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Forewarned is Forearmed:

A Review of *The United States v. You: A Practical Guide to the Court-Martial Process for Military Members and Their Families*

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A Review of *The United States v. You: A Practical Guide to the Court-Martial Process for Military Members and Their Families*

I spent my first several hours as a military defense counsel in pre-trial confinement, meeting with my new client. The government had alleged that the young, misunderstood, and impressionable Airman I now represented had committed grave offenses that on paper appeared concerning, but in reality proved overblown. At least, that is how I like to remember the case.

I got assigned to defend the client upon my arrival at the area defense counsel's office. Before I could unpack my moving boxes, the client's former attorney handed me the file. I had little time to review the case, and then I was on my way to the local confinement facility. Boxes could wait; justice could not.

As I met with the client, I tried to act like the case was neither my first rodeo nor my first tussle with the government. A first-enlistment Airman, the client had many questions about the military justice system and about her future. I had uncertain answers. I may or may not have inspired confidence. I stammered through that first interview with legalese seasoned with stock phrases, such as "it depends"

and "I'll see what I can do" and "hmm, let me check with my paralegal." I probably left the client with a few handouts about trial preparation before scurrying back to my office to unpack.

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THE UNITED STATES V. YOU

The Airman and I could have used a book like *The United States v. You: A Practical Guide to the Court-Martial Process for Military Members and Their Families*, written by civilian defense attorney and Air Force Reserve judge advocate R. Davis Younts.[1] He was a well-respected trial counsel and military defense counsel during his active duty career. As a Reservist, Mr. Younts has been an instructor with the TRIALS team (Training by Reservists in Advocacy and Litigation Skills).

Mr. Younts brings his litigation experience and his defense chops to bear in *The United States v. You*. This slender book serves as a resource for military members who have been accused of criminal offenses. After nearly two decades of military practice, Mr. Younts knows “how intimidating it can be for a military member to prepare their case and learn what they need to know so they can protect their career, their future, and their freedom.”^[2] Even though the book’s target audience is accused service members, junior and experienced military defense counsel alike will benefit from its concise explanations about the military justice process and trial preparation. The book may especially benefit new defense counsel and give them more confidence as they go into their first several meetings with clients.

The United States v. You is a quick, yet comprehensive read. The title of the book conveys the gravity of being under charges in the military. While in the throes of the military justice system, accused service members may feel like the Wicked Witch of the East did in *The Wizard of Oz*, after Dorothy’s house lands on her early in the movie. This is not to say that the military justice system literally crushes people to death, but the book jacket gets it right when it says that “an accused military member facing court-martial is fighting to defend their freedom and their future against the government of the United States.” *The United States v. You* was written, then, to give accused service members the information they will need to alleviate the weight of the government’s allegations.

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Mr. Younts patterns the book’s chapters after a frequently asked questions section on a website. Each chapter addresses the questions and issues nearly all clients ask while facing court-martial. The book walks readers through military investigations, preliminary hearings, jury selection, sentencing, confinement, and appeals without getting bogged down in details or too much legal jargon.

TWO FUNDAMENTAL RIGHTS

In one chapter, Mr. Younts covers two fundamental rights under the Uniform Code of Military Justice (UCMJ): the right to remain silent and the right to an attorney. First, Mr. Younts describes how Article 31 of the UCMJ requires rights advisement to all service members “suspected of an offense,” whether they are in custody or out.^[3] He also distinguishes the Article 31 right to remain silent from the *Miranda* warnings required in civilian jurisdictions.^[4] As past and present defense counsel well know, however, accused service members often fail to appreciate the finer differences between Article 31 and *Miranda*, or custodial and non-custodial interrogations, until after they have poured their hearts out to investigators.

Second, Mr. Younts explains the right to counsel in the military justice system. Under the UCMJ, all accused service members have the right to military counsel at no cost to them.^[5] They may also pay out of pocket to hire a civilian attorney.^[6] Military members who have never been involved in any legal process may not know what to expect of their defense attorney. Junior enlisted members may stifle questions they have about their counsel’s qualifications out of deference to their attorney’s rank and position.

The United States v. You teaches accused service members how to carefully and deliberately exercise their right to counsel in the military justice system. The book encourages them to ask their assigned military counsel questions about their training and their experience with similar cases, just as medical patients might ask the same of their surgeon before going under the scalpel.^[7] This same section also includes a bulleted list of suggested questions members should discuss with any prospective civilian counsel.^[8]

The heart of the book, though, is about process. Mr. Younts explains UCMJ jurisdiction because service members often wonder why the Service charged them for something that occurred off-base.^[9] He further devotes an entire chapter to military investigations—how they are conducted and what agencies are involved.

WHAT YOU NEED TO KNOW BEFORE BEING QUESTIONED

Law enforcement interrogation, or interview, techniques receive particular attention here. Mr. Younts describes ways in which law enforcement officials get suspected service members to open up both before and after Article 31 rights advisement.^[10] But unless accused service members read *The United States v. You* before questioning, they may not learn about these particular law enforcement techniques until it is too late. Even still, this part of the book should get accused service members thinking about their interactions and conversations with law enforcement officials and military superiors about the case that were not captured on camera.

“WHAT CAN I DO NOW TO PREPARE FOR TRIAL?”

The book’s final chapter tackles the question “What Can I Do Now to Prepare for Trial?” Readers will find that the chapter’s headings can serve as the start of a trial preparation checklist.^[11] Mr. Younts encourages military members to prepare a list of potential fact and character witnesses for their attorney.^[12] He further suggests that clients write a life history that touches on their background, their childhood, their family life, and their military career.^[13] Although the government should obtain and disclose military records in pre-trial discovery, Mr. Younts correctly nudges accused service members to gather their own records for their defense team to review.^[14]

The book gives a stark and needed reminder that, in the digital age, talking about a case includes posting on social media.

LOOSE LIPS CAN SINK SHIPS

Furthermore, Mr. Younts gives accused service members reasons to think twice before talking about their case with others.^[15] Loose lips can sink ships as well as court-martial defenses. The book gives a stark and needed reminder that, in the digital age, talking about a case includes posting on

social media. Mr. Younts also notes that the government can access military emails. It may seem unlikely that anyone would share lurid details about alleged criminal activity on a government network, but sometimes people make poor choices. The book, therefore, makes a straightforward argument for discretion being the better part of valor.

SECOND EDITION NEEDED

A second edition of *The United States v. You* would increase its benefit with additional information on a couple key topics. First, members under charges often have questions about the effects of a court-martial sentence on their dependents. For example, they may wonder whether their dependents will continue to receive pay and allowances. If members live on a military installation with their family, they may want to know about moving requirements and permanent change of station entitlements. Health care coverage is another common concern. Although these are not strictly legal questions, they often fall to defense counsel and defense paralegals to answer.

It teaches accused service members how to get involved in their defense early and remain invested throughout the process.

Second, accused service members may struggle with mental health issues as they await trial. Worse yet, they may feel loath to speak about their thoughts, feelings, and emotions to military mental health professionals for fear that their disclosures could get used against them. They may have similar concerns about chaplains or even civilian mental health providers. Consequently, and sometimes tragically, accused service members could end up suffering in silence. An overview of mental health services available to accused service members in all military branches, along with a general discussion about the boundaries of confidentiality, would add even more wisdom and compassion to *The United States v. You*.

CONCLUSION

Still, the book hits all the need-to-know points for service members undergoing investigation and facing court-martial. It translates Byzantine legal processes into terms laypeople can understand. It teaches accused service members how to get involved in their defense early and remain invested throughout the process. And it serves as a companion for military members looking for credible information about the UCMJ system. For all of these reasons, *The United States v. You* is a thoughtful book that advances the fair administration of military justice.

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ENDNOTES

- [1] R. DAVIS YOUNTS, ESQ., *THE UNITED STATES V. YOU: A PRACTICAL GUIDE TO THE COURT-MARTIAL PROCESS FOR MILITARY MEMBERS AND THEIR FAMILIES* (2020).
- [2] *Id.* 3
- [3] *Id.* at 8-9.
- [4] *Id.* at 8.
- [5] Uniform Code of Military Justice art. 38 (2017); 10 U.S.C. § 838 (2017).
- [6] *Id.*
- [7] YOUNTS, *supra* note 1, at 12.
- [8] *Id.* at 13-14.
- [9] *Id.* at 17.
- [10] *Id.* at 27-31.
- [11] *Id.* at 98.
- [12] *Id.* at 99.
- [13] *Id.* at 100.
- [14] *Id.* at 101.
- [15] *Id.* at 98.