



Judicial Proceedings Panel Subcommittee
Minutes of February 23, 2017 Subcommittee Meeting

AUTHORIZATION: The Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (JPP or Panel), 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.

At the Secretary of Defense's direction, the JPP Subcommittee (the Subcommittee) has been established under the JPP. The JPP tasked the Subcommittee to conduct site visits at various military installations throughout the United States and Asia for the purpose of gathering information on the military's handling of sexual assault litigation from the men and women who are actually investigating, litigating, and supporting these cases. In an effort to provide an accurate assessment of the results from the site visits, the Subcommittee requested additional information to fully inform its recommendations to the JPP.

EVENT: The Subcommittee held a meeting on February 23, 2017, from 9:13 a.m. to 2:12 p.m. to discuss the presentation to the JPP of its report on Sexual Assault Investigations in the Military and to deliberate on the initial draft of the Subcommittee's report concerning barriers to the fair administration of military justice.

LOCATION: The meeting was held at the Judicial Proceedings Panel Office, 875 North Randolph Street, Suite 150, Arlington, Virginia, 22203.

MATERIALS: A transcript of the meeting, as well as preparatory materials provided to the JPP Subcommittee members prior to, during and after the meeting, are incorporated herein by reference and listed individually below.

PARTICIPANTS

Participating JPP Subcommittee Members:

The Honorable Barbara Jones, Chair
Ms. Lisa Friel
The Honorable Elizabeth Holtzman
Ms. Laurie Kepros
Dean Lisa Schenck
Ms. Jill Wine-Banks

Participating JPP Staff:

Captain Tammy Tideswell, U.S. Navy, JPP Staff Director
Ms. Meghan Peters, Staff Attorney
Ms. Terri Saunders, Staff Attorney

Other Participants:

Mr. Bill Sprance, Alternate Designated Federal Official (DFO)

MEETING MINUTES

Mr. Sprance opened the meeting at 9:13 a.m.

Discussion on the presentation of the Sexual Assault Investigations in the Military Report

The Subcommittee members discussed the Ms. Friel's presentation of the Subcommittee's report on Sexual Assault Investigations in the Military. The Subcommittee members agreed that Ms. Friel would present the background information from the site visits prior to discussing the Subcommittee's recommendations.

Deliberation on the Subcommittee's draft report on the barriers to the fair administration of military justice

The Subcommittee reviewed the initial draft of the report on barriers to the fair administration of military justice, which incorporates military installation site visit feedback on the changes to the Article 32 process, prosecutorial discretion, standards for staff judge advocates and convening authorities in court-martial referral decisions of sexual assault cases, as well as other topics. The members discussed how numerous legislative and policy changes in the area of sexual assault have altered the litigation landscape for these cases. They discussed the positive impact of these changes for victims of sexual assault and the unintended consequences of these changes. The Subcommittee asked to see data regarding instances when an Article 32 preliminary hearing officer recommended a sexual assault case not be referred to trial and the convening authority elected to refer the case, and the results of those cases. The Subcommittee asked the staff to incorporate their ideas into the draft report and agreed to another Subcommittee meeting in New York City on April 4, 2017.

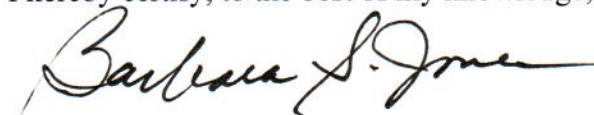
Deliberation on short papers covering information from site visits

The Subcommittee deliberated on three short papers containing information gathered from military installation site visits on initial disposition withholding authority, Military Rules of Evidence 412 and 513, and training and experience of trial counsel and special victims' counsel / victims' legal counsel. The Subcommittee members suggested a few additions to the papers and agreed to a teleconference to finalize the papers on February 28, 2017.

The meeting closed at 2:12 p.m.

CERTIFICATION

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



Barbara Jones
Chair
Judicial Proceedings Panel Subcommittee

MATERIALS

Meeting Record

1. Transcript of February 23, 2017 JPP Subcommittee meeting, prepared by Neal R. Gross and Co., Inc.

Meeting Materials

2. Meeting Agenda
3. Subcommittee Report to the Judicial Proceedings Panel on Sexual Assault Investigations in the Military
4. Public Comment from Major Matthew Smith, U.S. Marine Corps, Officer-in-Charge, Defense Counsel Assistance Program
5. Subcommittee Report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases (DRAFT)
6. Subcommittee Papers on Initial Disposition Withholding Authority, Military Rules of Evidence 412 and 513, and Training and Experience of Trial Counsel and Special Victims' Counsel / Victims' Legal Counsel (DRAFT)