

From: [Ham, Patricia, COL, DoD GC](#)
To: [Ham, Patricia, COL, DoD GC](#)
Subject: 576 Panel - for the Role of the Commander committee
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Attachments: [AcousticSeparation.pdf](#)

From: Vanlandingham, Rachel E. [REDACTED]
Sent: Sunday, July 21, 2013 6:20 AM
To: Beth Hillman
Cc: Hillman, Elizabeth
Subject: 576 Panel

Beth, I hope you are having a wonderful summer, and congratulations again on your selection to the 576 panel! If I may be so bold: I've attached my recently-completed article (forthcoming Ohio State Journal of Criminal Law) which I believe could be useful to the panel. Informed by Prof Meir Dan-Cohen's work, with a healthy dose of Professors Norm Abrams and Ellen Podgor, it recommends a set of ethical rules for commanders -- a commander code of conduct, if you will, to guide prosecutorial (and disciplinary) discretion. It is roughly analogous to chapter 9 of DOJ's internal manual governing U.S. attorneys, and includes constitutional precepts from CAAF case law (prohibition against discrimination in prosecution based on race, sex, sexual orientation, etc) as well as rules based on the ABA Criminal Justice Prosecution Function Standards, DOJ Manual, etc. The general nature of the recommendations skirt unlawful command influence concerns while adding rigor to commander decision-making.

Anyway, I think it provides something valuable for the 576 panel to consider as improving the current military justice system, but without removing the commander as the fulcrum in said system. In fact, these ethical rules reinforce and bolster that role, but contribute to more consistent and just results by ensuring there are transparent and reasonable decisional touchstones guiding commander discretion.

Best of luck on the panel!

Warm regards, Rachel VanLandingham
Visiting Assistant Professor, Stetson University College of Law
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