



**DEPARTMENT OF THE AIR FORCE
THE JUDGE ADVOCATE GENERAL'S SCHOOL**

MEMORANDUM FOR COMPARATIVE SYSTEMS SUBCOMMITTEE

FROM: The Judge Advocate General's School

SUBJECT: Sexual Assault Prosecution and Defense Training at The Judge Advocate General's School

1. The Air Force Judge Advocate General's School (AFJAGS) prides itself on being the gateway to the Air Force Judge Advocate General's Corps in two distinct manners. First, it is, in large measure, the first institution to directly mold new Air Force Judge Advocates. It crafts new Judge Advocates to embody the Air Force's Core Values: Integrity First, Service Before Self, and Excellence in All We Do. Second, the Air Force Judge Advocate General's School does much more than train first tour Judge Advocates; it also provides an academic home for training on the prosecution and defense of sexual assault cases for the duration of the Judge Advocate's career. Additionally, AFJAGS provides military justice training on the prosecution and defense of sexual assault cases to military justice practitioners across the Department of Defense.

2. In order to accomplish these tasks, AFJAGS has developed a sexual assault prosecution and defense curriculum which not only utilizes traditional in-house, resident instruction but also a curriculum that supports and directs several decentralized, non-resident military justice courses on Air Force installations worldwide. Lastly, AFJAGS offers one full-length military justice course via distance education, a course accomplished in conjunction with the school's Professional Outreach Division.

a. Initial Judge Advocate Training – the Judge Advocate Officer Staff Officer Course (JASOC): Newly commissioned Air Force Judge Advocates begin their training at AFJAGS during the nine-week Judge Advocate Officer Staff Officer Course (JASOC). Although JASOC covers four distinct legal areas of study—civil law, operational and international law, military justice, and professional development—approximately four and a half weeks are dedicated to the study of military justice. In large measure, the training received in JASOC is focused on the prosecution and defense of sexual assault cases, cases which provide the widest platform for the full exploration and training of military justice.

(1) JASOC students begin with introductory topics in military justice, coupled with refresher training on key areas of substantive criminal law, evidence, and criminal procedure. During these developmental blocks, JASOC students receive 55 hours of plenary instruction. Seven hours of introductory seminars further refine students' understanding of general topics of court-martial procedure, pleadings and practice, and crimes and offenses. All plenary and seminar blocks are taught by resident AFJAGS military justice faculty or, on occasion, skilled practitioners assigned to AFJAGS as reserve faculty.

(2) Once JASOC students have completed an overview of the military justice system, they transition into a series of plenary lectures on more complex areas of military justice, including the prosecution and defense of sexual assault cases. These plenary blocks include five and a half hours of lectures on the Victim/Witness Assistance Program, OSI/JA relations, motions practice, and a newly implemented block of instruction on sexual assault prosecutions developed by a seasoned former-Senior Trial Counsel, recently assigned from a previous assignment in the Corps' Special Victim Unit.

(3) During the final phase of military justice, JASOC students are introduced to a series of military advocacy exercises (MAEs). The MAEs are designed to improve students' advocacy skills and encourage their development as future litigators. The MAEs draw extensively from, and are based on, a mock case file the JASOC students receive, learn, and prepare for trial in the school setting. This mock trial, *United States v. Cohran*, is a fully contested court-martial based on a sexual assault scenario. The MAEs cover impeachment, hearsay, voir dire, direct and cross examination, opening statement, and closing argument. By completing case file-based MAEs in advance of the mock trials, students receive personalized, substantive feedback from AFJAGS faculty both in the trial preparation and in the trial execution phases of court-martial. Upon completion of the JASOC military justice block, an average JASOC graduate will have received 130 total hours of military justice training, 86 hours in plenary lectures and small group seminars, and an additional 44 hours trying or observing mock courts. Of this total, 70 hours (26 hours of lecture, 44 hours of moot court) are dedicated to advocacy and 28 hours focused directly or partially on trying sexual assault cases.

b. Continuing Legal Education – A Continuum of Legal Studies for the Career Judge Advocate: Following JASOC, Air Force Judge Advocates routinely return to AFJAGS for continued courses in military justice, most of which are focused on the prosecution and defense of sexual assault cases.

(1) Trial and Defense Advocacy Course (TDAC): Following an initial assignment at a Base Legal Office, new trial counsel (TCs) and area defense counsel (ADCs) return to AFJAGS for a two-week course in trial and defense advocacy. TDAC focuses primarily on the prosecution and defense of sexual assault crimes, providing blocks of instruction on sexual assault forensic examinations, urinalysis testing, DNA and trace evidence, expert witnesses, and computer forensics. The course structure is similar to JASOC: students receive a series of plenary lectures coupled with advocacy exercises. Each of the exercises augments the capstone event for TDAC, a mock fully-contested sexual assault court-martial, *United States v. Favre*. Students receive 73 total hours of instruction in TDAC, all directly aimed at improvement of students' advocacy skills. In order to train advocates throughout the Air Force, TDAC is offered two times per year.

(2) Defense Orientation Course (DOC): Although not primarily a litigation course, DOC provides aspiring Area Defense Counsel the essential tools necessary for them to be successful advocates for those charged with crimes under the UCMJ. The majority of instruction during DOC is presented via lecture supplemented by a number of small group seminars. Chief Senior Defense Counsel and Senior Defense Counsel teach thirty-two hours of instruction covering investigations, clemency and post-trial, discovery, trial strategy and preparation, motion practice, sentencing procedure and evidence, sexual assault issues, and defending sexual assault cases. The course is conducted in conjunction with the Air Force's Trial Defense Division (JAJD) and is offered two times per year.

(3) Special Victims' Counsel Course (SVCC): The SVCC is designed to educate Judge Advocates selected for assignment as a Special Victims' Counsel (SVCs) in the intricacies of

representing a victim of sexual assault or other crime. The SVCC, a week-long course, provides both plenary lectures on the fundamentals of victims' rights law as well as practical / advocacy exercises for the SVC. Plenary lectures include individual blocks on civilian legal assistance, victimology, neurobiology of trauma, Military Rules of Evidence, motions practice, and appellate practice. Advocacy exercises include a client intake interview and a court-martial advocacy exercise. The client intake exercise was designed to expose each student to a distinct factual scenario he or she could potentially encounter as a SVC or SVC paralegal. The court-martial advocacy exercise placed each SVC in an advocacy role, representing a client during mock motions hearings implicating Military Rules of Evidence 412 and 513. The last iteration of SVCC welcomed 53 Judge Advocates and paralegals from four branches of the military: the United States Army, Navy, Marine Corps, and Air Force. This training, conducted in early October 2013, allowed other military departments to reach initial operating capability before the Secretary of Defense's 1 November 2013 suspense. The next SVCC is scheduled for May 2014.

(4) Intermediate Sexual Assault Advocacy Course (ISALC): ISALC is a joint advocacy opportunity conducted three times per year by AFJAGS in conjunction with the Air Force Government Appellate Division (JAJG) and Air Force Trial Defense Division (JAJD). The ISALC curriculum, covered over three days, is developed in conjunction with both JAJG and JAJD and incorporates distinct blocks for each division based on their needs identified from the field. The course utilizes both plenary lectures and advocacy exercises for both trial and defense counsel, with lectures being individualized to either government or defense counsel. Topics covered include interviewing the victim, charging crimes under Article 120, advanced motions practice, and theme building in sexual assault cases. ISALC provides training for the intermediate-level advocate, more practiced than those taught at TDAC and DOC, an advocate with roughly 24-48 months of practice. ISALC is offered at three different geographic locations—CONUS and OCONUS—to ensure widest attendance by intermediate-level advocates.

(5) Training by Reservists in Advocacy & Litigation Skills (TRIALS): TRIALS is a unique program offered at geographically dispersed locations across the Air Force. Covered over three days, TRIALS brings together experienced reservist Judge Advocates—each extensively practiced in litigation—AFJAGS faculty, and a military judge to train first-tour Judge Advocates without extensive courtroom experience. TRIALS curriculum focuses on advocacy exercises, performed by each attending student. Feedback is provided through the method developed by the National Institute of Trial Advocacy (NITA), giving students both direct faculty feedback and feedback through video playback review.

(6) Advanced Sexual Assault Advocacy Course (ASALC): The Advanced Sexual Assault Advocacy Course (ASALC) is the newest addition to the AFJAGS military justice sexual assault advocacy curriculum. ASALC aims to train the most advanced and experienced litigators in the Air Force Judge Advocate General's Corps, the Senior Trial Counsel and the Senior Defense Counsel. ASALC is an annual, week long course, taught by AFJAGS faculty in conjunction with JAJG's Special Victims' Unit (SVU) and JAJD. Utilizing agents from the Air Force Office of Special Investigations (OSI), practicing Sexual Assault Nurse Examiners (SANEs), as well as experienced psychiatrists and psychologists, ASALC students participate in series of brief lectures followed immediately by immersive interview exercises. After students question the participating OSI, SANEs, or mental health professionals, the students move directly into advocacy exercises. In the advocacy exercises, students question, either through direct or cross examination, the participating OSI agent, SANE, or psychologist / psychiatrist in a mock court-martial setting. In order to further refine the litigation skills of the attending Senior Trial and Defense Counsel, ASALC incorporates

mock panels during the advocacy exercises. These panel members—drawn from throughout the local, operational Air Force community, as opposed to the JAG community—provide candid feedback on the performance of the attending litigators. Additionally, ASALC utilizes video playback and individualized feedback from AFJAGS faculty to allow each student the opportunity to watch, review, and improve their performance during the examination of essential witnesses in a sexual assault court-martial.

(7) Additional Courses: In addition to the courses listed above, AFJAGS provides three additional courses which provide key military justice supervisors on-going education on military justice and the prosecution of sexual assault cases. These courses also aid in the development of Air Force Judge Advocates into Staff Judge Advocates and Deputy Staff Judge Advocates responsible for military justice programs at the base level and above. AFJAGS offers three of the four courses—Military Justice Administration Course (MJAC), Staff Judge Advocate Course (SJAC), and Joint Military Judges' Annual Training (JMJAT)—at AFJAGS. The remaining course, the Article 32 Officer Course, is offered only via distance education.

(a) MJAC provides military justice managers the tools necessary to manage a military justice program at the wing, Numbered Air Force, or Major Command (MAJCOM) level. MJAC instructs on military justice automation, panel selection, unlawful command influence, victim / witness assistance programs, and the Special Victims' Counsel program. MJAC is a week-long and offered twice per year.

(b) SJAC trains the leadership from Air Force Judge Advocate General's Corps on myriad legal issues including a heavy emphasis on military justice. During SJAC, JAG Corps leaders are trained on sexual assault issues affecting the Air Force. One full day is devoted to addressing Special Victims' Counsel. Additional time is allocated to instruct on the evaluation of sexual assault cases, training of trial counsel, charging cases, post-trial procedure and post-trial practice. SJAC is a two week course offered twice per year.

(c) JMJAT, hosted by AFJAGS, is developed by the Air Force Trial Judiciary. JMJAT welcomes trial judges and appellate judges from all branches of the United States military to receive specialized training on a specific legal issue affecting the judiciary; the 2014 offering will focus on sexual assault courts-martial. JMJAT is offered bi-annually, and the next JMJAT is scheduled for February 4-6 2014 at AFJAGs. The JMJAT is expected to host nearly 100 judges from across the Department of Defense.


(d) The Article 32 Officer Course is the AFJAGS distance education offering on military justice. Offered twice a year, five faculty members, both active and reserve, instruct 15 students on all phases of the Article 32. Topics include preparation of the Article 32 report, determining availability of witnesses, ethics, and MRE 412 issues.

c. Sexual Assault Prevention and Response (SAPR) Summit: In December 2013, AFJAGS hosted the first Air Force SAPR Summit. The Summit, attended by key JAG Corps' leadership, provided two days of plenary instruction on sexual assault prevention and response, notably victimology, best prosecution practices in sexual assault cases, victims' rights law, sexual assault investigations, and other topics.

d. Teaching the Corps – the AFJAGS Military Justice Faculty: In order to provide quality training to students on the prosecution and defense of sexual assault cases, numerous experienced active duty

and reserve faculty have been assigned to AFJAGS. These faculty members are assisted by adjunct faculty drawn from the civilian community. Of the six active duty faculty in the AFJAGS Military Justice Division, four have served as Senior Trial Counsel, one has served as a Senior Defense Counsel, and all six have served as both an Area Defense Counsel and a Trial Counsel. On occasion, the Military Justice Division is augmented by other experienced military justice practitioners from the AFJAGS faculty, which includes one former Senior Defense Counsel, seven former Area Defense Counsel, and a former judge from the United States Air Force Court of Criminal Appeals. As members of its reserve faculty, AFJAGS has a number of current and former attorneys for the United States Department of Justice as well as one sitting, state felony court judge. Several courses on the prosecution and defense of sexual assault cases are supplemented by civilian, adjunct faculty. Adjunct faculty teaching frequently at AFJAGS includes Professor Meg Garvin, Executive Director of the National Crime Victim Law Institute, and Dr. Rebecca Campbell, Professor of Psychology, Michigan State University, among others.

3. In short, AFJAGS crafted its training for the prosecution and defense of sexual assault crimes in a manner which allows for litigators of all experience levels to obtain quality instruction from the institution. AFJAGS continues its work to refine its curriculum to provide the best instruction possible. Through in-house and remotely conducted training, students across the Air Force are able to partake in training relevant to the student's individual skill-level. All training ultimately has one singular goal, to improve litigation and military justice expertise.



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11 Attachments:

1. Trial and Defense Advocacy Course (TDAC) Block Schedule
2. Defense Orientation Course (DOC) Narrative Schedule
3. Special Victims' Counsel Course (SVCC) Block Schedule
4. Intermediate Sexual Assault Litigation Course (ISALC) Narrative Schedule
5. Training by Reservists in Advocacy & Litigation Skills (TRIALS) Master Curriculum Plan
6. Advanced Sexual Assault Advocacy Course (ASALC) Block Schedule
7. Military Justice Administration Course (MJAC) Block Schedule
8. Staff Judge Advocate Course (SJAC) Narrative Schedule
9. Joint Military Judges' Annual Training (JMJAT) Block Schedule
10. Article 32 Officer's Course Narrative Schedule
11. Sexual Assault Prevention and Response (SAPR) Summit Narrative Schedule