



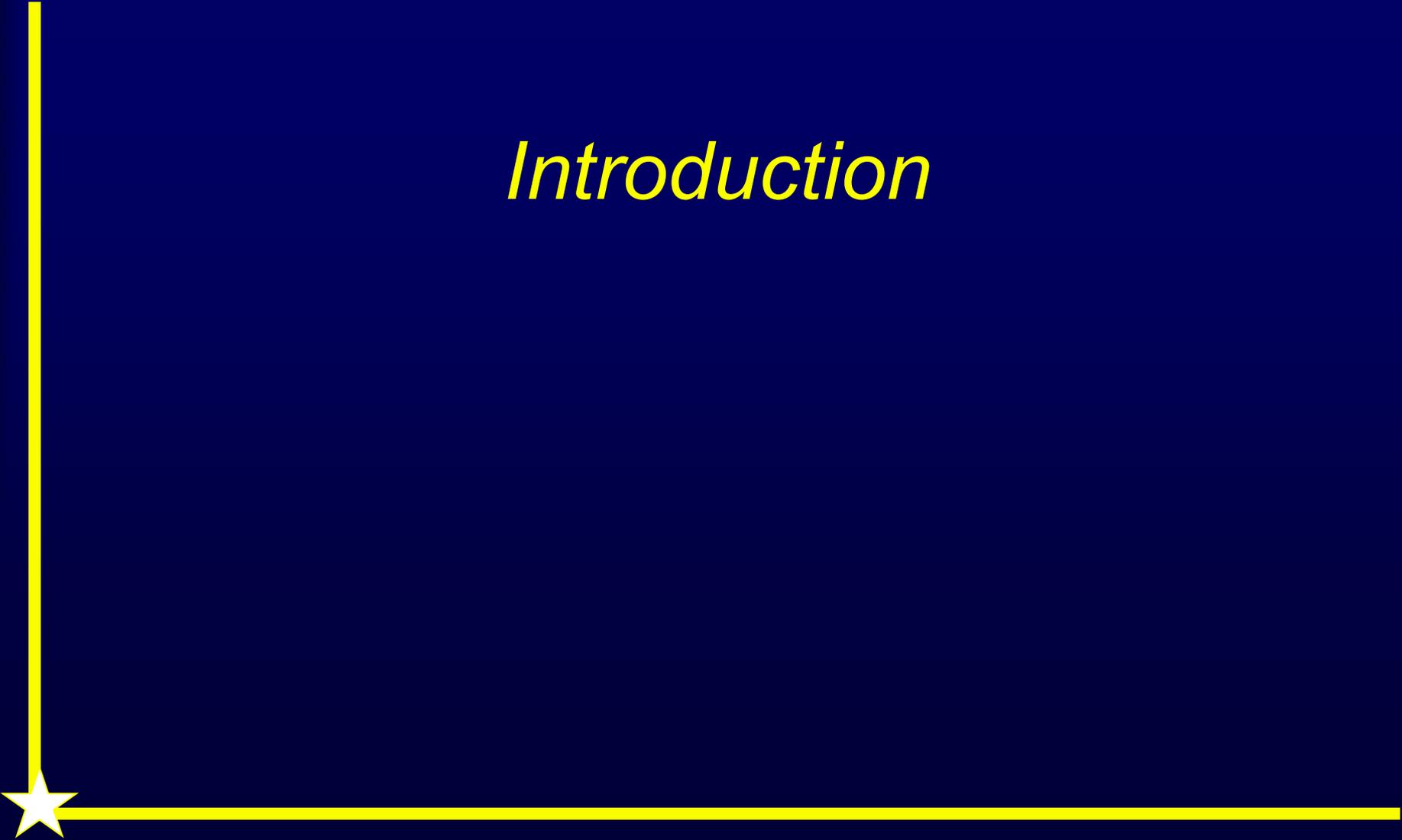
*The UCMJ at 75:  
Reflections on the Transformation of  
the American Military Justice System*

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*Professor Dave Schlueter*



# *Introduction*



# *Agenda*

- ✓ *Introduction*
- ✓ *Significant Benchmarks in the Transformation*
- ✓ *Players in the Transformation*
- ✓ *Trends in the Transformation*
- ✓ *Concluding Thoughts*
- ✓ *Questions*



# *Adoption of the UCMJ*

*May 5, 1950*

*Effective Date: May 31, 1951*



# *Significant Benchmarks in the Transformation*



# *Significant Benchmarks*

✓ *Opinions by the Court of Military Appeals*

*(Judges Quinn, Latimar & Brosman)*



# *Significant Benchmarks*

- ✓ *Opinions by the Court of Military Appeals*
- ✓ *1968 Military Justice Act*



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- ✓ *Ortiz v. United States (2018)*
- ✓ *The 2022 NDAA*
- ✓ *Summary: Transformation Will Continue*



# *Players in the Transformation*

- *The Congress*



# *Players in the Transformation*

- *The Congress*
- *The President*



# *Players in the Transformation*

- *The Congress*
- *The President*
- *The Public*



# *Players in the Transformation*

- *The Congress*
- *The President*
- *The Public*
- *Lawyers, Commissions & Advisory  
Committees*



# *Players in the Transformation*

- ✓ *1960 Powell Report*
- ✓ *1971 Report to Gen. Westmoreland*
- ✓ *1983 Commission (Hemingway Report)*
- ✓ *1989 US Court of Military Appeals Committee Rept*
- ✓ *1989 DoD Study Group Report on CMA*
- ✓ *2001, Cox Commission Report on 50<sup>th</sup> Anniversary of UCMJ*
- ✓ *Judicial Proceedings Panel (NDAA 2013)*
- ✓ *2015 Military Justice Review Group*
- ✓ *Military Justice Review Panel (2016 NDAA)*
- ✓ *Sex. Assault and Acct. & Investigation Task Force (2019)*
- ✓ *Independent Review Commission (2021)*
- ✓ *Defense Adv. Committee on Prevention of Sex. Assault (2020)*  
*(DAC-PSM)*
- ✓ *Defense Adv. Committee on Investig., Pros., & Defense of Sexual*  
*Assault (DAC-IPAD)*
- ✓ *Code Committee*



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  - *Supreme Court of United States*
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- *Civilian Interest Groups & Blogs*



# *Players in the Transformation*

## *Civilian Interest Groups*

- ✓ *The American Bar Association (ABA)*
- ✓ *The Federal Bar Association (FBA)*
- ✓ *The NYC Bar Association*
- ✓ *The American Legion*
- ✓ *The Judge Advocates Association (JAA)*
- ✓ *The National Institute of Military Justice (NIMJ)*
- ✓ *Protect our Defenders (POC)*
- ✓ *CAAFlog*
- ✓ *Lawfare Blog*



# *Trends*

✓ *Trend: Moving from Discipline to Justice*



# Trends

## ✓ Trend: Moving from Discipline to Justice

<b>Crime Control---Discipline</b>	<b>Due Process---Justice</b>
<b>Efficient and Speedy</b>	<b>Efficiency Not Critical</b>
<b>Factual Guilt</b>	<b>Legal Guilt</b>
<b>Nonadversarial Procedures</b>	<b>Adversarial Procedures</b>
<b>Trust Government to Screen</b>	<b>Limits on Government Screening</b>
<b>Primacy of Public Interest</b>	<b>Primacy of Individual</b>



# *Trends*

- ✓ *Trend: Moving from Discipline to Justice*
- ✓ *Trend: Command-Centric to Lawyer-Centric*



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- ✓ *Trend: Unlawful Command Influence*



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- ✓ *Trend: Unlawful Command Influence*
- ✓ *Trend: Increasing Complexity*
- ✓ *Trend: The Search for Respect*



# *Concluding Thoughts*



*Questions?*

