



Judicial Proceedings Panel Subcommittee
Minutes of November 19, 2015 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 Subcommittee has been tasked to support the JPP by assisting with the Secretary's objectives for an independent review of the judicial proceedings conducted under the Uniform Code of Military Justice (UCMJ) involving adult sexual assault and related offenses since the amendments made to the UCMJ by section 541 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 (Public Law 112-81).

EVENT: The JPP Subcommittee held a telephonic meeting on November 19, 2015, from 9:06 a.m. to 10:36 a.m., to deliberate on several issues relating to Article 120 of the UCMJ and to review and discuss the draft report due to be delivered and briefed to the JPP on 11 December 2015.

LOCATION: The meeting was held telephonically, with the Subcommittee members listed below calling in to a centralized line manned by the JPP staff, from the Judicial Proceedings Panel Office, located at 875 North Randolph Street, Suite 150, Arlington, Virginia, 22203.

MATERIALS: A verbatim 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. Materials received by the Subcommittee are available on the JPP website: <http://jpp.whs.mil>.

PARTICIPANTS

Participating JPP Subcommittee Members:

The Honorable Barbara Jones, Chair
The Honorable Elizabeth Holtzman
Dean Michelle J. Anderson
Ms. Lisa M. Friel
Ms. Laurie Rose Kepros
Dean Lisa N. Schenck
Professor Stephen J. Schulhofer

Brigadier General (Retired) James R. Schwenk, U.S. Marine Corps
Ms. Jill Wine-Banks
Major General (Retired) Margaret H. Woodward, U.S. Air Force

Absent JPP Subcommittee Members:

Professor Lee D. Schinasi

Participating JPP Staff:

Colonel Kyle Green, U.S. Air Force, JPP Staff Director
Lieutenant Colonel Glen Hines, U.S. Marine Corps, Branch Chief, JPP Subcommittee
Lieutenant Colonel Kelly McGovern, U.S. Army, Deputy, JPP Staff Director
Mr. Kirtland Marsh, Staff Attorney
Ms. Sharon Zahn, Senior Paralegal and Meeting Recorder

Other Participants:

Ms. Maria Fried, Department of Defense Office of General Counsel, Designated Federal Official (DFO)

Presenter:

None

MEETING MINUTES

The DFO opened the meeting at 9:06 a.m.

Deliberations

The Subcommittee members discussed their draft report to the JPP and deliberated on several issues regarding Article 120 that the JPP had referred to the Subcommittee. Chairwoman Jones reviewed read-ahead materials that had been provided to the members and summarized the status of the some of the Subcommittee's conclusions and recommendations from previous deliberation sessions. The Subcommittee members spent the remainder of the meeting reviewing and discussing issues that remained open and not yet fully resolved by the Subcommittee.

Based on their deliberations, the Subcommittee asked the staff to make updates to the draft report for additional review by the Subcommittee. Judge Jones invited Ms. Wine-Banks, Dean Anderson, and Professor Schulhofer to brief the Subcommittee's report and recommendations to the JPP Panel at the public meeting to be held on 11 December 2015. In addition, she welcomed all members to attend and testify during the two discussion sessions to be held in the afternoon. The Subcommittee members agreed to hold another teleconference during the week after Thanksgiving to finalize their recommendations and report to the JPP.

The DFO closed the meeting at 10:36 a.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 November 19, 2015 JPP Subcommittee meeting, prepared by Neal R. Gross and Co., Inc.

Meeting Materials:

2. Meeting Agenda

Read Ahead Materials:

3. JPP Subcommittee Report Draft
4. Ms. Friel Redraft of a Definition of Incapable of Consent
5. Indecent Acts – Memorandum
6. Redline Article 120 text (2012) with Recommended Panel Changes
7. Pages 5 and 32 of JPP Subcommittee Report Draft with Comments from Professor Schulhofer
8. Redline Article 120 text (2012) with Comments from Professor Schulhofer