



THE MILITARY JUSTICE REVIEW PANEL  
ARTICLE 146, UNIFORM CODE OF MILITARY JUSTICE

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January 19, 2023

MEMORANDUM FOR General Counsel of the Department of Defense

SUBJECT: Restitution as an Authorized Portion of a Court-Martial Sentence

1. On behalf of the Military Justice Review Panel (MJRP), in response to your May 11, 2022, request, I respectfully submit this assessment of the recommendations of the Joint Service Committee on Military Justice's (JSC) report on the potential addition of an order directing restitution to the victim as an authorized portion of a court-martial sentence.

2. In reaching this assessment, the Panel reviewed the *Report of the Joint Service Committee's Subcommittee on the Implementation of Restitution Orders as a Part of Court-Martial Sentencing*, and Recommendation 1.5 (Mandatory Restitution) from the Independent Review Commission (IRC) report: *Hard Truths and the Duty to Change: Recommendations from the Independent Review Commission on Sexual Assault in the Military*, and the official JSC recommendations submitted to you in the JSC's March 23, 2022, memorandum. The Panel also received testimony on October 20, 2022, from Colonel K. Scott Woodard, JSC Voting Group member, and Major Kelly Haslup, Executive Secretary of the JSC and member of the JSC subcommittee on restitution.

3. We decline to endorse IRC Recommendation 1.5 that restitution orders be authorized as part of court-martial sentences. The court-martial sentencing process would require extensive modification, with additional hearings and discovery, to implement such orders. Even if a new regime of sentencing that includes restitution orders was created, those orders would be difficult to enforce because of the limits of military jurisdiction, reducing their effectiveness for victims in need of support. Should the Department of Defense wish to further consider this issue, we suggest additional study of other potential ways to compensate victims for limited out-of-pocket expenses incurred as a direct result of a service member's crimes.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth L. Hillman".

Dr. Elizabeth L. Hillman, Chair