

PUBLIC COMMENT FROM PROTECT OUR DEFENDERS

The attached document is a written public comment submitted by Mr. Don Christensen, President of Protect Our Defenders, in collaboration with Ms. Meg Garvin and Mr. Ryan Guilds, all of whom appeared before the JPP at the October 14, 2016 JPP Public Meeting.

The document was submitted in response to JPP Chair Elizabeth Holtzman's request at the October 14, 2016 meeting for Mr. Christensen to provide the Panel with suggested statutory language that would grant victims post-trial standing on direct appeal.

The document was received by the JPP via e-mail on Thursday, November 10, 2016 from Mr. Christensen.

This explanatory statement was prepared by JPP staff.

(e) Enforcement by Court of Criminal Appeals or Court of Appeals for the Armed Forces.—

(1) If the victim of an offense under this chapter believes that a preliminary hearing ruling under [section 832 of this title](#) (article 32) or a court-martial ruling violates the rights of the victim afforded by a section (article) or rule specified in paragraph (4), the victim may ~~file with petition~~ the Court of Criminal Appeals ~~for a writ of mandamus to a direct appeal to~~ require the preliminary hearing officer or the court-martial to comply with the section (article) or rule. ~~The victim may petition the Court of Appeals for the Armed Forces to review the decision of the Court of Criminal Appeals within 10 days of being notified of the decision of the Court of Criminal Appeals.~~

(2) If the victim of an offense under this chapter is subject to an order to submit to a deposition, notwithstanding the availability of the victim to testify at the court-martial trying the accused for the offense, the victim ~~may directly appeal to petition~~ the Court of Criminal Appeals ~~for a writ of mandamus~~ to quash such order.

(3) A ~~petition for a writ of mandamus~~ ~~direct appeal~~ described in this subsection shall be forwarded directly to the Court of Criminal Appeals, by such means as may be prescribed by the President, and, to the extent practicable, shall have priority over all other proceedings before the court.

(4) ~~If a victim's petition to the Court of Appeals for the Armed Forces is denied or the Court fails to grant the relief sought, the victim may petition a federal district court for an injunction to enforce the victim's rights under this section.~~

~~(4 5)~~ Paragraph (1) applies with respect to the protections afforded by the following:

(A) This section (article).

(B) Section 832 (article 32) of this title.

(C) Military Rule of Evidence 412, relating to the admission of evidence regarding a victim's sexual background.

(D) Military Rule of Evidence 513, relating to the psychotherapist-patient privilege.

(E) Military Rule of Evidence 514, relating to the victim advocate-victim privilege.

(F) Military Rule of Evidence 615, relating to the exclusion of witnesses.

(G) The Court of Criminal Appeals and the Court of Appeals for the Armed Forces shall apply the ordinary standards of appellate review for any appeal brought under this chapter.