

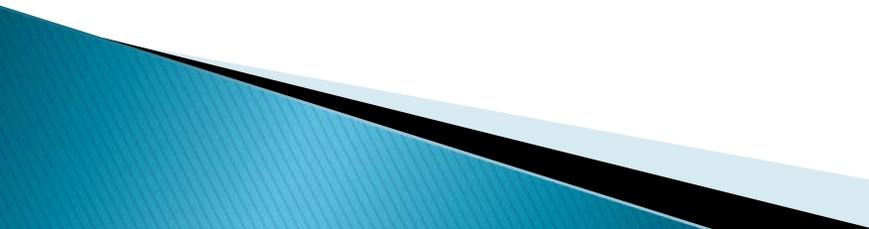
Evolution of the Military Criminal Legal System

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Roadmap

- ▶ **Discipline and/or justice**
 - ▶ **Judicialization**
 - ▶ **Civilianization**
 - ▶ **Some concluding thoughts**
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Discipline (1774–1917)

- ▶ **Effective and efficient Army must be a disciplined Army**
 - ▶ **What is ‘discipline’?**
 - ▶ **Military criminal legal system exists as commander’s tool for ensuring discipline**
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Discipline (1774–1917)

▶ **Commanders were expected to render justice**

---but:

- **Arbitrary actions**
- **Lack of uniformity in prosecutions**
- **Wide sentence disparity**

Judicialization (1917–1983)

- ▶ **Houston Riots courts–martial of 1917**
 - **Birth of appellate process**
- ▶ **Ansell–Crowder controversy**
- ▶ **Judicialization: 1917 to 1983**



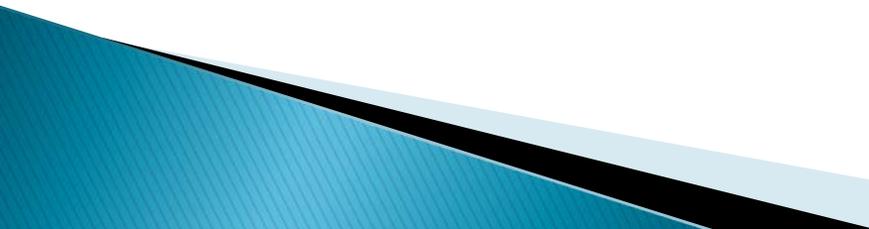
Civilianization (1950–present)

- ▶ Focus on justice & increased due process for accused
- ▶ UCMJ, Article 36
 - Military Rules of Evidence
- ▶ Military Justice Act of 1968
 - Military judge
- ▶ Military Justice Act of 1983
 - Government appeals
 - Direct appeal to Supreme Court
- ▶ *Solorio v. United States* (1987)





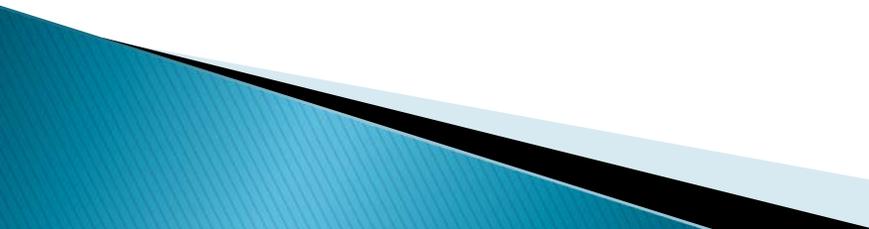
Some conclusions

- ▶ ***Evolution / metamorphosis*** from commander's disciplinary tool to system of justice
 - ▶ All changes to system have focused on ***increased due process for accused***
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- ▶ (current proponents of change(s) to system focus on *victims*)

- ▶ Focus on justice (vice discipline) has meant corresponding restriction in role of commander *in the process*

- ▶ **But today**
 - **Disciplinary component remains critical tool for commander**
 - **Commander retains ultimate power in that *only* he/she can start the process**

- ▶ **Future restrictions on commander authority *in the process?***
 - ▶ **Removing commander from the system *for some offenses?***
 - ▶ **Removing commander *from the system?***
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▶ **“Law of unintended consequences”**

▶ **Questions? Comments?**

