



Judicial Proceedings Panel Subcommittee
Minutes of April 4, 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 April 4, 2017, from 9:39 a.m. to 3:09 p.m. to deliberate on its report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases.

LOCATION: The meeting was held at Conference Room D, Bracewell LLP, 1251 Avenue of the Americas, New York, New York, 10020.

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
The Honorable Elizabeth Holtzman
Ms. Laurie Kepros
Brigadier General (Ret.) James Schwenk
Ms. Jill Wine-Banks

Participating JPP Staff:

Captain Tammy Tideswell, U.S. Navy, JPP Staff Director
Ms. Meghan Peters, Staff Attorney
Ms. Stayce Rozell, Senior Paralegal and Meeting Recorder
Ms. Terri Saunders, Staff Attorney

Other Participants:

Ms. Maria Fried, Designated Federal Official (DFO)

MEETING MINUTES

Ms. Fried opened the meeting at 9:39 a.m.

Deliberations on the Subcommittee's Draft Report

The Subcommittee members deliberated on the draft Subcommittee report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases. The members discussed the numerous changes to the military justice system that have occurred in recent years and how those changes effected the rights of victims and the due process rights of military defendants. They discussed information they received during installation site visits on various topics, to include Article 32 hearings, convening authority referral decisions, sexual assault prevention and response training of military members, and expedited transfer of military sexual assault victims. The Subcommittee members suggested a few modifications to the recommendations and body of the report. The members also agreed to a schedule for reviewing the report to ensure it would be finalized and sent to the JPP in advance of the May 19, 2017 JPP public meeting. The members agreed on an April 26, 2017 teleconference to discuss the staff's edits to the report based on its deliberations.

The meeting closed at 3:09 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 April 4, 2017 JPP Subcommittee meeting, prepared by Neal R. Gross and Co., Inc.

Meeting Materials:

2. Subcommittee Report on Barriers to the Fair Administration of Military Justice in Sexual Assault Cases (DRAFT)

Read Ahead Meeting Materials:

3. NDAA Provisions on Elevated Review of Non-referral Decisions
4. Elevated Review of Convening Authority Decisions at Referral Flowchart

5. Article 33 Disposition Guidance
6. U.S. Attorneys' Manual – Relevant Sections on Initiating and Declining Prosecution
7. *Adjudication of Sexual Assault Offenses Reported to the Military Services in 2015* by Dr. Cassia Spohn (Data Report)
8. *United States v. Newlan*, U.S. Navy-Marine Corps Court of Criminal Appeals
9. Law Review Article: *Old Wine Into New Bottles: The Article 32 Process After the National Defense Authorization Act of 2014*
10. Law Review Article: *Overcoming Overcorrection: Towards Holistic Military Sexual Assault Reform*
11. Law Review Article: *Justice is No Longer Blind: How the Effort to Eradicate Sexual Assault in the Military Unbalanced the Military Justice System*
12. DoD Instruction 5505.18, *Investigation of Adult Sexual Assault in the Department of Defense*