

Report to Wilber M. Brucker, Secretary of the Army, by the Committee on the Uniform Code of Military Justice Good Order and Discipline in the Army.

On October 7, 1959 LTG Herbert B. Powell was advised that Secretary of the Army Wilber M. Brucker was establishing, with Powell as president, a new ad hoc committee to study the Uniform Code of Military Justice (UCMJ). The letter of instructions to LTG Powell noted that the “wide range of judicial actions based upon the Uniform Code of Military Justice” that had been rendered in the UCMJ’s eight-year history “warranted a comprehensive survey of the effectiveness and the equity of the Code in the application of military justice within the Department of the Army.”¹ The ad hoc committee was directed to undertake such a survey, focusing on the UCMJ’s “bearing on good order and discipline within the Army.”² The committee was also tasked to consider if improvements should be made to the Code, “by legislation or otherwise,” and to “analyze any inequities or injustices that accrue to the Government or to individuals from the application of the Code and judicial decisions stemming therefrom.”³

The committee report references two bills pending before the 86th Congress that proposed “significant amendment to the UCMJ.”⁴ H.R. 3455 is described in the report as an American Legion bill, which the Judge Advocate General, the Department of Defense (DOD), and the ad hoc committee opposed in its entirety. H.R. 3387 is described in the report as DOD omnibus amendments which incorporate changes that had been requested by the Court of Military Appeals and the services since 1953.⁵ It was also endorsed by the three Judge Advocates General. H.R. 3387 was “directed toward increasing powers under Article 15, and improving procedures in processing general court-martial records through appellate review.”⁶ The committee noted several provisions of H.R. 3387 that merited support, but concluded that “the proposals incorporated in [the bill] would not “meet the requirements imposed by operations in wartime.”⁷ In February 1959, House Armed Services Committee chairman Carl Vinson (D-GA) created a special subcommittee to consider this bill, chaired by Rep. Paul Kilday (D-TX).⁸ However, there are no public records of hearings conducted, or reports issued, by this subcommittee. The 86th Congress did not take any action on either H.R. 3455 or H.R. 3387.

At the outset of its work, the committee established eight requisites for an effective military justice system, against which the UCMJ and proposed modifications

¹ Committee on the Uniform Code of Military Justice, Good Order and Discipline in the Army, “Report to Honorable Wilber M. Brucker, Secretary of the Army,” 18 January 1960, 249.

² “Report to Secretary Brucker,” 249.

³ “Report to Secretary Brucker,” 1.

⁴ “Report to Secretary Brucker,” 203.

⁵ “Report to Secretary Brucker,” 1.

⁶ “Report to Secretary Brucker,” 204.

⁷ “Report to Secretary Brucker,” 205.

⁸ House Committee on Armed Services Special Subcommittee, Amendments to the Uniform Code of Military Justice, H.R. 3387.

thereto “must be measured.”⁹ These included supporting the mission of the armed forces, in war and peace, at home and overseas; fostering good order and discipline; providing commanders with sufficient authority to discharge their responsibilities; and protecting the rights of individuals while preventing the abuse of punitive powers. Working with the Adjutant General and the Judge Advocate General, the committee solicited the opinions of enlisted persons, company, battalion and battle group commanders, and military lawyers.

The report discusses the findings and recommendations of the committee with regard to the numerous issues it considered, grouped by topical headings: command responsibility; commanders’ corrective powers; military justice procedures before trial; procedures in trials by courts-martial; sentences; records of trial and review of findings; jurisdiction and substantive offenses; improvements for stability; and related problems. The majority of the committee’s recommendations are amendments to numerous articles of the UCMJ. The committee also recommends the publication by the Chief of Staff of a clarifying directive with regard to command responsibility; amending the Table of Maximum Punishments for specific offenses and the Manual of Courts-Martial with regard to the rule for mental responsibility; and reconsideration of current regulations regarding Article 15 punishment records.

The final report was submitted by the mandated completion date—January 1960—and approved by Secretary Brucker on October 13, 1960.

⁹ “Report to Secretary Brucker,” 2.