



Judicial Proceedings Panel Subcommittee
Minutes of December 2, 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 NDAA for FY 2012 (Public Law 112-81).

EVENT: The JPP Subcommittee held a telephonic meeting on December 2, 2015, from 10:35 a.m. to 12:20 p.m., to deliberate on open issues concerning Article 120 of the UCMJ and to review and discuss the draft report due to be delivered and briefed to the JPP on December 11, 2015.

LOCATION: The meeting was held telephonically, with the below-listed Subcommittee members calling in to a centralized line manned by the JPP staff, from the JPP 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
Ms. Laurie Rose Kepros
Dean Lisa N. Schenck
Professor Lee D. Schinasi
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:

Dean Michelle J. Anderson
Ms. Lisa M. Friel
Professor Stephen J. Schulhofer

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 the General Counsel, Designated Federal Official (DFO)
Mr. William Sprance, Department of Defense Office of the General Counsel, Designated Federal Official (DFO)

Presenter:

None

MEETING MINUTES

The DFO opened the meeting at 10:35 a.m.

Deliberations

Chairwoman Jones began the meeting by reviewing read-ahead materials that were provided to the members by the staff and summarizing the status of the Subcommittee's conclusions and recommendations from previous deliberation sessions. The Subcommittee members then reviewed the entirety of their draft report to the JPP concerning Article 120 of the UCMJ. They discussed each issue addressed in the report to ensure that it properly reflects the Subcommittee's conclusions and recommendations. The Subcommittee members deliberated and reached consensus concerning the remaining issue upon which they had not yet reached a conclusion.

Chairwoman Jones asked the staff to make further updates to the draft report based on the Subcommittee's discussion and then distribute an updated draft to the Subcommittee members for additional review. Chairwoman Jones requested that any Subcommittee member intending to submit an individual view or dissenting opinion provide the statement to the staff by Friday, December 4, 2015. The Subcommittee agreed to complete final edits to its report by Wednesday, December 9, 2015, in preparation for submitting the report to the JPP at its public meeting on Friday, December 11, 2015.

The DFO closed the meeting at 12:20 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 December 2, 2015, JPP Subcommittee meeting, prepared by Neal R. Gross and Co., Inc.

Read Ahead Materials:

2. JPP Subcommittee Report Draft
3. Redline Article 120 text (2012) with Recommended Panel Changes
4. Professor Schulhofer - Email Comments to draft report
5. Brigadier General Schwenk - Email Comments to draft report
6. Proposed Definition of "Cognitive Ability" in Article 120