

## The DoD Times (Redacted)



### Subversions of Due Process – “It is Allowed” Does Not Mean “It is Right”

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**Did You Know:** Some Department of Defense commanders will subvert a Service Member’s right to due process through trial by court martial in lieu of [non-judicial punishment](#) through either indefinitely delaying the meeting of the court martial, or by convening a [Board of Inquiry](#). Boards of Inquiry recommend to service secretaries whether an officer should be retained or discharged, and discharge characterization, if applicable.

Here are some potential implications of these facts:

1. Service Members are kept in professional and personal purgatory, sometimes for up to a year, until their court martial convenes.
2. The effect of this purgatory is that Service Members have limited access, if any, to the [evidence against them](#), have no opportunity to clear their name, cannot promote, cannot change duty stations, cannot retire, cannot attend schools, and are probably hemorrhaging money to prepare a defense.
3. Commanders can employ a variety of administrative actions to harass the Service Member, including suspending their security clearance and referring them for a mental health evaluation.
4. Likely due to emotional / mental exhaustion and wanting to move on with their lives, Service Members may decide their desire for due process is too costly and will instead plead for NJP.
5. Officers who sought due process through the courts martial process are instead forced into a Board of Inquiry (BOI) that is equally as opaque and lacking in due process as both non-judicial punishment and other punitive / non-punitive [administrative functions](#).
6. Given the absence of [procedural law](#) in a BOI, officers directed to sit on BOIs have no body of legal precedent or other legal guardrails to help guide their retention / discharge recommendations. Thus, the fate of the officers subject to a BOI is left almost entirely up to chance.
7. Service Members risk being involuntarily separated from the military with an [Other Than Honorable](#) discharge characterization – depending on BOI recommendations and service secretary decisions – absent their right to due process through a trial by court martial, as described on page V-2 of the [Manual for Courts-Martial](#).

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A question to ask yourself is why Congress accepts an administrative and legal system, and a culture in the Department of Defense that permits these subversions of American Citizens' rights under the law.

If you feel that you have been a victim of this "Did You Know" highlight, feel free to reach out privately or share your story in the comments. Also, [SIGN THIS PETITION](#) demanding that our leaders in Congress change this unjust system.

To read the article related to the cover picture, please go here: [Marine Corps drops charges for LCpl who spent 113 days in brig \(taskandpurpose.com\)](#)