



Reserve Info Bulletin



Military Justice Act of 2016 – Biggest Change to UCMJ in 60 Years

On 01 JAN 2019, changes to both the Uniform Code of Military Justice and the Coast Guard's Military Justice Manual will go into effect. These amendments are part of the Military Justice Act of 2016 and cover a number of issues including the closure of jurisdictional gaps concerning reservists on IDT by extending UCMJ jurisdiction throughout the entire drill period, including after working hours and while the reservist is traveling to and from the IDT training site.

These amendments are part of the most comprehensive changes made to the UCMJ in over 60 years. Other major changes include provisions to modernize courts-martial practice, updates to punitive articles, new investigative authorities, the creation of a new judge-alone special court martial and new protections for military crime victims.

The UCMJ §802. Art. 2, "Persons subject to this chapter" is amended to include members of the reserve component under the following circumstances: (1) Travel to and from the inactive-duty training site of the member, pursuant to orders; (2) Intervals between consecutive periods of inactive-duty training on the same day, pursuant to orders; and (3) Intervals between inactive-duty training on consecutive days, pursuant to orders.

The Military Justice Manual COMDTINST M5810.1G will be revised to read as follows in Chapter 2 Non-Judicial Punishment, Section C, Persons Subject to NJP:

“C.3. Reservists: A member of the Reserves is subject to the UCMJ while performing Inactive Duty for Training (IDT), Active Duty for Training (ADT), or active duty. Accordingly, all offenses committed by a reservist while on active duty, IDT, or ADT may subject the reservist to discipline, including NJP. Personal jurisdiction over reservists performing IDT includes travel to and from their IDT training site, intervals between consecutive periods of IDT on the same day, and intervals between IDT on consecutive days. See Article 2(a)(3), UCMJ. Reservists performing IDT or ADT with an active service unit are considered under that unit’s control in the same manner as TAD personnel. See generally Ch. 3, Reserve Policy Manual, COMDTINST M1001.28 (series).”

Questions should be directed to your cognizant Staff Judge Advocate.

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COMDTNOTE 5810

SUBJ: MILITARY JUSTICE ACT OF 2016-BIGGEST CHANGE TO UCMJ IN 60 YEARS

A. National Defense Authorization Act for Fiscal Year 2017, Public Law 114-328

B. Exec. Order No. 13825, 80 Fed. Reg. 46 (Mar. 8, 2018)

1. The Uniform Code of Military Justice (UCMJ) is changing; on January 1, 2019, the biggest reforms to the military justice system since the Korean War go into effect. These changes affect every member of the service.

2. The Military Justice Act of 2016 (MJA 16), passed as Division E of REF (A), contains the most comprehensive changes to the UCMJ in over sixty years. On March 1, 2018, President Trump signed REF (B), which implements these changes and amends significant portions of the Manual for Courts-Martial. REF (B) is posted on the Joint Service Committee on Military Justice public webpage, located at <https://jsc.defense.gov/>. Most of the changes will take effect on January 1, 2019.

3. MJA 16 modernizes courts-martial practice and incorporates best practices from the federal criminal system, adds new investigative tools for criminal investigators, and alters the responsibilities of commanders and judges within the military justice system. Some of the most notable changes include:

a. Updated and New Punitive Articles to the UCMJ. For example, a new criminal offense will now prohibit sexual relations, regardless of consent, between service members serving in accessions/training roles (e.g. recruiters, company commanders) and their recruits/trainees. The law also added offenses that criminalize theft carried out using credit and debit cards (Article 121a), stalking and cyber-stalking (Article 130), and acts of retaliation against victims and persons who report crimes (Article 132).

b. New Investigative Authorities. Government lawyers will now be able to use subpoenas to obtain evidence earlier in the investigative process. In addition, amendments to the Stored Communications Act will also enable investigators to obtain orders and warrants from a military judge to compel disclosure of the contents of electronic communications from an electronic services provider (e.g. Google, Facebook).

c. New Judge-Along Special Court-Martial. A new form of special court-martial will allow commanders to refer cases to a judge-alone court-martial with no right for a members panel (jury), with punishments limited to six months confinement and six months of forfeitures. There is no ability to refuse this type of court-martial. This type of court-martial will allow commanders to prosecute lower-level misconduct more efficiently.

d. Additional victim-centric provisions. The rights of military crime victims expands to legal guardians of the victim or representatives of the victim's estate, family members, or any other person designated by the military judge. The law will require the accused's lawyer to interview alleged victims through the Special Victim's Counsel.

e. Expanded Jurisdiction over Reservists. Article 2 has been amended to address jurisdictional gaps of Reservists on inactive-duty training (IDT). MJA 16 extends UCMJ jurisdiction throughout the entire drill period, including after working hours and while the Reservists are traveling to and from the IDT training site.



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4. Required Training. MJA 16 includes an amendment to Article 137, UCMJ, which requires officers with authority to convene general or special courts-martial or to administer non-judicial punishment (NJP) to receive periodic training on the purpose and administration of the UCMJ. Enlisted personnel with authority to administer NJP are also required to receive this training. All commanders, commanding officers, and officers-in-charge have an obligation to become familiar with the UCMJ, to include MJA 16 changes, before they take effect on January 1, 2019.

5. Staff Judge Advocates (SJAs) will ensure all personnel with authority to convene general or special courts-martial and administer NJP within their respective commands receive MJA 16 training no later than Monday, December 31, 2018. After January 1, 2019, all courts-martial convening authorities and personnel with the authority to administer NJP must receive MJA 16 training from the cognizant Staff Judge Advocate's office before exercising such authority.

6. Staff Judge Advocates will document completion of UCMJ training for respective personnel within their commands and report completion to COMDT (CG-LMJ) via e-mail to the listed POC no later than Tuesday, January 15, 2019.

7. Training materials related to MJA 16 are posted on the following CG Portal site: <https://cg.portal.uscg.mil/units/cg094/cglmj/SitePages/Home.aspx>.

8. POC: LCDR Emily A. Rose, COMDT (CG-LMJ), Emily.A.Rose@uscg.mil or (202) 372-3811.

9. RADM S. J. Andersen, Judge Advocate General and Chief Counsel, sends.

10. Internet release is authorized.