

Dated: January 29, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2015-OS-0010]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee (JSC) on Military Justice, DoD.

ACTION: Annual Review of the Manual for Courts-Martial, United States.

SUMMARY: The JSC is conducting its annual review of the Manual for Courts-Martial (MCM), United States. The committee invites members of the public to suggest changes to the MCM. Please provide supporting rationale for any proposed changes.

In light of the significant changes to the military justice system resulting from the National Defense Authorization Acts for Fiscal Years 2014 and 2015, the JSC will not consider proposed changes submitted prior to October 1, 2014 during this annual review. If the proponent of any proposed change submitted prior to October 1, 2014 would like a previously submitted proposal to be considered by the JSC, it must be resubmitted as explained in this notice.

DATES: Proposed changes must be received no later than April 6, 2015.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350-3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Captain Harlye S. Carlton, USMC,

Executive Secretary, JSC, at (703) 693-9299 or via email at harlye.carlton@usmc.mil.

SUPPLEMENTARY INFORMATION: The JSC is conducting this annual review of the MCM pursuant to Executive Order 12473—Manual for Courts-Martial, United States, 1984, and Department of Defense Directive 5500.17, Role and Responsibility of the Joint Service Committee (JSC) on Military Justice.

Dated: January 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2014-OS-0140]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), Department of Defense.

ACTION: Notice of response to public comments on proposed amendments to the Manual for Courts-Martial, United States (2012 ed.).

SUMMARY: The Joint Service Committee on Military Justice (JSC) is publishing final proposed amendments to the Manual for Courts-Martial, United States (MCM). The proposed changes concern the rules of evidence and the punitive articles applicable in trials by courts-martial. These proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation, Processing and Coordinating Legislation, Executive Orders, Proclamations, Views Letters and Testimony," June 15, 2007, and do not constitute the official position of the Department of Defense, the Military Departments, or any other Government agency.

FOR FURTHER INFORMATION CONTACT: Capt Harlye S. Carlton, USMC, (703) 963-9299 or harlye.carlton@usmc.mil.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2014 (79 FR 59938-59959), the JSC published a Notice of Proposed Amendments concerning the rules of procedure and evidence and the punitive articles applicable in trials by courts-martial and a Notice of Public Meeting to receive comments on these proposals. The public meeting was held

on October 29, 2014. Two members of the public provided oral comments at the public meeting, with one of the members of the public also submitting a written comment. Additionally, several written comments were received electronically. All comments were considered by the JSC.

Public Comments: Comments and materials received from the public are available under Docket ID Number DoD-2014-OS-0140-0001, **Federal Register** Number 2014-23546, and at the following link <http://www.regulations.gov/#!documentDetail;D=DOD-2014-OS-0140-0001>.

Discussion of Comments and Changes

The JSC considered each public comment and made some modifications to the proposed amendments accordingly. Additionally, the JSC added proposed amendments to implement provisions in the National Defense Authorization Act for Fiscal Year 2015, Public Law 113-291, December 19, 2014 (FY15 NDAA). Comments that were submitted that are outside the scope of these proposed changes will be considered as part of the JSC's 2015 annual review of the MCM. The JSC will forward the public comments and proposed amendments to the Department of Defense. The public comments regarding the proposed changes and a summary of proposed amendments to implement FY15 NDAA provisions follow:

a. Several comments recommended adding a requirement to RCM 305(i) that a neutral and detached officer should inquire whether a victim has been contacted and provided the opportunity to be heard during the 7-day review of pretrial confinement. Comments also recommended that a neutral and detached officer should inquire whether the victim has waived the right to be heard. The JSC has adopted this proposal in part as follows:

—R.C.M. 305(i)(2)(D) is amended to read as follows:

"*Memorandum.* The 7-day reviewing officer's conclusions, including the factual findings on which they are based, shall be set forth in a written memorandum. The memorandum shall also state whether the victim was notified of the review, was given the opportunity to confer with the representative of the command or counsel for the government, and was given a reasonable opportunity to be heard. A copy of the memorandum and all documents considered by the 7-day reviewing officer shall be maintained in accordance with regulations prescribed by the Secretary concerned and provided to the accused or the Government on request."

b. Two comments recommended amending RCM 702 to clarify that the