



# THE JUDGE ADVOCATE GENERAL'S SCHOOL

## Article 32 Investigating Officer Course (IOC-DE) 13A – 5 Weeks

### COURSE DIRECTOR INFORMATION

#### COURSE DIRECTOR



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#### INSTRUCTORS



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## COURSE DESCRIPTION

Students will learn and practice the basic skills necessary for assuming the role of Investigating Officer (IO) at an Article 32 investigation. Students will learn the basic rules and procedures governing Article 32 investigations, how to properly prepare for and conduct an Article 32 investigation hearing, and how to write a good Article 32 report. The course will follow the progression of a typical Article 32 investigation from receipt of the IO appointment letter to preparation for and conducting the hearing and writing the report. Throughout the course students will be required to do certain tasks associated with an Article 32 investigation as well as answer discussion questions based on readings and lessons. The course will provide examples from a sample case file. At the end of the course, students will write an Article 32 report of investigation.

## **COURSE OBJECTIVES**

**After completing this course the student will be able to:**

1. Comprehend the basic purpose of an Article 32 Investigation, as well as the applicable procedural and evidentiary rules.
2. Apply the rules and procedures of Article 32 Investigations to common factual scenarios.
3. Apply skills to effectively conduct an Article 32 investigation hearing.
4. Comprehend how to deal with special issues that often arise in Article 32 investigations.
5. Apply the core concepts of Article 32 investigations in writing a report of investigation.
6. Comprehend the ethical obligations of Article 32 investigating officers.

## **HOW TO LEARN ONLINE**

In order to be successful, you should be organized and well motivated. You should make sure you log in to the Learning Center several times each week. Check all announcements that have been posted. Start early in the week to complete the weekly assignment(s). You should also go to the Discussion Board early in the week and view the topic and question(s) for the group discussion exercise and make your “initial” posting and as well as participate in the group discussion. Do not wait until the last minute to post your discussion questions, as other students may want to respond to your discussion post.

## **COURSE DELIVERY METHOD**

This course will enable students to complete academic work in a flexible manner, completely online.

Assignments, discussions, and examinations are due as noted in the Learning Center. Assigned faculty will grade assignments, answer questions and provide feedback to support the students throughout the course. **If there is conflicting due dates between the syllabus and the learning center, contact the course director for clarification.**

Most Learning Centers are structured in a similar way. Every online course of study will be divided into weekly modules. An example is below:

## Week 1:

### *Estate Planning Fundamentals*

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-  Learning Objective - Week 1
  -  Week 1 Course Material
  -  Week 1 Checklist
  -  Introduction Forum
  -  Fundamentals Quiz
  -  Terminology Quiz
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-  Student Weekly Feedback

**Learning Objectives:** Every program of instruction, course, or training activity begins with a goal. This goal can be broken down into specific goals, or *learning objectives*, which are concise statements about what each student will be able to *do* when they complete the instruction.

**Course Material/Reading Material Folder:** All instructional material assigned during a particular week should be located in this folder. Instructional material can include deskbook outlines, text book chapters, articles, legal reviews/opinions, bullet background papers, videos, recorded webcasts, or any other material that will help students meet learning objectives.

**Checklist:** The checklist is the weekly one-stop-shop for students to track completion of reading requirements, assignments, and tests and quizzes. If there is a task for the student to perform during an academic week, it should be on the checklist. You must complete the checklist each week.

**Discussion Forums:** A discussion forum allows on-going online discussion of topics which are created by your course instructor. Forums may be questions the instructor wants to have students comment on, or posting of materials for others to review and/or add comments to. As you will see over the period of this course, there are separate discussion boards for each week of instruction. Some weeks will have multiple discussion forums. Some weeks may have none.

The discussion forums use a threaded discussion format. A thread is a piece of an online conversation that you have with your instructor or your fellow classmates. Your instructor and classmates will read the thread you wrote and may choose to respond. Any responses to your original thread display under your thread heading. Response threads are indented slightly so that you can quickly determine the main thoughts (threads) in the discussion board.

**Student Weekly Feedback:** This is an important, mandatory portion of student requirements for the week. Please provide honest, thoughtful feedback to the instructor.

## **COURSE MATERIALS**

Course materials are available electronically in the CAPSIL Learning Center and can be found in the appropriate assignment week.

## **STUDENT EXPECTATIONS**

- This course is presented in weekly modules and has specific due dates for assignments and examinations. While there is some flexibility of when the student decides to work on course material, the deadlines specified in the syllabus and on the weekly assignments must still be met.
- Students who have travel or other duty obligations which may conflict with deadlines are expected to complete work in advance. If this is not possible, extensions must be arranged with the instructor **BEFORE** the deadline. Extensions are not automatically granted and may require written documentation which is acceptable to the instructor. A student cannot be more than one week behind the class in coursework (requires instructor's permission).
- The student is expected to **participate every week** and to remain in contact with the instructor, group and class via email or other communications means, by participating in the discussion forums, submitting assignments and taking exams by the dates listed in the syllabus and Learning Center.
- This is an online course, so students are expected to have reliable and regular access to a computer and the Internet. If your computer and/or Internet connection is broken or unavailable, you are expected to find an alternate source such as a library, Internet café, or your office. This is your responsibility. "Computer problems" are not an acceptable excuse for late work.
- There is no prohibition on taking leave while enrolled in this course. CAPSIL and the learning center are available world-wide from any computer.
- Students are expected to check their emails daily and Learning Center at least every 48 hours.

## **PHONE CALLS/EMAIL**

- Contact between students and instructors can occur by phone or email. However, the school strongly encourages correspondence between instructors and students to take place via email.
- **FOR ALL EMAILS, PUT YOUR COURSE NUMBER AND NAME IN THE SUBJECT HEADING.** Example: IOC-DE 13A JSmith.

- It is AFJAGS policy that faculty will respond to emails within **24 hours** during the duty week (M-F). If you have not received a response from your instructor within 24 hours during the duty week, assume that they did not receive your message and email them again as well as the course director.

## **EVALUATION PROCEDURES**

### **ATTENDANCE POLICY:**

- **ATTENDANCE IS MANDATORY.** Although physical class meetings are not part of this course, participation in all interactive, learning activities is required. Interaction via the Learning Center, discussion forums, assignment completion, and email contact constitutes course attendance.
- Attendance is excused only for personal or family medical emergencies or for special military duty. **Notify the instructor as soon as possible.**
- **Missing any part of this schedule may prevent completion of the course.** If you foresee difficulty of any type (i.e., a deployment, trial, etc.) that may prevent completion of this course, notify the instructor as soon as possible.

### **GRADING:**

This course has two components, the assignments portion and the Article 32 IO report. You must pass both. The assignments portion will be graded on weighted scale from 1-3 where you must achieve a passing score of 2. The Article 32 IO Report is an assignment that will be completed during academic weeks four and five of the course and turned in at the end of the course. **You must achieve an average of 70% to pass the course.**

<b>ASSIGNMENTS</b>	
<u>Grade Instruments</u>	<u>% of Final Grade</u>
Introduction Forum	Complete
Week 1-Discussion Questions	5% (1-3)
Week 1-Quiz	5% (1-3)
Week 2-Prepare Scheduling Memo & Witness List	5% (1-3)
Week 2-Response to Delay Request	5% (1-3)
Week 2-Response to Witness Request	5% (1-3)
Week 3-Review Charge Sheet	5% (1-3)
Week 3-Watch Sexual Assault Art 32 Investigations Webcast	Complete
Week 3-SVC/Sexual Assault Discussion Questions	5% (1-3)
Week 4-Summarized Witness Testimony	10% (1-3)
Week 5-Ethics Discussion Questions	5% (1-3)
<b>ARTICLE 32 WRITTEN REPORT</b>	
Written Report	50% (1-3)

**ASSIGNMENTS:**

Our academic week will run from noon on Monday through midnight on Sunday. There are a variety of graded assignments to including participation in on-line discussions, a quiz, responding to delay and witness requests, summarizing witness testimony and reviewing a charge sheet. Please carefully review each assignment's instructions to ensure you are meeting the requirements. A grading rubric for the assignments will be posted.

**SUBMITTING ASSIGNMENTS:**

- All assignments must be posted by the deadline identified in the Learning Center. Note that the time zone is Central U.S. Time (CST).
- When attaching a file, be sure to name your file in accordance with the assignment's set of instructions.
- It is your responsibility to keep up with the due dates and submission of assignments.
- Detailed instructions on completing assignments, is located in the Learning Center.

- Discussion Participation:** Discussion Board (DB) Forums will be the principal venue for interaction among students in this course. You are required to participate in on-line discussions via the DB. For discussion questions, you need to provide an **initial response** and **two follow ups** to fellow students' initial responses. The initial response must be 500 words and include sufficient analysis and citations to answer the question. The follow-up responses must be 250 words. You will not be able to see others' responses until you have posted your initial response. Initial responses are **DUE NO LATER THAN WEDNESDAY AT 2359 C.S.T.** Follow-up responses are **DUE NO LATER THAN SUNDAY AT 2359 C.S.T.** Faculty will also be posting on these discussion threads to help guide the conversations.

**WRITTEN REPORT:**

There will not be a traditional final examination in this course; rather you will be expected to write a complete Article 32 Report of Investigation during the last two weeks of the course.

<b>ASSIGNMENT SCALE</b>		
<u>Unsatisfactory</u>	<u>Meets Standards</u>	<u>Exceeds Standards</u>
1	2	3

**5 – WEEK COURSE OUTLINE**

<i>Unit/Week</i>	<i>Learning Objectives</i>	<i>Reading</i>	<i>Assignments</i>
<b>Week 1: Article 32 Investigation Basics</b>	<p><b>Learning Objective: The objective of this lesson is for every student to comprehend the basic purpose of an Article 32 Investigation, as well as the applicable procedural and evidentiary rules.</b></p> <p>SOB 1: Explain the purpose of an Article 32 investigation</p> <p>SOB 2: Describe the qualifications and characteristics required for an Investigating Officer (IO).</p> <p>SOB 3: Distinguish the standard of evidence in an Article 32 in relation to a court-martial.</p> <p>SOB 4: Explain the rights of an accused at an Article 32 investigation</p> <p>SOB 5: Discuss the witness availability rules that apply to Article</p>	<p>1. AFJAGS OI 36-3</p> <p>2. AFJAGS OI 36-4</p> <p>3. AFJAGS OI 36-5</p> <p>4. Art 32 IO Guide, Paras. 1-3.</p> <p>5. AFI 51-201, Sec 4A</p> <p>6. <u>US v. Castleman</u>, 11 MJ 562 (AFCMR 1981). (Disqualification by association)</p> <p>7. <u>US v. Natalello</u>, 10 MJ 594 (AFCMR 1980). (Investigation of related cases)</p>	<p>1. Post an Introduction to your classmates in the Introduction Forum</p> <p>2. Post a response to the week one discussion forum.</p> <p>3. Post two responses to classmates' initial post.</p> <p>4. Complete the Article 32 week one quiz</p> <p>5. Complete the weekly feedback</p>

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	<p>32 investigations.</p> <p>SOB 6: Identify the various alternatives to testimony under RCM 405(g)(4)(A) and explain when it is appropriate to consider each.</p> <p>SOB 7: Identify the various alternatives to evidence under RCM 405(g)(5)(A) and explain when it is appropriate for the IO to consider each.</p>	<p>8. <u>US v. Davis</u>, 20 MJ 61 (CMA 1985). (Office Associations)</p> <p>9. Federal Register, Vol. 77, No. 205, October 23, 2012, Proposed Amendments to RCM 405 (read only highlighted portion)</p>	
<p><b>Week 2: Preparing for the Investigation</b></p>	<p><b>Learning Objective: The objective of this lesson is for every student to apply the rules and procedures of Article 32 Investigations to common factual scenarios.</b></p> <p>SOB 1: Schedule an Article 32 investigation at an appropriate time after being appointed as an Investigating Officer (IO).</p> <p>SOB 2: Identify the witnesses and evidence necessary to conduct a thorough investigation given a sample case file.</p> <p>SOB 3: Identify and correct information on the charge sheet and distinguish between a minor change and a major change.</p> <p>SOB 4: Discuss important aspects of arranging to conduct the Article 32 investigation hearing.</p> <p>SOB 5: Demonstrate the ability to handle a request to delay the Article 32 investigation hearing.</p> <p>SOB 6: Demonstrate the ability to handle a defense request to produce military and/or civilian witnesses or physical evidence at the hearing.</p> <p>SOB 7: Comprehend the tools available to the IO to require</p>	<p>1. Art 32 IO Guide, Paras. 4-7</p> <p>2. RCM 405(g)</p> <p>3. AFI 51-201, Sec 4A, Para 4.1.6</p> <p>4. <u>US v. Favre</u>, ROI Case File</p> <p>5. <u>US v. Marrie</u>, 43 MJ 35 (Witness Availability)</p> <p>6. <u>US v. Miro</u>, 22 MJ 509 (Reasonable Delay)</p>	<p>1. Post to Week 2 Discussion Forum - Identify Necessary Witnesses</p> <p>2. After being appointed as Article 32 Investigating Officer by Wing CC, set Article 32 Investigation hearing date and send scheduling memo to Government and Defense.</p> <p>3. Respond to defense request for delay.</p> <p>4. Respond to defense request to produce witness.</p> <p>5. Review charge sheet and list the elements of the charge and specification. Identify any errors in the form of the charge and specification.</p>

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	<p>production of evidence and/or witnesses.</p> <p>SOB 8: Discuss how to appropriately deal with the various parties involved in an Article 32 investigation (government representative, witnesses, SJA, accused, ADC, civilian DC).</p>		<p>6. Complete the weekly feedback</p>
<p><b>Week 3: Conducting the Investigation</b></p>	<p><b>Learning Objective I: The objective of this lesson is for every student to apply skills to effectively conduct an Article 32 investigation hearing.</b></p> <p>SOB 1: Relate how to establish and maintain control of an Article 32 investigation.</p> <p>SOB 2: Discuss the rules of evidence that apply at Article 32 investigations and how an IO should handle objections.</p> <p><b>Learning Objective II: The objective of this lesson is for every student to comprehend how to deal with special issues that often arise in Article 32 investigations.</b></p> <p>SOB 1: Discuss proper procedure when evidence adduced at the hearing indicates additional uncharged misconduct by the accused.</p> <p>SOB 2: Recognize when an Article 32 may encounter media interest.</p> <p>SOB 3: Discuss methods to deal with media presence at an Article 32 investigation hearing.</p> <p>SOB 4: Distinguish when it is appropriate to close, in full or in part, the Article 32 investigation hearing.</p> <p>SOB 5: Discuss how to address issues specific to investigations of sexual assault charges to include</p>	<p>1. MREs 301; 302, 303; 305; 412; and 501-514.</p> <p>2. Art 32 IO Guide, Paras. 6.2.3; 8; and Section II (IO's Article 32 Script)</p> <p>3. BBP: Media Concerns</p> <p>4. BBP: Special Victim's Counsel</p> <p>5. Art 32 Physical Evidence - Maj Grant</p> <p>6. 18 USC §3509 (Child victims' &amp; witnesses' rights)</p> <p>7. Adam Walsh Child Protection and Safety Act of 2006</p> <p>8. USN National Security Case Guide</p> <p><i>Additional Readings:</i></p> <p>1. John R. Maloney, <i>Litigating Article 32 Errors After US v. Davis</i>," ARMY LAWYER, (September 2011)</p> <p>2. <i>US v. Davis</i>, 64 MJ 445 (CAAF 2007);</p> <p>3. <i>San Antonio Express-News v. Morrow</i>, 44 MJ 706 (AFCCA 1996)</p>	<p>1. Watch Col Santoro's presentation on Sexual Assault Article 32 Investigations</p> <p>2. Respond to the discussion questions and reply to two of your classmates</p> <p>3. Complete the weekly feedback.</p>

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	<p>MRE 412, 513, 514, and Special Victim's Counsel (SVC).</p> <p>SOB 6: Discuss proper handling of sensitive physical evidence such as child pornography or classified material at the hearing.</p>	<p>4. <u>McKinney v. Jarvis</u>, 46 MJ 870 (ACCA 1997)</p> <p>5. <u>US v. Evenson</u>, Misc Dkt 2012-12</p>	
<p><b>Week #4: Writing the Report</b></p>	<p><b>Learning Objective: The objective of this lesson is for every student to apply the core concepts of Article 32 investigations in writing a report of investigation.</b></p> <p>SOB 1: Demonstrate how to accurately and thoroughly summarize witness testimony at an Article 32 investigation.</p> <p>SOB 2: Write a thorough and impartial Article 32 report of investigation.</p> <p>SOB 3: Demonstrate ability to accurately and succinctly provide legal analysis of the evidence as related to the charge(s) and specification(s).</p> <p>SOB 4: Demonstrate ability to provide a concise and accurate synopsis of the relevant factual background of a given case scenario.</p> <p>SOB 5: Demonstrate ability to write clear, concise, and legally sufficient recommendation(s) as to the disposition of the charge(s) and specification(s).</p>	<p>1. Art 32 IO Guide Paras. 9-10</p> <p>2. DD Form 457</p> <p>3. Sample IO Report: <u>US v. Bailey</u></p>	<p>1. Watch video of Article 32 testimony of A1C Danica Patrick and then thoroughly and accurately summarize her testimony.</p> <p>2. Begin drafting an Article 32 Report of Investigation based on the summarized testimony of A1C Patrick and the <u>US v. Favre</u> case file.</p> <p>3. Complete the weekly feedback</p>
<p><b>Week #5: Ethics and the Article 32 Officer</b></p>	<p><b>Learning Objective: The objective of this lesson is for every student to comprehend the ethical obligations of Article 32 investigating officers.</b></p> <p>SOB 1: Discuss the ethical guidelines applicable to Article 32 Investigating Officers.</p>	<p>1. Ethics Case law</p> <p>2. Judicial Canons</p> <p>3. Applicable portions of AF Rules of Prof Responsibility</p>	<p>1. Finalize draft IO Report.</p> <p>2. Participate in the Ethics discussion questions.</p> <p>3. Complete the weekly feedback</p>

	<p>SOB 2: Identify the sources of Article 32 Investigating Officers' ethical obligations.</p> <p>SOB 3: Explain the importance of impartiality as an Article 32 IO in both practice and appearance.</p>		
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**POLICIES**

**ACADEMIC INTEGRITY, FREEDOM, AND COURSE ELIMINATION POLICIES:**

These policies are available online in the CAPSIL Learning Center (AFJAGS OIs 36-3, 36-4, and 36-5.) Students must read and certify that they have read each OI as part of the Unit #1 checklist.

**PLAGIARISM:**

Plagiarism is the act of appropriating the literary composition of another, parts or passages of their writings, or the ideas or language of the same, and intending to pass them off as the product of one's own mind. An example is copying verbatim without quotation marks with the intent to claim the material as one's own work is plagiarism. Plagiarism is not tolerated on any level by The Judge Advocate General's School. Plagiarizing another's work with the intent to pass it on as one's own can result in the elimination from this course and will be reported to the individual's unit.

**WRITING EXPECTATIONS:**

All written submissions should be submitted in a font and page set-up that is readable and neat. It is recommended that students try to adhere to a consistent format, which is described below.

- Typewritten in **double-spaced format** with a readable style and font and submitted inside the electronic classroom (unless classroom access is not possible and other arrangements have been approved by the instructor).
- Arial or Times New Roman 11 or 12-point font styles.
- Page margins Top, Bottom, Left Side and Right Side = 1 inch, with reasonable accommodation being made for special situations and online submission variances.

**CITATION AND REFERENCE STYLE:**

The central function of legal citation is to allow the reader to efficiently locate the cited source. All courses in the Distance Education Program require any narrative essay, legal review or composition format follow the legal citation guidelines set forth in *The Bluebook: A Uniform System of Citation, 19<sup>th</sup> ed.*, (2010). Most legal offices maintain a bluebook in their law library. If you do not have a bluebook or access to one, students should follow an orderly easily understood citation format and will be marked down for inconsistent citations or ones that are in error.

**LATE ASSIGNMENTS:**

Students are expected to submit classroom assignments by the posted due date and to complete the course according to the published class schedule. As adults, students, and working professionals, you must manage competing demands on your time. Should you need additional time to complete an assignment, please contact the instructor or course director identified above BEFORE the due date to discuss the situation and determine an acceptable resolution. Submission of late assignments without prior authorization is unacceptable and will result in one number point being deducted from your final assignment grade per day.

**NETIQUETTE:**

The Judge Advocate General's School promotes the advance of knowledge through positive and constructive debate--both inside and outside the classroom. Discussions on the Internet, however, can occasionally degenerate into needless insults and "flaming." Such activity and the loss of good manners are not acceptable in a university setting—basic academic rules of good behavior and proper "Netiquette" must persist. Remember that you are in a place for the fun and excitement of learning that does not include descent to personal attacks, or student attempts to stifle the discussion of others.

- **Technology Limitations:** While you should feel free to explore the full-range of creative composition in your formal papers, keep email layouts simple. The CAPSIL classroom may not fully support MIME or HTML encoded messages, which means that bold face, italics, underlining, and a variety of color-coding or other visual effects will not translate in your e-mail messages.
- **Humor Note:** Despite the best of intentions, jokes and especially satire can easily get lost or taken seriously. If you feel the need for humor, you may wish to add "emoticons" to help alert your readers: ;-), :), ☺