

THE JOINT SERVICE COMMITTEE ON MILITARY JUSTICE (JSC)

The JSC Mission:

DoD Directive 5500.17 establishes the role and mission of the Joint Service Committee on Military Justice (JSC). (See Appendix 26 of the Manual for Courts-Martial). Among the JSC's several responsibilities, the JSC must conduct an annual review of the Manual for Courts-Martial (MCM) in light of judicial and legislative developments in civilian and military practice. The JSC's annual review fulfills the Executive Order 12473 (July 13, 1984) requirement that "the Secretary of Defense shall cause the Manual for Courts-Martial to be reviewed annually and shall recommend to the President any appropriate amendments." This review assists the President in fulfilling his rule-making responsibilities under Articles 36 and 56 of the Uniform Code of Military Justice (UCMJ). Statutory amendments to the UCMJ require corresponding amendments to the MCM to ensure the Rules for Court-Martial (R.C.M.) comport with statutory amendments. Similarly, amendments to the Federal Rules of Evidence require a review of the Military Rules of Evidence.

Organization and Operation:

Under the direction of the General Counsel of the Department of Defense, the JSC is comprised of voting group members and working group members from the Judge Advocates General of the Navy, Air Force, Army and Coast Guard, and the SJA to Commandant of the Marine Corps. The JSC Chairmanship rotates biennially among the Army, Navy, and Air Force representatives. An Executive Secretary of the Chairman's military service maintains a record of each JSC proposal during the Chairman's tenure, tracks all actions, and prepares the agenda for each JSC meeting. The Army serves as the executive agent for the printing of the MCM and archiving JSC matters.

As a general rule, the JSC voting group representatives are the Military Services' respective Chiefs of Military Justice or Criminal Law. The non-voting representatives to the JSC include attorneys representing the General Counsel of the Department of Defense, the United States Court of Appeals from the Armed Forces, and the Chairman of the Joint Chiefs of Staff. The JSC voting group usually meets once a month, while the JSC working group meets twice a month. The JSC working group performs most of the research and drafting of proposals. The JSC working group forwards proposals and recommendations to the JSC voting group. Unanimous agreement on all proposals to amend the MCM is the committee's objective. However, a majority vote of the JSC voting group representatives will result in approval of a specific proposal.

Role and Responsibilities:

The JSC reviews proposed amendments with a few basic goals in mind: 1) conformity with Federal practice to the extent possible, except where the UCMJ requires otherwise or where specific military requirements render such conformity impracticable; 2) usefulness to military law practitioners (military and civilian) and non-lawyers; 3)

workability across the Services' spectrum of environments in which they operate (i.e., land, sea, air, and space) and varied mission requirements, to include combat conditions and operations. As a DoD standing committee, the JSC expertise in military justice has been called upon to perform studies and conduct special reviews of military justice topics or issues beyond its primary charter and to provide recommendations to the Department's senior military leaders and civilian officials.

Summary of Review and Executive Order Procedures:

The JSC annual review cycle is based on a calendar year ending on 31 December. The completed review with recommendations for change, if any, is forwarded to the General Counsel of the Department of Defense, as the Secretary's designated official responsible for this annual review. Proposed amendments to the MCM are published in the Federal Register in order to inform the public and solicit comments on the proposed amendments. Thereafter, the Department of Defense will conduct a formal DOD coordination process. MCM changes that are generated by UCMJ amendments and other proposals that are not generated by statutory provisions will be incorporated into a proposed Executive Order amendment to the MCM. The General Counsel then forwards the assembled JSC annual review "package" of proposed amendments to the Director, Office of Management and Budget for review and for further coordination among the other Federal agencies. Thereafter, the proposed Executive Order of amendments is transmitted to the President of the United States for approval and Federal Register publication.

Over the years, the JSC has proved to be an effective and efficient vehicle for evaluating and promoting MCM and UCMJ amendments. The JSC voting and working groups bring a broad variety of military justice experience as trial attorneys, staff judge advocates, and military judges to the collegial discussions and lively debates that help ensure that the UCMJ and MCM remain current and responsive to the needs of the Armed Forces and individual service members.