

**Summary of Reading Materials for JPP Subcommittee Members
in Preparation for July 22 Meeting**

1. List of Issues 6, 12-17

- Prepared by JPP Subcommittee Staff. Reflects that Issue#6, dealing with the definition of "threatening wrongful action," has been consolidated with the other issues relating to coercive sexual relationships and abuse of authority.

2. U.S. Department of Defense, Report on Protections for Prospective Members and New Members of the Armed Forces During Entry-Level Processing and Training (May 2014)(14 Pages).

Provides DoD and Service perspectives on the need for an additional provision under Article 120, UCMJ, to criminalize sexual relationships between a superior and a subordinate. Additionally, the article summarizes current regulations within the individual Services that address these issues.

- Section 1741(d) of the FY14 NDAA required DoD to address whether a new UCMJ article is required to address violations of the Military Services' policies protecting prospective members and new members of the military during entry-level training.
- After discussing various charging mechanisms currently available for circumstances in which new Service members are victimized by persons in a supervisory capacity, the DoD determined a new article is not necessary. The DoD found that "because the UCMJ already criminalizes conduct that violates the policy set out in 1741(a) . . . a new UCMJ article addressing such violations is not required."
- Report also lists and discusses every service policy addressing prohibited relationships within each service.

3. Military Sex Scandals from Tailhook to the Present: The Cure Can Be Worse than the Disease, Duke Journal of Gender Law & Policy, May, 2007 (Professor Kingsley R. Browne)(47 pages)

- Pages 14-15 of the article address the Aberdeen cases, a subject that will be discussed by Major General Robert Shadley, U.S. Army (Ret.), during his afternoon session with Major General Woodward.

4. Commander Directed Investigation Report-Developing America's Airmen: A Review of Air Force Enlisted Training, 22 August 2012 (Executive Summary)(24 pages)

- Executive Summary addressing the investigation into command-directed investigation (CDI) based on substantiated misconduct within Air Force basic military training (BMT) that occurred between October 2010 and June 2011.
- Subcommittee member Major General Margaret Woodward, USAF (Ret.) served as the lead Investigating Officer and will discuss the Lackland cases and the Air Force's response during the afternoon session of the meeting.

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5. AETC Commander's Report to the Secretary of the Air Force - Review of Major General Woodward's Commander-Directed Investigation, 2 November 2012 (Executive Summary)(9 pages)

- Air Education and Training Command's review of Major General Woodward's investigation and report on steps to be instituted to prevent sexual misconduct by trainers during entry level training.

6. Services' RFI Response-Methods of Prosecuting Abuse of Authority Offenses in the Training Environment (8 pages)

- Question 7: Focusing on offenses involving abuse of power or position: What theories of criminal liability are used for trainer/trainee and senior/subordinate relationships, and why are they treated the same or differently?

7. Services' RFI Response-Impact of Imposing Strict Liability for Sexual Relationships in the Training Environment (3 pages)

- Question 9: What impact on trial practice would you anticipate if a "strict liability" standard was applied to sexual assault allegations involving trainer/trainee and/or senior/subordinate relationships? What impact would such a change have on organizational discipline and effectiveness?

8. Services' RFI Response-Examples of Charging Constructive Force Offenses in the Training Environment (3 pages)

- Question 10: Please provide sample specifications illustrating how prosecutors have charged an offense where there was a sexual act or sexual contact that involved constructive force by a trainer against a trainee or a senior against a subordinate.

9. Services' RFI Response-Charging Sexual Offenses in the Training Environment Under Articles Other Than Art. 120 (8 pages)

- Question 11: Other than charging offenses under Article 120, how have offenses been charged in cases of a sexual nature that involved either a trainer or superior who abused their power? Please provide sample specifications illustrating how offenses have been charged according to other punitive articles of the UCMJ. Have the 2007 and 2012 amendments to Article 120 changed how these offenses have been charged?

10. U.S. Army Training and Doctrine Command Regulation 350-6, dated 7 November 2013 (Paragraph 2-6(d) Prohibits Sexual Relationships with Trainees) (4 pages)

- Army's regulation prohibiting sexual relationships between trainers and trainees. Punitive regulation making any violation subject to punishment or court-martial as a violation of Article 92, UCMJ (Maximum punishment: 2 years confinement and dishonorable discharge). The portions of the regulation addressing sexual relationships and making it a punitive regulation are highlighted. The regulation imposes strict liability under Article 92 without regard to whether there was consent.

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11. U.S. Air Force Air Education and Training Command Instruction 36-2909, dated 2 December 2013 (Paragraph 2.3.3 Prohibits Sexual Relationships with Trainees) (3 pages)

- Air Force's regulation prohibiting sexual relationships between trainers and trainees. Punitive regulation making any violation subject to punishment or court-martial as a violation of Article 92, UCMJ (Maximum punishment: 2 years confinement and dishonorable discharge). The portions of the regulation addressing sexual relationships and making it a punitive regulation are highlighted. The regulation imposes strict liability under Article 92 without regard to whether there was consent.

12. U.S. Coast Guard Memorandum Order dated 9 December 2013 (Paragraph 4.b Prohibits Sexual Relationships with Trainees) (4 pages)

- Coast Guard's regulation prohibiting sexual relationships between trainers and trainees. Punitive regulation making any violation subject to punishment or court-martial as a violation of Article 92, UCMJ (Maximum punishment: 2 years confinement and dishonorable discharge). The portions of the regulation addressing sexual relationships and making it a punitive regulation are highlighted. The regulation imposes strict liability under Article 92 without regard to whether there was consent.

13. U.S. Marine Corps Depot Order P1510.31, dated 20 March 2014 (Paragraph 3201 Prohibits Sexual Relationships with Trainees) (6 pages)

- Marine Corps' regulation prohibiting sexual relationships between trainers and trainees. Punitive regulation making any violation subject to punishment or court-martial as a violation of Article 92, UCMJ (Maximum punishment: 2 years confinement and dishonorable discharge). The portions of the regulation addressing sexual relationships and making it a punitive regulation are highlighted. The regulation imposes strict liability under Article 92 without regard to whether there was consent.

14. U.S. Navy Recruit Training Instruction 3000.1A, dated 23 January 2008 (Paragraph 9.d. Prohibits Sexual Relationships with Trainees) (9 pages)

- Navy's regulation prohibiting sexual relationships between trainers and trainees. Punitive regulation making any violation subject to punishment or court-martial as a violation of Article 92, UCMJ (Maximum punishment: 2 years confinement and dishonorable discharge). The portions of the regulation addressing sexual relationships and making it a punitive regulation are highlighted. The regulation imposes strict liability under Article 92 without regard to whether there was consent.