
Ms. Victoria Sanders
Lieutenant Colonel Teresa James, West Virginia National Guard
Ms. Amy Quinn

MEETING MINUTES

The DFO opened the public meeting at 8:51 a.m. The Honorable Elizabeth Holtzman provided opening remarks and explained the agenda for the meeting.

Human Rights Watch Report and Recommendations

Ms. Sara Darehshori provided an overview of the background, findings, and recommendations of the HRW report on retaliation against sexual assault victims in the military. The JPP members then heard from four active duty and former Service members who were featured in the HRW report. They provided their perspectives and impressions about the professional and social retaliation issues they experienced after reporting sexual assault, harassment, or retaliation and two of them offered recommendations for improvement. Ms. Megan Rhoad reviewed HRW's recommendations to the U.S. Congress, the Secretary of Defense and to community service providers about changes and improvements to programs and policies to better handle cases of retaliation against sexual assault survivors.

Victim Perspectives on Retaliation and Workplace Hostility

Ms. Susan L. Burke and two of her clients spoke about their experiences with retaliation against sexual assault victims in the military. Ms. Burke also discussed her advocacy work to help change laws to improve protections for sexual assault survivors who experience retaliation from command and unit members of the military.

Victim Perspectives on Retaliation and Workplace Hostility

The JPP next heard from active duty and former Service members, as well as a military dependent spouse who were victims of sexual assault. The presenters shared their experiences of retaliation and ostracism from unit personnel, co-workers, or friends after having made a report of rape, sexual assault, harassment, or retaliation.

Fear of Retaliation & Impact on Reporting: SARC and VA Perspectives

Following a lunch break, the afternoon session began with a panel of SARCs and VAs who shared their experiences, observations, and opinions regarding professional and social retaliation following sexual assault reports. They also explained how they assisted victims who feared or faced retaliation after reporting a sexual assault. The following SARCs and VAs appeared on the panel: Ms. Nancy Pike, Mr. Mike Starkey, Mr. Magnus Graham, Ms. Marie Brodie, SFC Bridgett Joseph and Ms. Kim Agnew.

Preventing and Responding to Retaliation: NCO Perspectives

The JPP members next heard from CMSgt Craig Neri, CMDCM Kevin Goodrich, CMC Jason Griffin, MSG Michelle Johnson and SSgt LeeAnn Nelson, who provided their perspectives as non-commissioned officers about the prevention and response to incidences of retaliation towards victims of sexual assault within their military units. Additionally, they described how they train and manage their subordinates to prevent retaliation within the ranks.

Roles and Responsibilities Regarding Retaliation: Installation Level Commander Perspectives

In the last session, the JPP members heard from the following installation-level commanders: Brig Gen David Harris, CAPT Heidi Fleming, CAPT Jeffrey Westling, Col Allen Broughton and COL Brian Foley. The commanders explained their roles and responsibilities in managing, preventing, and responding to acts of professional or social retaliation against victims who report sexual assault within their organizations.

Public Comments

Ms. Victoria Sanders, Lt Col Teresa James, and Ms. Amy Quinn submitted requests to provide public comments at the meeting, and each shared their personal experiences regarding sexual assault, sexual harassment, and retaliation while serving in the military.

The public meeting was closed at 4:59 p.m.

CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.

Elizabeth Holtzman
Chair
Judicial Proceedings Panel

MATERIALS
Meeting Records:

1. Transcript of May 19, 2015 JPP meeting, prepared by Neal R. Gross and Co., Inc.
2. Video recording of May 19, 2015 JPP meeting filmed by Army Television.

Meeting Materials:

3. Public Meeting Table of Contents
4. Public Meeting Agenda
5. Presenters' Biographies

Staff Summary of Written Submissions/Public Comments for JPP Members in Preparation for May 19, 2015 Public Meeting

6. Ms. A.H.
   a. Ms. A.H.'s husband's, statement regarding retaliation (3 pages)
   b. Ms. A.H.'s written victim impact statement to the convening authority (5 pages)
   c. U.S. Air Force Court of Criminal Appeals Opinion (9 pages)
   d. Utah Standard Examiner news article, dated May 11, 2015 (8 pages)
7. Lieutenant Colonel Teresa James
   a. Written timeline of IG complaint made in August 2012 – June 2013 (5 pages)
8. Ms. Maribel Jarzabek
   a. Recommendation for improving SVC program (3 pages)
   b. Responses to JPP provided questions regarding SVC program (7 pages)
9. Active Duty U.S. Marine Corps Lance Corporal
   a. Responses to JPP provided question regarding sexual assault survivors (5 pages)

Reports and Materials Addressing Retaliation in the Military

10. Staff summary of reading materials for JPP members
11. Written Statement of Matthew Soulier, M.D. (1 page)
12. Human Rights Watch, *Embattled: Retaliation against Sexual Assault Survivors in the U.S. Military* and *Detailed Recommendations for the Department of Defense*, May 2015 (142 pages)
13. Complaint brought by Susan L. Burke on behalf of Armed Forces personnel against Department of Defense for sexual discrimination, March 31, 2015 (44 pages)
14. Government Accounting Office, *Whistleblower Protection: DoD Needs to Enhance oversight of Military Whistleblower Reprisal Investigations*, May 2015 (94 pages)

Service Responses to JPP Requests for Information on Victim Retaliation

15. Responses to RFI Set #3, Questions 67-80, May 6, 2015 (104 pages)

DoD Instruction

16. Department of Defense Instruction 7050.06, *Military Whistleblower Protection*, April 17, 2015 (12 pages)

DoD SAPRO Annual Report & SecDef SAPR Policy Memorandum

17. Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2014, April 29, 2015 (61 pages)
18. Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2014, Appendix A: Statistic Data on Sexual Assault, April 29, 2015 (48 pages)
19. Department of Defense Annual Report on Sexual Assault in the Military, Fiscal Year 2014, Appendix B: Metrics on Sexual Assault, April 29, 2015 (34 pages)

20. Secretary of Defense Memorandum, Initiatives to Address Sexual Assault Prevention and Response and Retaliation Associated with Reporting Crime, May 1, 2015 (3 pages)

Proposed Legislation Addressing Victim Retaliation

21. Press Release and Text of H.R. 2026, The Support Uniformed Patriots; Prevent Offenses and Restore Trust Act (SUPPORT Act), April 2015 (11 pages)
22. Press Release on S.1130, Legal Justice for Service Members Act, April 29, 2015 (3 pages)