

From: Green, Shannon L CIV USMC MCCDC (US)
To: Ham, Patricia A COL USARMY OSD OGC (US)
Cc: Saunders, Terri A CIV OSD OGC (US); Green, Kyle W LTCOL USAF OSD OGC (US)
Subject: FW: article
Date: Thursday, December 05, 2013 9:16:00 AM
Attachments: Court Martial System in Combat.pdf

Ma'am,

Last Monday, I received the attached article from Sen Gillibrand's staff requesting that it be provided to the Panel in response to criticisms of the MJIA (I think specifically Sen McCaskill's claim that Commander's will not be able to hold courts-martial in deployed environments under the MJIA but rather will be forced to send troops 'back to Washington').

The article is written by an active duty Army JAG; he examines after action reports from deployed JAGs and other data to discuss the manner in which offenses were dealt with in Iraq and Afghanistan. The article points to the relatively few courts-martial that have taken place in OIF/OEF and the fact that many times the accused was sent back to the US for action. Sen Gillibrand would say (see below) that the MJIA would "make it easier for courts-martial to be carried out overseas because it would be an independent convening authority (not tasked with fighting a war) who would do the convening."

v/r
Shannon

-----Original Message-----

From: Banai, Moran (Gillibrand) [REDACTED]
Sent: Monday, December 02, 2013 3:17 PM
To: Green, Shannon L CIV USMC MCCDC (US)
Subject: article

I would highly recommend sharing with the committee the attached article from an active duty JAG that uses data to argue that very rarely in Iraq and Afghanistan are/were courts martial done in the field (in fact, there were none in the first four years in Afghanistan, I believe.) Rather the commanders used other means to punish the alleged perpetrator, or they sent the case to the US where sometimes nothing happened at all as it was hard to fly local witnesses to the US and for other reasons. The author argues that this is one of the reasons we could not get a SOFA signed with the Iraqi government and had to completely leave -- the Iraqi people were tired of not seeing any justice for crimes committed by US service members - and I've heard many Afghans feel the same way... Our system, if anything, could make it easier for courts martial to be carried out overseas because it would be an independent convening authority (not tasked with fighting a war) who would do the convening.