

Military Justice Review Group



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of the
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Military Justice Review Group



Establishment of the MJRG

- SecDef directed the General Counsel to conduct “a comprehensive review of the Uniform Code of Military Justice (UCMJ) and the military justice system with support from military justice experts provided by the Services.” *Memo of 18 Oct 2013*
- The memo directs that “The review should include an analysis of not only the UCMJ, but also its implementation through the MCM [Manual for Courts-Martial] and Service regulations.”



. . . Establishment . . .

- DoD/GC established the Military Justice Review Group (MJRG) to conduct the review.
- The MJRG will produce two reports:
 - An initial Legislative Report with recommended amendments to the UCMJ; and
 - A follow-on report with recommended revisions of the Manual for Courts-Martial (MCM) and service regulations.



Members of the MJRG

- DoD/GC designated the following members of the MJRG:
 - The Director
 - The Staff Director
 - Military justice experts from all the Services, including the Coast Guard
 - Attorneys employed by DoD who have expertise in a broad range of military legal issues
 - Support staff nominated by the Services



Advisors Designated by the General Counsel

- Senior Advisors:
 - Hon. Judge David Sentelle
 - Hon. Judith Miller
- Department of Justice Advisor
 - Jonathan Wroblewski
- Role of the Advisors
 - Available for consultation in their area of expertise
 - Review proposed legislation and rules
 - Affirmative input on matters of interest to the MJRG



Guiding Principles Established by the General Counsel

- “Use the current UCMJ as a point of departure for a baseline reassessment.”
- “Where they differ with existing military justice practice, consider the extent to which the principles of law and the rules of procedure and evidence used in the trial of criminal cases in the United States district courts should be incorporated into military justice practice.”
- “To the extent practicable, UCMJ articles and MCM provisions should apply uniformly across the Military Services.”



.... Guiding Principles ...

- “Consider any recommendations, proposals, or analysis relating to military justice issued by the Response Systems Panel” (established per the NDAA for FY2013 and NDAA for FY2014).
- “Consider, as appropriate, the recommendations, proposals, and analysis in the report of the Defense Legal Policy Board, including the report of that Board’s Subcommittee on Military Justice in Combat Zones.”



The General Counsel's Guidance on Process

- The MJRG has authority to draw upon the experience of its members and to consider a broad range of information.
- With the assistance of the Legal Counsel to the Chairman of the Joint Chiefs of Staff, the MJRG will “solicit the views of general and flag officers with experience as general court-martial convening authorities.”
- The MJRG will coordinate selected proposals with the Judge Advocates General and other senior legal officials to ensure early identification of issues that may require resolution by the Secretary or Deputy Secretary of Defense.



MJRG Issue Identification and Review Process

- The comprehensive review is designed to address the operation of the UCMJ, MCM, service regulations, and related provisions of law during each phase of the process
 - From the allegation of misconduct through completion of direct and collateral review.
- In making recommendations, the MJRG may take into account, but is not bound by, past or current DoD positions on matters related to military justice.



... Issue Identification and Review ...

- The MJRG will take into account ongoing legislative and regulatory developments, such as:
 - Amendments to the MCM proposed by the Joint Service Committee on Military Justice, including those necessary to implement NDAA FY 14.
 - Proposals from the Response Systems to Adult Sexual Assault Crimes Panel.
 - Legislative changes enacted or under consideration during the period of the MJRG review.



... Issue Identification and Review ...

- The MJRG uses a team-oriented approach designed to foster interactive involvement of all members of the group on all issues.
- Using the articles of the UCMJ as the primary organizing principle, each phase of the military justice process has been assigned to one of the four MJRG teams for preparation of an initial review:
 - Structure
 - Pretrial and trial process
 - Punitive articles
 - Sentencing and post-trial



... Issue Identification and Review ...

- For each article and its implementing rules, the MJRG will review:
 - ✓ Historical background;
 - ✓ Current practice;
 - ✓ Judicial decisions;
 - ✓ Ongoing legislative and regulatory developments;
 - ✓ Scholarly commentary;
 - ✓ Parallel practices in military and civilian law at the state, national, and international levels (including focused dialogue with DoJ subject-matter experts);
 - ✓ Internal and external proposals;
 - ✓ Other sources of law and policy.



MJRG Process: Public input

- Opportunities for input during the review period:
 - E-mail to: **OSD.UCMJ@mail.mil**
 - Letters to: **Military Justice Review, Room 3B747, 1600 Defense Pentagon, Washington, DC 20301-1600**
 - Via the MJRG website: **<http://www.dod.mil/dodgc/mjrg.html>**
- Outreach
 - DoD/GC letters soliciting input from over 250 National, State, and local bar associations and organizations involved in criminal law and military legal issues.
 - Federal Register notice of opportunity to provide input
 - Military department outreach to active and retired judge advocates



Questions?

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