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SUBJ/UPDATED POLICY GOVERNING THE INITIAL REVIEW OF PRETRIAL
CONFINEMENT//

REF/A/DOC/MCM/15SEP23//
REF/B/DOC/JAGINST 5800.7G CH-2/01DEC23//

NARR/REF A IS THE MANUAL FOR COURTS-MARTIAL.
REF B IS JAGINST 5800.7G CH-2 MANUAL OF THE JUDGE ADVOCATE GENERAL//

RMKS/1. This message updates the personnel authorized to act as initial review officers for the purposes of Rule for Courts-Martial (R.C.M.) 305(j) (2) of reference (a).

2. Effective immediately, the following policy applies:

a. Unless impracticable, the Chief Judge of the Navy and Marine Corps Trial Judiciary, or their designee, will designate a military judge or magistrate to act as the initial review officer for purposes of R.C.M. 305(j) (2). The military judge or magistrate determines the location of the R.C.M. 305(j) review. Such assignment may be conducted via remote means at the discretion of the designated military judge or magistrate. The military judge or magistrate will consider input on operational impact, if any, from the confinee's commanding officer prior to determining the status of the hearing.

b. If designation of a military judge or magistrate is impracticable, a General Court-Martial Convening Authority (GCMCA) will designate a judge advocate, normally of the grade of O-4 or higher, qualified and certified under Article 27b, Uniform Code of Military Justice (UCMJ), to act as the initial review officer for purposes of R.C.M. 305(j) (2). For hearings conducted on installations with a military confinement facility, the GCMCA exercising jurisdiction over the confinement facility will assign the initial review officers to specific cases. For hearings conducted on installations without a military confinement facility, the GCMCA of the confinee's parent command or regional commander (if applicable) will assign the initial review officer.

c. The initial review officer must follow the procedures outlined in R.C.M. 305(j) (2) (A), to include permitting the victim to be reasonably heard.

The initial review officer will forward a copy of the documents considered and memorandum prepared under R.C.M. 305(j) (2) (D) in each case to the confinee's brig file and to the commander that ordered the Service Member into confinement.

d. The officers designated as initial review officers must be neutral and detached judge advocates qualified and certified under Article 27b, UCMJ, and selected for their maturity and experience. Service as a staff judge advocate is not disqualifying as long as that officer is neutral and detached from the chain of command of the officer ordering pretrial confinement. Nothing in this rule prohibits the use of an initial review officer designated by one GCMCA from reviewing the confinement of a Service Member of another command or service.

4. I direct the Judge Advocate General of the Navy to update reference (b) to reflect this policy change. Until then, this ALNAV controls.

5. The Department of the Navy remains committed to the principle of keeping faith with all who serve.

6. Released by the Honorable Carlos Del Toro, Secretary of the Navy.//

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