

The Uniform Code of Military Justice and Manual for Courts- Martial Proposals in Time of Change

VOLATILITY AHEAD

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Military Justice Statistics

FY 2015

General courts-martial:	1,104
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Special courts-martial:	836
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Summary courts-martial:	634
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Nonjudicial punishment:	51,792
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Military Justice Statistics

FY 2015

General courts-martial:	1,104
FY 2013:	(1,240)
Special courts-martial:	836
FY 2013:	(1,213)
Summary courts-martial:	634
FY 2013:	(1,101)
Nonjudicial punishment:	51,792
FY 2013:	(62,148)

Military Justice Statistics FY 2015

Military personnel size dropped 4.65% from FY 2000 to FY 2015

General courts-martial:	1,104
(down 31% from FY 2000:	1,607)
Special courts-martial:	836
(down 73% from FY 2000:	3,117)
Summary courts-martial:	634
(down 76.5% from FY 2000:	2,699)
Nonjudicial punishment:	51,792
(down 35.9% from FY 2000:	80,816)

Military Justice Statistics

FY 2015

Military personnel size dropped 36.7% from FY 1990 to FY 2015

General courts-martial:	1,104
(down 65.5% from FY 1990:	3,202)
Special courts-martial:	836
(down 87.5% from FY 1990:	6,705)
Summary courts-martial:	634
(down 84.5% from FY 1990:	4,104)
Nonjudicial punishment:	51,792
(down 64.8% from FY 1990:	146,527)

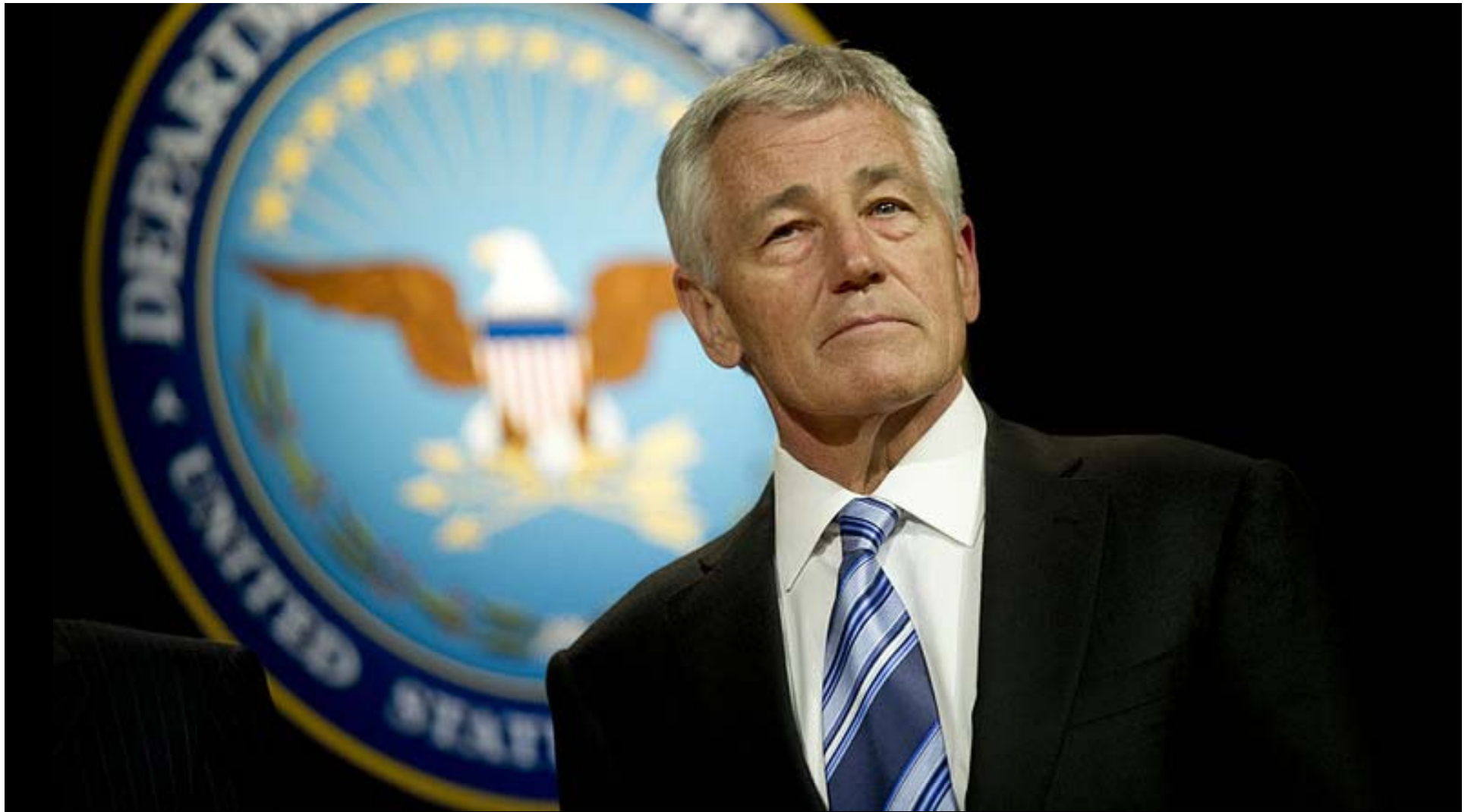




January 1, 2013 - present



**January 28, 2013: Air Force launches
Special Victims' Counsel Program**



August 14, 2013: Secretary Hagel ordered all DoD military services to implement SVC programs



REPORT OF THE RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT CRIMES PANEL

June 2014

National Defense Authorization Act for Fiscal Year 2014

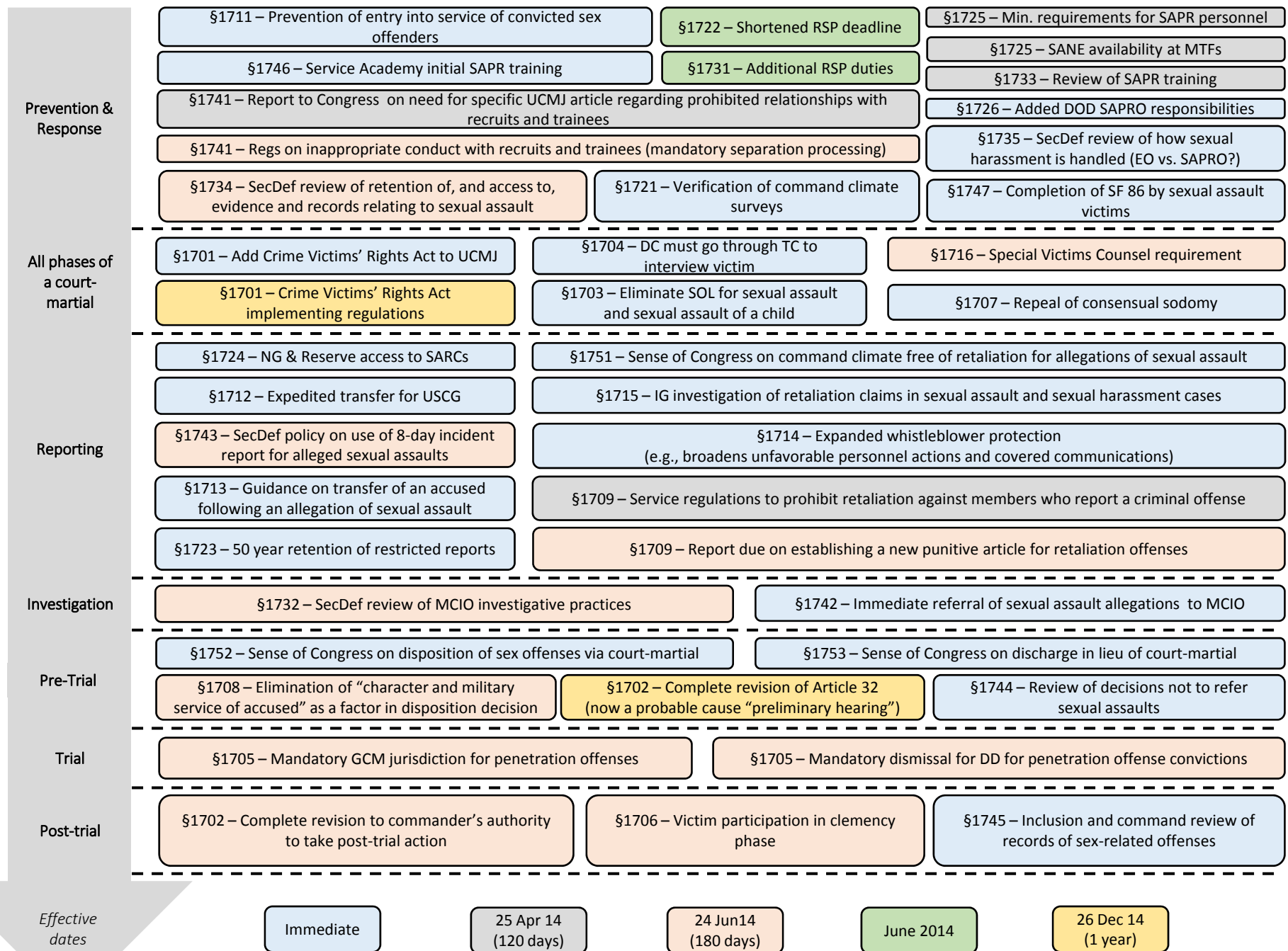
enacted Dec. 26, 2013

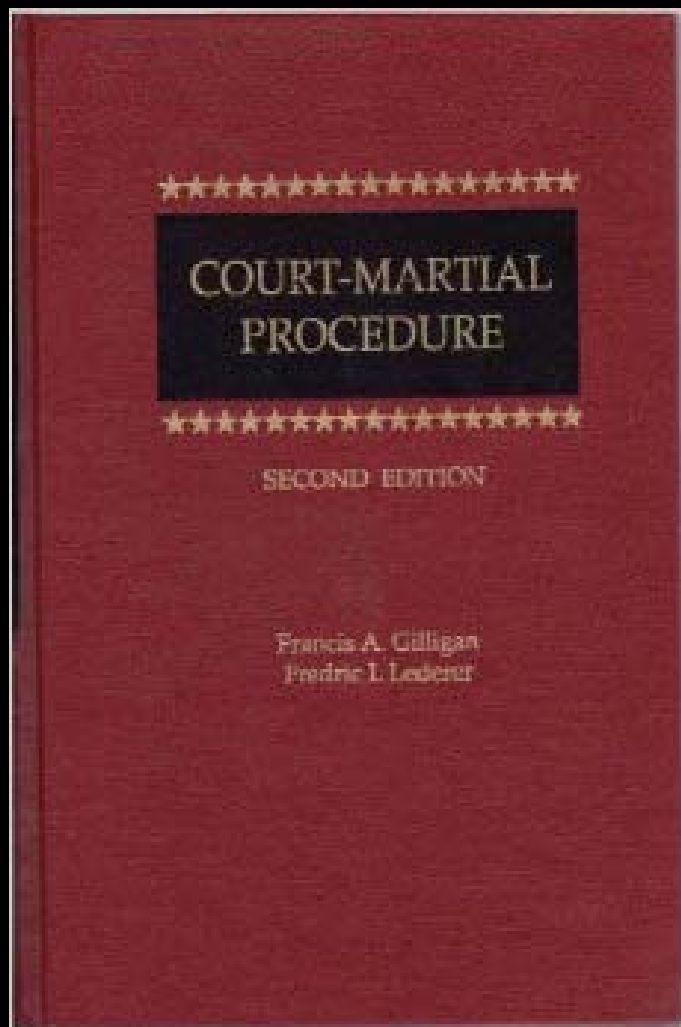
**Title XVII—Sexual Assault
Prevention and Response
and Related Reforms**

36 sections

16 military justice reforms







“[T]he system is now in great flux with Congress already having made the greatest changes since 1968 and apparently likely to make even more statutory changes.”

Francis Gilligan & Fredric Lederer, *The Amendments to Article 32 of the Uniform Code of Military Justice: From "Investigation" to "Preliminary Hearing,"*

2014 Emerging Issues 7205, LEXIS (June 19, 2014)

Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015



Enacted December 19, 2014

Title V, Subtitle D: Military Justice, Including Sexual Assault and Domestic Violence Prevention and Response

17 sections



National Defense Authorization Act for Fiscal Year 2016

enacted Nov. 25, 2015

**Title V, Subtitle D—Military
Justice, Including Sexual
Assault and Domestic
Violence Prevention and
Response**

15 sections



Uniform Code of Military Justice

Dec. 26, 2013 - present

**1 new UCMJ article (art. 6b)
enacted by NDAA for FY 2014;**

amended by NDAA for FY 2015;

**amended again by NDAA for FY
2016**

Uniform Code of Military Justice

Dec. 26, 2013 - present

**15 preexisting UCMJ
articles amended**

Uniform Code of Military Justice

Dec. 26, 2013 - present

**15 preexisting UCMJ
articles amended**

**6 of which were amended
twice**

**3 new title 10 sections enacted
outside of UCMJ**

**10 U.S.C. 1044e enacted by NDAA
for FY 2014**

amended by NDAA for FY 2015

amended by NDAA for FY 2016

**4 preexisting title 10 sections
outside of UCMJ amended**

Numerous uncodified statutory provisions

National Defense Authorization Act for Fiscal Year 2016

enacted Nov. 25, 2015

**Title V, Subtitle D—Military
Justice, Including Sexual
Assault and Domestic
Violence Prevention and
Response
15 sections**







**Requires President to reform Mil.
R. Evid. 304 to apply federal
civilian criminal case law's
corroboration standard to the
military**

§ 545

**United States v. Adams,
74 M.J. 137 (C.A.A.F. 2015)**



Issued April 27, 2015

Committee Amendment Proposed by
Mrs. Glickman

1 All the appropriate place in this V, insert the fol-
2 lowing:

3 SEC. [ADMISSION], MODIFICATION OF RULE 106 OF THE MILI-
4 TARY RULES OF EVIDENCE RELATING TO
5 THE CONSIDERATION OF A CONFESSION OR
6 ADMISION.

7 Not later than 180 days after the date of the enact-
8 ment of this Act, Rule 106(c) of the Military Rules of Evi-
9 dence shall be modified as follows:

10 (1) To provide that an admission or a confes-
11 sion of the accused may be considered as evidence
12 against the accused on the question of guilt or inno-
13 cence only if independent evidence, either direct or
14 circumstantial, has been admitted into evidence
15 which would tend to establish the truthfulness of
16 the [statement][admission or confession].

17 (2) To provide that not every element or fact
18 contained in the admission or confession must be
19 independently proven for the admission or confession
20 to be admitted into evidence in its entirety.

21 (3) To strike the rule that if independent evi-
22 dence raises an inference of the truth of some fact

1 not all of the essential facts admitted, the confession
2 or admission may be considered as evidence against
3 the accused only with respect to those essential facts
4 stated in the confession or admission that are cor-
5 roborated by the independent evidence.

6 (4) With respect to the quantum of evidence
7 needed to establish corroboration, to provide that the
8 independent evidence need make only an inference of
9 the truth of the admission or confession.

May 7, 2015



**Included in SASC markup of NDAA for FY
2016 on May 14, 2015**



**Included in Senate-passed NDAA for FY 2016,
passed on June 18, 2015**



**Amended version included in enacted
NDAA for FY 2016**



SPECIAL VICTIMS' COUNSEL

PROVIDES SEXUAL ASSAULT
VICTIMS LEGAL ASSISTANCE

§§ 531-35, 544



**Broadens alleged victims'
ability to pursue petitions
for extraordinary relief at
CCAs for alleged
violations of their rights**

§ 531



**Authorizes
provision of SVCs
to DOD civilian
employees**

§ 532



SVCs/VLCs to provide legal consultation regarding:

1.IG complaints

2.EEO matters

3.FOIA requests

**4.Communications with
Congress**

§ 533



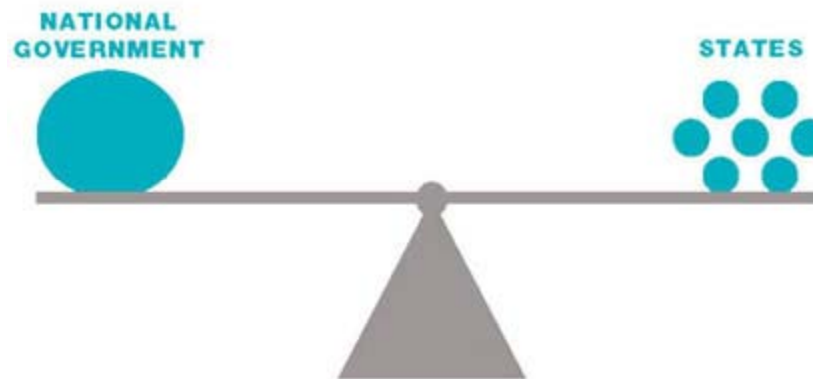
Generally requires TCs and criminal investigators to advise an eligible alleged victim of the availability of SVC representation before interviewing the alleged victim

§ 534

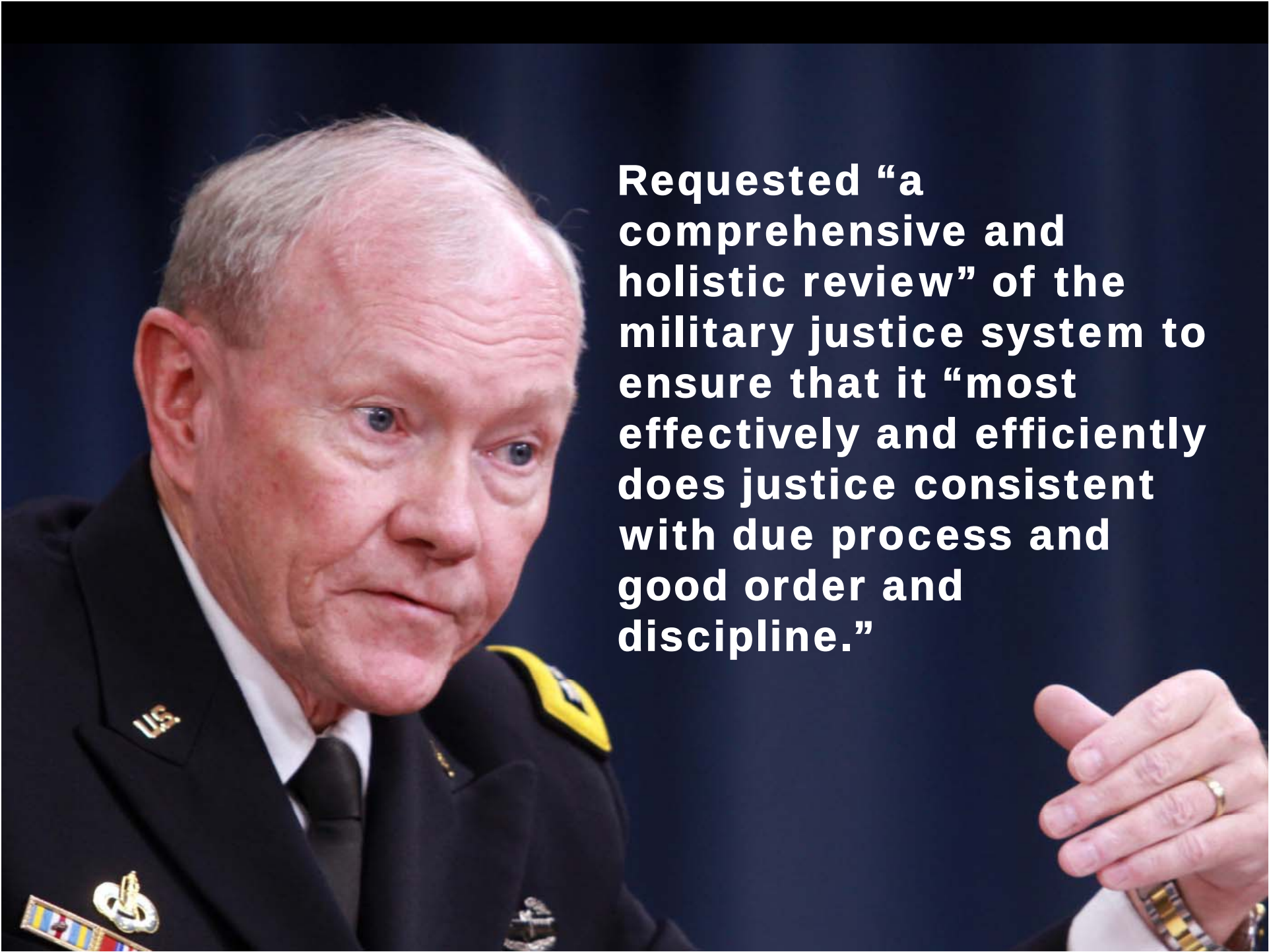


§ 536

**Preempts state laws
inconsistent with
restricted reporting
option**







Requested “a comprehensive and holistic review” of the military justice system to ensure that it “most effectively and efficiently does justice consistent with due process and good order and discipline.”







MILITARY JUSTICE REVIEW GROUP

