

45th
INTERMEDIATE TRIAL
ADVOCACY COURSE

28 October – 8 November 2013

45th INTERMEDIATE TRIAL ADVOCACY COURSE

ITAC CONTRACT

Purpose: To produce judge advocates with the courtroom skills necessary to be the lead counsel in a contested court-martial, assuming they have completed institutional training (the Basic Course and either NPC or DC101) and organizational training (OSJA/TDS).

Educational Objectives: Graduates will have the following trial advocacy skills:

- Case analysis of a sex crimes case
- Witness interviewing (after law enforcement interview) of adult sex crimes victims
- Conduct *voir dire*
- Conduct direct examination and cross examination of lay witnesses
- Conduct direct examination and cross examination of adult sex crimes victims
- Admit character evidence
- Admit hearsay evidence
- Impeach
- Conduct direct examination and cross examination of an expert witness
- Introduce and use documentary, real, and demonstrative evidence
- Incorporate technology into courtroom communications
- Deliver an opening statement
- Object
- Construct and deliver a closing argument
- Draft proposed instructions

SOME THOUGHTS ABOUT THIS COURSE

As stated above, the purpose of the Intermediate Trial Advocacy Course (ITAC) is simple: to help you become a better trial advocate. The difficulty in achieving this purpose is that advocacy is an art and not a science. There are no precise formulas for success, as in engineering, cooking, or chemistry—but there are certain skills and techniques that must be understood and mastered. One becomes a trial lawyer through a mixture of predisposition and motivation. One becomes a better trial lawyer by observing, doing, and reading how others have done it, and then by constantly repeating these three things - watching, doing, and reading.

Each of you comes to this course with your own level of talent, motivation, and experience. All of these factors help define your effectiveness as an advocate. At the outset we will acknowledge that it is impossible for every student to leave this course with the same skill level or abilities. It is, however, possible for every ITAC student improve his or her own skills as an advocate. Through simulating some of the intellectual, ethical, emotional, and physical demands of being a trial lawyer, we hope to achieve this result.

Listen. We will present classroom instruction and discussions about various advocacy techniques, such as opening statements, direct and cross examination, and closing arguments. Following each block of instruction, you will participate in advocacy exercises where you can learn by doing, and apply what you have heard. Listen to the instructors, share your own ideas and techniques, and listen to your classmates' ideas.

Learn by watching. Most students learn almost as much from seeing their peers in action as they do from their own performances and critiques. Watching others provides an excellent opportunity to compare methods and learn techniques and see how other attorneys approach the same case and problems. It is also much less painful to learn from watching someone else's mistakes, or unsuccessful techniques, than it is to learn by making those mistakes yourself (especially during an actual trial). Also, it is important to emphasize again that advocacy is an art, and a technique brilliantly employed by one trial advocate may not work for another. That is why there can be no "canned answers" or "school solutions" to every advocacy problem. Feel free to borrow from others, the techniques, strategies, and tactics that you like and that you can best adopt.

Prepare. Preparation cannot be over-emphasized. In order to fully benefit from this course, it is essential that you prepare as if for a real court-martial. Learn the facts. Know the witnesses. Judges and instructors will tell you how easy it is to spot an unprepared attorney. Your critiques will not mean much to you if the faculty member must comment on a poorly prepared exercise, and your peers will also miss a chance to learn something. Preparation is not only important for this course but for your real-world practice as well. One of the great modern trial attorneys, Edward Bennett Williams, was once complimented by a peer on his ability to always pull a rabbit from a hat during close trials. "My friend," Mr. Williams replied, "the only way to be able to pull a rabbit from a hat is to

45th INTERMEDIATE TRIAL ADVOCACY COURSE

take 50 rabbits and 50 hats with you into trial, and then, if you are lucky, you may get to use one of the rabbits and one of the hats.” You must give the advocacy exercises your best efforts if you and the other students are to get the maximum value from your critiques and the course.

Experiment. Do not be overly cautious or conservative. You will waste a valuable chance to experiment and grow if you “play it safe” during this course. Despite the abundance of critiques and advice you will receive, this is not a numerically graded course. Take advantage of this opportunity to try new techniques and work on areas of your advocacy skills that need more development. This is the ideal opportunity to throw away “safe” methods and learn to communicate and persuade in new ways. You may be pleasantly surprised at how much more effective you are and how much less scared and uncomfortable you feel. The stakes are much higher in your courtroom back home. Experiment and be creative here, where there is no real case to lose and the only possible casualty is a bruised ego.

Feedback. Do not become despondent if your faculty instructors seem to offer nothing but criticism of your performances. Time for critiques is limited, most trial attorneys know what they are doing well, and most of you receive plenty of positive feedback from your supervisors. Our goal, again, is to help you improve, no matter how polished an advocate you may already be. Praise, while pleasing to the ear and soothing to the ego, will not help your courtroom skills. Critiques like “good job, you did okay” do little to improve advocacy.

Conflicting critiques. You may receive conflicting critiques at some point. This is not surprising, because trial advocacy is an art performed in the medium of human communication. When feedback seem inconsistent, listen carefully to each person’s logic or reasoning, consider your own strengths and weaknesses, and then decide for yourself which approach works best for you.

Read the materials. Before you can hope to be a successful advocate you must first know the facts of your case. Having done so, you will be able to participate in the classroom discussions, maximize the benefit of advocacy exercises, and evaluate techniques employed by both yourself and others. You’ll have a rewarding experience and leave the course as a better trial attorney.

Evidence. Some of the advocacy exercises involve the use of charts, diagrams, and physical evidence. Even where the exercise does not explicitly call for the use of demonstrative or physical evidence you are encouraged to use it. In addition to the enlarged diagrams available from the evidence custodian, butcher paper and markers are always available. You may pick up the evidence in the Criminal Law Department conference room, room 121.

ADVOCACY EXERCISES

You will participate in the general court-martial of Sergeant Archie, who is accused of sexually assaulting and threatening Private Vance. A casefile has been provided that contains all facts and documents needed for all advocacy exercises and workshops. **You should read everything in the casefile and know the facts of the case before you begin the exercises.** Trial counsel and defense counsel have the same casefile.

You will participate in seventeen small-group advocacy exercises and workshops. Not all small-group sessions require use of the casefile facts, but the only fact pattern you will need to know is the “Archie Case.”

1. Offender Behaviors
2. Victim Behaviors
3. Delivering Closing Arguments
4. Written Voir Dire
5. Individual Oral Voir Dire
6. Instructions
7. Interview Workshop
8. Interview of PVT Vance
9. Witness Memory
10. Direct Examination
11. Cross Examination
12. Courtroom Comm. & Tech.
13. Direct/Cross of PVT Vance
14. Objections
15. Deliver a Visual Opening Story
16. Experts Prep. Interview and Direct/Cross
17. Deliver a Visual Closing

Students will participate in the advocacy exercises as trial counsel, defense counsel, witnesses, the accused, or court members. Student roles will be randomly assigned. A criminal law professor will be the military judge as applicable.

45th INTERMEDIATE TRIAL ADVOCACY COURSE

| 45th ITAC – Week 1 (28 OCT – 1 NOV 2013) | | | | | Large-group activity | Exercise | Lecture | Workshop | Individual / Group Prep |
|--|--|---|---|--|--|----------|---------|----------|-------------------------|
| TIME | MONDAY – 28OCT13 CASE ANALYSIS | TUESDAY – 29OCT13 ARGUMENTS / CASE ANALYSIS | WEDNESDAY – 30OCT13 CASE ANALYSIS / VOIR DIRE | THURSDAY – 31OCT13 INTERVIEWS | FRIDAY – 1NOV13 EVIDENCE | | | | |
| 0800 | <i>IN-PROCESSING: 0730</i> | | | | | | | | |
| 0830 | Welcome and Intro 0800 – 0850 CG/Dean/Chair/Course Mgr | Delivering Arguments 0800-0840 / Sykes | Case Analysis: Victims 0800 – 0930 Dr. Lonsway | Instructions 0800-0850 / Bateman | MJO/ Courtroom Comm. & Tech 0800-1000 Grimes | | | | |
| 0900 | (Break/10) | (Break/10) | | (Break/10) | | | | | |
| 0930 | Case Analysis/Art. 120 0900 - 1120 Winklosky/Stephens | Workshop: Deliver Closing Argument (Video Feedback) 0850-1210 | | Workshop: Instructions 0900 – 0950/ Faculty | | | | | |
| 1000 | (Break/20) | | (Break/10) | (Break /20) | | | | | |
| 1030 | (Cont'd) | | Case Analysis: Special Victim Legal Counsel 0940 – 1030, Calarao/Sykes | Interview Workshop 1010-1110 Faculty | (Break/20) | | | | |
| 1100 | | | (Break/10) | | SPS: MJO/Courtroom Comm. & Tech. 1020-1100 Grimes | | | | |
| 1130 | SPS: Evidence Analysis 1120-1210 | | Workshop: Case Analysis - Victims 1040-1130 / Faculty | G/IP: Prepare Interview 1110-1330 (OVER LUNCH) | (Break/10) | | | | |
| 1200 | | | (Break/10) | | Direct Exam Overview 1110-1210 / Sykes | | | | |
| 1230 | Lunch / 1210-1330 | Lunch 1210-1330 OPTIONAL PR SESSION | Voir Dire 1140-1230 Stephens | | Lunch 1210-1330 | | | | |
| 1300 | | | Lunch 1230-1340 OPTIONAL PR SESSION | | | | | | |
| 1330 | | | | | | | | | |
| 1400 | Interviewing 1330– 1530 Kliem, V | Case Analysis – Non-Stranger Offenders 1330 – 1430 Dr. Lonsway | Demo: Voir Dire 1340-1420 | Exercise: Interview Vance 1330– 1630 Faculty | Witness Memory 1330-1410/ Kliem | | | | |
| 1430 | | (Break/10) | | | (Break/10) | | | | |
| 1500 | | Offender-Centric Case Analysis 1440 – 1540 Dr. Lonsway | Workshop: Case Analysis – Voir Dire, Written Voir Dire 1420-1610 Faculty | | Witness Memory Workshop 1420-1530 Faculty | | | | |
| 1530 | | (Break/10) | | | (Break /10) | | | | |
| 1600 | | Workshop: Case Analysis - Offender 1550-1700/ Faculty | (Break /20) | | Evidence Fundamentals 1540-1730 Kliem | | | | |
| 1630 | | | | | | | | | |
| 1700 | | Icebreaker 1700-UTC | Workshop: Indiv Oral Voir Dire 1630-1730 Faculty | | | | | | |
| 1730 | | | | | | | | | |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

| 45th ITAC – Week 2 (4 – 8 NOV 2013) | | | | Large-group activity | Exercise | Lecture | Workshop | Individual / Group Prep |
|-------------------------------------|---|--|---|--|--|---------|----------|-------------------------|
| TIME | MONDAY – 4NOV13 COMMUNICATION | TUESDAY– 5NOV13 DIRECT/CROSS | WEDNESDAY– 6NOV13 STORYTELLING | THURSDAY– 7NOV13 EXPERTS | FRIDAY– 8NOV13 FINAL TEST | | | |
| 0800 | Week Ahead 0800-0810 | Direct/Cross of SA Victim 0800-0930 Calarco/Sykes | Exercise: Deliver a Visual Opening Story 0800-1200 Faculty | Expert Day Prep 0800-0820 / Course Mgr. | Workshop: Deliver a Visual Closing Argument 0800-1100 Faculty | | | |
| 0830 | Direct Exam Workshop 0810-1040 Faculty | | | (Break/10) | | | | |
| 0900 | | G/IP: Prepare Direct/Cross of Vance 0930-1200 | | Expert Prep Interviews Each expert interviewed four times, 45min per interview 0830-1200 Guest Experts | | | | |
| 0930 | | | | | | | | |
| 1000 | | | | | | | | |
| 1030 | | | | | | | | |
| 1100 | (Break/20) | | | | (Break/10) | | | |
| 1130 | Cross Exam Overview 1100-1200 Sykes | | | | Military Judge Perspective 1110-1200 Hargis | | | |
| 1200 | Lunch 1200-1330 | Lunch 1200-1330 | Lunch 1200-1330 | G/IP: Prepare Direct/Cross of Expert Witness 1200-1300 (OVER LUNCH) (EXPERTS EAT) | Closing & Out-processing 1200-UTC | | | |
| 1230 | | Exercise: Direct/Cross Victim 1200-1330 Faculty | TCAP / DCAP Brownbag | | | | | |
| 1300 | | | | Exercise: Direct/Cross Expert 1300-1430 Faculty | | | | |
| 1330 | SPS: Impeach 1330-1420 Kliem | G/IP: Prepare for Visual Opening Story | Experts Overview (Law / Logistics / Foundations / Challenging) 1330-1530 Kliem | G/IP: Prepare Direct/Cross | | | | |
| 1400 | (Break/10) | | | | | | | |
| 1430 | Workshop: Cross Exam 1430-1630 Faculty | (Break/10) | | (Break/20) | | | | |
| 1500 | | Objections 1510-1530 / Sykes | | G/IP: Prepare Visual Closing 1450-1730 **DVD's of two video review sessions provided to students** | | | | |
| 1530 | | Workshop: Objections 1530-1630 / Faculty | (Break /20) | Exercise: Direct/Cross Expert 1450-1620 Faculty | | | | |
| 1600 | | | Experts Roundtable 1550-1700 | | | | | |
| 1630 | (Break/10) | | | | | | | |
| 1700 | Opening Story 1640-1720 Sykes | | | | | | | |
| 1730 | | | | | | | | |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

ADVOCACY EXERCISE SCHEDULE

28 October – 8 November 2013

1. Find your student number. You will use this number to identify the group to which you have been assigned for workshops and exercises. There are six (8) small groups. Each group has been assigned a “Conference” name, i.e. Atlantic Coast Conference (ACC), within each conference there are four (4) teams, i.e. The Virginia Tech Hokies are in the ACC. Each team has two members who will work together throughout the course as either a Trial Counsel Team or Defense Counsel Team (even though you may be in a trial counsel job you may be placed on a defense team for this course). Please report any discrepancies in the schedule to MAJ Steward in Room 124B or Ms. Morris in Room 124. You must appear in your assigned classroom on time and be prepared to proceed in accordance with this schedule.
2. If you have any questions regarding the use of this schedule or about any of the exercises, bring them to the attention of your seminar instructor. After that time, if you have any questions, please see MAJ Steward or Ms. Morris.
3. The advocacy exercises are based on the fictional case *United States v. Archie*. Information about the case was forwarded in an email correspondence to you, but is also contained on the ITAC webpage (<https://www.jagcnet.army.mil/tjaglcscrimlaw>). Additional materials may be distributed throughout the course. You must be familiar with the case to participate in the exercises. The course materials also contain specific information on each of the exercises at the tabs listed in this schedule.

| | |
|----|-------------------|
| 1 | Christopher Monti |
| 2 | Earl Wilson |
| 3 | Joyce Liu |
| 4 | Alan Merriman |
| 5 | David Struwe |
| 6 | John Castlen |
| 7 | Samantha Victoria |
| 8 | Ryan Burke |
| 9 | Bryan Dettmer |
| 10 | Amanda McNeil |
| 11 | Joshua Fix |
| 12 | Cassandra Resposo |
| 13 | Ardalan Azad |
| 14 | Taylor Mattson |
| 15 | Adam Petty |
| 16 | Jeremy Cohen |
| 17 | Harold Housley |
| 18 | Emily Zukauskas |
| 19 | EJ Gladding |
| 20 | Lori Darnell |
| 21 | Julia Hetlof |
| 22 | Scott Reitor |

| | |
|----|-------------------|
| 23 | Awoniyi Oluwaseye |
| 24 | Justin MacDonald |
| 25 | Bradley Olsen |
| 26 | Nichole Venious |
| 27 | Mary Anne Korvite |
| 28 | Leisa Schwab |
| 29 | Dimitri Goubarkov |
| 30 | Alane Ballweg |
| 31 | Brian Serakas |
| 32 | Timothy Donahue |
| 33 | Sandra Ahinga |
| 34 | Thomas Harper |
| 35 | Adam Bester |
| 36 | Michael O'brien |
| 37 | Melissa Rugerro |
| 38 | Corey Tisdale |
| 39 | Michael Wood |
| 40 | Brian Hartley |
| 41 | Timothy Matthews |
| 42 | Elinoir Kim |
| 43 | Douglas Sackett |
| 44 | David Ford |

| | |
|----|---------------------|
| 45 | Tarik Downie |
| 46 | Michael McDonough |
| 47 | Timothy Fitzgibbon |
| 48 | Evan Matthews |
| 49 | Nathanial Chittick |
| 50 | Marc Sawyer |
| 51 | Deirde Baker |
| 52 | Adam Kama |
| 53 | Joel King |
| 54 | Brittany Warren |
| 55 | Matthew Karchaske |
| 56 | William Lichvar |
| 57 | Catherine Parnell |
| 58 | Justin Wegner |
| 59 | James Myers |
| 60 | Tonya Todd |
| 61 | Michael Medici |
| 62 | Aleksandr Podolskiy |
| 63 | Gregory Vanison |
| 64 | Victor Contreras |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

SMALL GROUP BREAK-OUT BY STUDENT NUMBER

| <u>Conferences and Teams</u> | | | |
|--|---|--|---|
| Atlantic Coast Conference (ACC) | Southeastern Conference (SEC) | Big 10 | Mountain West (MWC) |
| Virginia Tech Hokies (Trial Counsel) 1) Christopher Monti 2) Earl Wilson | Alabama Crimson Tide (Trial Counsel) 9) Bryan Dettmer 10) Amanda McNeil | Michigan Wolverines (Trial Counsel) 17) Harold Housley 18) Emily Zukauskas | Air Force Falcons (Trial Counsel) 49) Nathaniel Chittick 50) Marc Sawyer |
| Clemson Tigers (Defense Counsel) 3) Joyce Liu 4) Alan Merriman | LSU Tigers (Defense Counsel) 11) Joshua Fix 12) Cassandra Resposso | Ohio State Buckeyes (Defense Counsel) 19) EJ Gladding 20) Lori Darnell | Boise State Broncos (Defense Counsel) 51) Deirde Baker 52) Adam Kama |
| Florida State 'Noles (Trial Counsel) 5) David Struwe 6) John Castlen | Florida Gators (Trial Counsel) 13) Ardalan Azad 14) Taylor Mattson | Wisconsin Badgers (Trial Counsel) 21) Julia Hetlof 22) Scott Reitor | Fresno State Bulldogs (Trial Counsel) 53) Joel King 54) Brittany Warren |
| Ga Tech Y'Jackets (Defense Counsel) 7) Samantha Wictoria 8) Ryan Burke | Mississippi Rebels (Defense Counsel) 15) Adam Petty 16) Jeremy Cohen | Penn State Nittany Lions (Defense Counsel) 23) Awoniyi Oluwaseye 24) Justin MacDonald | San Diego State Aztecs (Defense Counsel) 55) Matthew Karchaske 56) William Lichvar |
| Big 12 | PAC 12 | Independents | American Athletic (AAC) |
| Texas Longhorns (Trial Counsel) 25) Bradley Olsen 26) Nichole Venious | USC Trojans (Trial Counsel) 33) Sandra Ahinga 34) Thomas Harper | Army Black Knights (Trial Counsel) 41) Timothy Matthews 42) Elinoir Kim | Louisville Cardinals (Trial Counsel) 57) Catherine Parnell 58) Justin Wegner |
| Oklahoma Sooners (Defense Counsel) 27) Mary Anne Korvite 28) Leisa Schwab | Oregon Ducks (Defense Counsel) 35) Adam Bester 36) Michael O'brein | Navy Midshipman (Defense Counsel) 43) Douglas Sackett 44) David Ford | Connecticut Huskies (Defense Counsel) 59) James Myers 60) Tonya Todd |
| Kansas State Wildcats (Trial Counsel) 29) Dimitri Boubarkov 30) Alane Ballweg | Washington Huskies (Trial Counsel) 37) Melissa Rugerro 38) Corey Tisdale | Notre Dame Fighting Irish (Trial Counsel) 45) Tarik Downie 46) Michael McDonough | Central Florida Knights (Trial Counsel) 61) Michael Medici 62) Aleksandr Podolski |
| Texas Tech R.Raiders (Defense Counsel) 31) Brian Serakas 32) Timothy Donahue | Arizona Wildcats (Defense Counsel) 39) Michael Wood 40) Brian Hartley | BYU Cougars (Defense Counsel) 47) Timothy Fitzgibbon 48) Evan Matthews | Rutgers Scarlet Knights (Defense Counsel) 63) Gregory Vanison 64) Victor Contreras |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY ONE: Monday, 28 October 2013

SMALL-GROUP ROOMS

Unless specified otherwise, students will meet in the following rooms for all small-group workshops and exercises on all days.

| Room | <u>Conference and Teams</u> |
|---------------|--|
| 140A | ACC – Virginia Tech, Clemson, Florida State, Georgia Tech |
| 140B | SEC – Alabama, LSU, Florida, Mississippi |
| 142A | Big 10 – Michigan, Ohio State, Wisconsin, Penn State |
| 142B | Big 12 – Texas, Oklahoma, Kansas State, Texas Tech |
| 167/8 | PAC 12 – USC, Oregon, Washington, Arizona |
| 169/70 | Independents - Army, Navy, Notre Dame, BYU |
| 144B | MWC – Air Force, Boise State, Fresno State, San Diego State |
| 136 | AAC – Louisville, Connecticut, Central Florida, Rutgers |

DAY TWO: Tuesday, 29 October 2013

WORKSHOP: DELIVERING CLOSING ARGUMENTS (VIDEO FEEDBACK)

0850-1210

| Room | NOTE: SPECIAL ROOM ASSIGNMENT FOR THIS WORKSHOP ONLY! |
|--------------|--|
| 140A | ACC – Virginia Tech, Clemson, Florida State, Georgia Tech <u>AND Army, Navy, Notre Dame</u> |
| 140B | SEC – Alabama, LSU, Florida, Mississippi <u>AND BYU, Air Force, Boise State</u> |
| 142A | Big 10 – Michigan, Ohio State, Wisconsin, Penn State, <u>AND Fresno State, San Diego State</u> |
| 142B | Big 12 – Texas, Oklahoma, Kansas State, Texas Tech, <u>AND Louisville, Connecticut</u> |
| 167/8 | PAC 12 – USC, Oregon, Washington, Arizona, <u>AND Central Florida, Rutgers</u> |

In this session students will each deliver an 8-10 minute closing argument for the Archie Case. Following the argument there will be 2 minutes of group critique followed by individual critique with a faculty advisor (with whom each student will watch the recorded argument).

45th INTERMEDIATE TRIAL ADVOCACY COURSE

WORKSHOP: OFFENDER BEHAVIORS **1550-1700**

During this workshop students will work through the Archie file and discuss the patterns of offender behavior that are present from the facts. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

DAY THREE: Wednesday, 30 October 2013

WORKSHOP: VICTIM BEHAVIORS **1040-1130**

During this workshop students will work through the Archie file and discuss the patterns of victim behavior that are present from the facts. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

WORKSHOP: WRITTEN VOIR DIRE **1420-1610**

In this workshop students will be asked to brainstorm within their teams and develop relevant voir dire questions for the members. The lecture prior to the workshop will present students with an approach to voir dire that will be used in two voir dire workshops. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

WORKSHOP: INDIVIDUAL ORAL VOIR DIRE **1630-1730**

In this workshop students will receive replies to the written voir dire questions developed in the written voir dire exercise. Students will then conduct oral voir dire of an individual panel member played by a faculty member. Students will be expected to think on their feet in order to ask appropriate follow-up questions. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

DAY FOUR: Thursday, 31 October 2013

WORKSHOP: INSTRUCTIONS **0900-0950**

In this workshop students will work in their respective teams and identify the instructions they would request the military judge provide to the members, as well as create any additional instructions not found in the Military Judge's Benchbook. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

WORKSHOP: INTERVIEWS **1010-1110**

In this workshop students will take the techniques learned from the interviewing lecture and discuss effective ways to conduct witness interviews in preparation for interviewing PVT Vane. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

45th INTERMEDIATE TRIAL ADVOCACY COURSE

EXERCISE: INTERVIEW PVT VANCE **1330-1630**

| Room | NOTE: Special room assignments for this workshop! |
|---------------|--|
| 140A | ACC – Virginia Tech 1330-1410, Clemson 1415-1455, Florida State 1500-1540, Georgia Tech 1545-1630 |
| 140B | SEC – Alabama 1330-1410, LSU 1415-1455, Florida 1500-1540, Mississippi 1545-1630 |
| 142A | Big 10 – Michigan 1330-1410, Ohio State 1415-1455, Wisconsin 1500-1540, Penn State 1545-1630 |
| 142B | Big 12 – Texas 1330-1410, Oklahoma 1415-1455, Kansas State 1500-1540, Texas Tech 1545-1630 |
| 167/8 | PAC 12 – USC 1330-1410, Oregon 1415-1455, Washington 1500-1540, Arizona 1545-1630 |
| 169/70 | Ind. – Army 1330-1410, Navy 1415-1455, Notre Dame 1500-1540, BYU 1545-1630 |
| 144B | MWC – Air Force 1330-1410, Boise St. 1415-1455, Fresno St. 1500-1540, San Diego St 1545-1630 |
| 136 | AAC – Louisville 1330-1410, UConn 1415-1455, UCF 1500-1540, Rutgers 1545-1630 |

In this session each team will interview PVT Vance. Each team will have 40 minutes to interview PVT Vance. The schedule above assigns each team a time and room location to conduct the interview. Times where teams are not interviewing PVT Vance teams are expected to be either preparing for the interview or preparing for the direct/cross examination exercise with PVT Vance.

DAY FIVE: Friday, 1 November 2013

WORKSHOP: WITNESS MEMORY **1420-1530**

In this workshop students will be asked to perform two tasks; refresh a witness' memory (MRE 612), and using MRE 803(5) cover the elements of recorded recollection to properly elicit testimony of a writing for which the witness is still unable to recall even after his/her memory has been properly refreshed. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY SIX: Monday, 4 November 2013

WORKSHOP: DIRECT EXAMINATION

0810-1040

In this exercise each team will be given a set of specific topics they are to cover with a certain witness from the Archie case (see below for topics). Each team member will conduct a direct examination to elicit the required testimony. Witnesses will be played by members from different teams within the conference (see below for witness assignments).

| Room Assignments | Team Advocacy Assignments |
|---|--|
| <p>ACC – 140A</p> <p>SEC – 140B</p> <p>Big 10 – 142A</p> | <p>Virginia Tech, Alabama, Michigan, Texas, USC, Army, Air Force, Louisville</p> <p>1) Government Witness: PFC Taylor The goal of the direct examination of PFC Taylor is to have her describe the events that she observed the morning after the alleged sexual assault. Attempt to get PVT Vance’s statements to PFC Taylor into evidence.</p> <p>2) Government Witness: SA Henderson The goal of the direct examination is to enter the room diagram and picture into evidence, as well as the shorts collected at the scene.</p> <p>Role play assignments – SGT Archie, SPC Randolf</p> |
| <p>Big 12 – 142B</p> <p>PAC 12 – 167/8</p> <p>Ind. – 169/70</p> | <p>Florida State, Florida, Wisconsin, Kansas State, Washington, Notre Dame, Fresno State, Central Florida</p> <p>3) Government Witness: PFC Taylor The goal of the direct examination of PFC Taylor is to have her describe the party in detail - - particularly the interactions she witnessed between SGT Archie and PVT Vance. Focus on the dancing, in particular, and establish for the trier of fact that PVT Vance was uncomfortable. Attempt to get her statements to PFC Taylor into evidence.</p> <p>4) Government Witness: SGT Frederickson The goal of the direct examination is to have SGT Frederickson testify that SGT Archie told him that he would “hit that” re: Vance.</p> <p>Role play assignments – SGT Archie, SPC Jacobs</p> |
| <p>MWC – 144B</p> <p>AAC - 136</p> | <p>Clemson, LSU, Ohio State, Oklahoma, Oregon, Navy, Boise State, Connecticut</p> <p>5) Defense Witness: SGT Archie The goal of the direct examination is to discuss how SGT Archie got into PVT Vance’s room.</p> <p>6) Defense Witness: SPC Randolf The goal of the direct examination is to question SPC Randolf regarding what he saw SGT Archie doing in the hallway on the night in question. Also, have SPC Randolf discuss the hallway (acoustics, etc) and establish that he did not hear any cries for help.</p> <p>Role play assignments – PFC Taylor, SA Henderson</p> |
| | <p>Georgia Tech, Mississippi, Penn State, Texas Tech, Arizona, BYU, San Diego State, Rutgers</p> <p>7) Defense Witness: SGT Archie The goal of the direct examination is to have Archie describe the interaction he had with PVT Vance at the party.</p> <p>8) Defense Witness: SPC Jacobs The goal of the direct examination is to have SPC Jacobs discuss the party in detail; focusing primarily on Vance’s behavior at the party.</p> <p>Role play assignments – PFC Taylor, SGT Fredrickson</p> |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

WORKSHOP: CROSS EXAMINATION 1430-1630

In this exercise each team will be given a set of specific topics they are to cover with a certain witness from the Archie case. Each team member will conduct a cross examination to elicit the required testimony (see below for topics). Witnesses will be played by members from different teams within the conference (see below for witness assignments).

| Room Assignments and Times | Team Advocacy Assignments |
|--|---|
| <u>Morning</u> ACC – 140A, SEC – 140B, Big 10 – 142A, Big 12 – 142B, PAC 12 – 167/8, Big East – 169/70, | Virginia Tech, Alabama, Michigan, Texas, USC, Army, Air Force, Louisville Government: 1) Cross examine SGT Archie to elicit fact that he was not immediately invited into PV2 Vance’s barracks room. 2) Cross examine SGT Frederickson to elicit fact that SGT Archie has inquired about PV2 Vance on several occasions. 3) Cross examine SGT Archie to elicit fact that he was on top of her during sex and PV2 Vance was never on top. Role play assignments – PFC Taylor, PV2 Vance |
| | Florida State, Florida, Wisconsin, Kansas State, Washington, Notre Dame, Fresno State, Central Florida Government: 4) Cross examine SGT Archie to elicit fact of his 300+ APFT. 5) Cross examine SGT Archie to elicit fact that PV2 Vance left SPC Jacob’s party after he put his hands on her butt. 6) Cross examine SGT Archie to elicit his comment that he’d like to get “his fair share” of PV2 Vance to SGT Frederickson. Role play assignments – PV2 Vance, SPC Randolph |
| | Clemson, LSU, Ohio State, Oklahoma, Oregon, Navy, Boise State, Connecticut Defense: 1) Cross examine PFC Taylor to elicit fact that it was she that first suggested PV2 Vance was “raped.” 2) Cross examine PV2 Vance to elicit fact she was excited about the interest SGT Archie showed in her at the food court. 3) Cross examine SPC Randolph to elicit fact that he never heard any sounds from PV2 Vance’s barracks room. Role play assignments – SGT Archie, SGT Fredrickson |
| | Georgia Tech, Mississippi, Penn State, Texas Tech, Arizona, Arizona, BYU, San Diego State, Rutgers Defense: 4) Cross examine PFC Taylor to elicit fact she saw PV2 Vance drink multiple alcoholic drinks at SPC Jacob’s party. 5) Cross examine PV2 Vance to elicit fact she never told SGT Archie “no.” 6) Cross examine PV2 Vance to elicit fact she requested SGT Archie to bring her Mike’s Hard Cranberry Lemonade to SPC Jacobs’ party. Role play assignments – SGT Archie, SGT Fredrickson |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY SEVEN: Tuesday, 5 November 2013

EXERCISE: DIRECT/CROSS EXAMINATION OF PVT VANCE **1200-1500**

| Room | Conference and Teams | | |
|---------------|-----------------------------|--|--|
| 140A | ACC | Virginia Tech, Clemson 1200-1330 | Florida State, Georgia Tech 1330-1500 |
| 140B | SEC | Alabama, LSU 1200-1330 | Florida, Mississippi 1330-1500 |
| 142A | Big 10 | Michigan, Ohio State 1200-1330 | Wisconsin, Penn State 1330-1500 |
| 142B | Big 12 | Texas, Oklahoma 1200-1330 | Kansas State, Texas Tech 1330-1500 |
| 144 | PAC 12 | Utah, Oregon State 1030-1200 | Washington, Arizona 1330-1500 |
| 169/70 | Ind. | Army, Navy 1200-1330 | Notre Dame, BYU 1330-1500 |
| 144B | MWC | Air Force, Boise State 1200-1330 | Fresno State, San Diego State 1330-1500 |
| 136 | AAC | Louisville, Connecticut 1200-1330 | Central Florida, Rutgers 1330-1500 |

In this session students will work in teams to conduct either a direct or cross examination of PVT Vance. Students should use statements made by PVT Vance as well as what they learned in the interview with PVT Vance to craft questions for direct/cross. Each team will be given a total of 45 minutes to conduct direct/cross/redirect of PVT Vance. A TC team will be paired with a DC team, i.e. Virginia Tech and Clemson are paired together (see the room, team, and time assignments above).

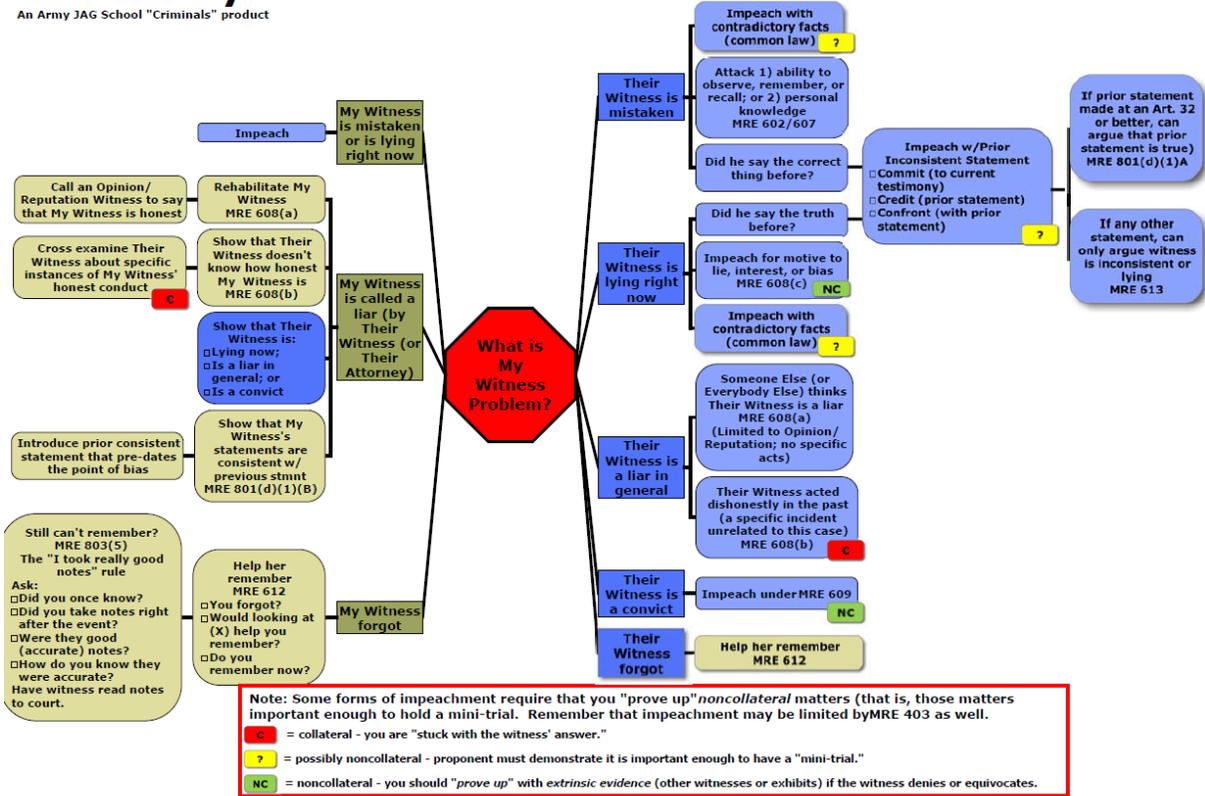
WORKSHOP: OBJECTIONS **1530-1630**

In this workshop students will be presented with several vignettes and work in teams to determine how best to respond to objectionable testimony. Students may find the flowcharts on the following pages helpful when working through this workshop. **SEE PAGE 8 FOR ROOM ASSIGNMENTS**

45th INTERMEDIATE TRIAL ADVOCACY COURSE

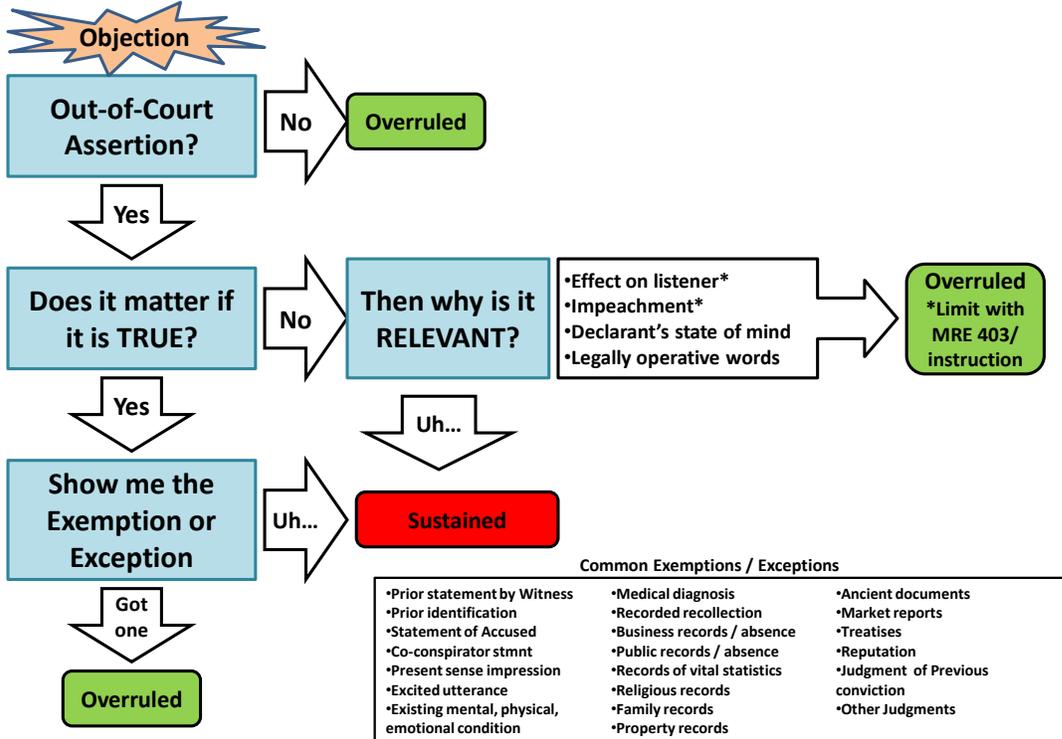
What is My Witness Problem?

An Army JAG School "Criminals" product



Intuitive Guide to Basic Hearsay

An Army JAG School "Criminals" Product



45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY EIGHT: Wednesday, 6 November 2013

WORKSHOP: DELIVER A VISUAL OPENING STORY **0800-1200**

| Room | NOTE: SPECIAL ROOM ASSIGNMENT FOR THIS WORKSHOP ONLY! |
|--------------|---|
| 140A | ACC – Virginia Tech, Clemson, Florida State, Georgia Tech <u>AND Army, Navy, Notre Dame</u> |
| 140B | SEC – Alabama, LSU, Florida, Mississippi <u>AND BYU, Air Force, Boise State</u> |
| 142A | Big 10 – Michigan, Ohio State, Wisconsin, Penn State, <u>AND Fresno State, San Diego State</u> |
| 142B | Big 12 – Texas, Oklahoma, Kansas State, Texas Tech, <u>AND Louisville, Connecticut</u> |
| 167/8 | PAC 12 – USC, Oregon, Washington, Arizona, <u>AND Central Florida, Rutgers</u> |

In this session students will each deliver an 8-10 minute opening statement (story) for the Archie Case. Following the opening there will be 2 minutes of group critique followed by individual critique with a faculty advisor (with whom each student will watch the recorded opening).

45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY NINE: Thursday, 7 November 2013

EXERCISE: EXPERT WITNESS INTERVIEW AND DIRECT/CROSS EXAMINATION 0830-1200 and 1300-1620

Students will be divided into two groups - those interviewing a Sexual Assault Forensic Examiner (SAFE) and those interviewing a Medical Expert. Each student will interview the appointed expert then prepare a direct or cross-examination of the expert. The direct or cross-examination of the expert will occur during a mock exercise. Please see below for witness and room assignments. Each member of the team will conduct the interview on their own, trial counsel teams will prepare a direct examination of a SAFE and a cross of the Medical Expert; conversely defense counsel teams will prepare a direct of the Medical Examiner and a cross examination of the SAFE.

Terms: SAFE = SANE or Forensic Examiner; ME = Medical Expert (Tox/Pharm/PA); Team abbreviations followed by 1 (1st chair) or 2 (2d chair)

Interview Sessions:

| Room | 140A | 140B | 142A | 142B | 169 | 124B | 124E | 121F | 136 | 144A | 170 | 167 | 168 | 144B | 5 th 1 | 5 th 2 |
|--------|----------|-----------|-----------|-------------|------------|----------|----------|-------------|-----------|-----------|-----------|-------------|-----------|----------|-------------------|-------------------|
| (Time) | S1 | S2 | S3 | S4 | S5 | S6 | S7 | S8 | M1 | M2 | M3 | M4 | M5 | M6 | M7 | M8 |
| 0830 | VT (1) | Bama (1) | Mich (1) | Texas (1) | USC (1) | Army (1) | AF (1) | L'ville (1) | VT (2) | 'Bama (2) | Mich. (2) | Texas (2) | USC (2) | Army (2) | AF (2) | L'ville (2) |
| 0920 | Clem (1) | LSU (1) | OSU (1) | Okla. (1) | Ore. (1) | Navy (1) | BSU (1) | Uconn (1) | Clem. (2) | LSU (2) | OSU (2) | Okla. (2) | Ore. (2) | Navy (2) | BSU (2) | Uconn (2) |
| 1010 | FSU (1) | Fla (1) | Wisc. (1) | KSU (1) | Was h. (1) | ND (1) | Fres (1) | UCF (1) | FSU (2) | Fla (2) | Wisc. (2) | KSU (2) | Wash. (2) | ND (2) | Fres (2) | UCF (2) |
| 1100 | GT (1) | Miss. (1) | PSU (1) | T. Tech (1) | 'Zona (1) | BYU (1) | SDSU (1) | Rut. (1) | GT (2) | Miss. (2) | PSU (2) | T. Tech (2) | 'Zona (2) | BYU (2) | SDSU (2) | Rut. (2) |

Trial Sessions:

| Room | 140A | 140B | 142A | 142B | 144 | | | |
|-----------|-------------------------|-------------------------|-------------------------|--------------------------|------------------------|--------------------|----------------------------------|-----------------------------|
| (Time) | S1/M1 | S2/M2 | S3/M3 | S4/M4 | S5/M5 | S6/M6 | S7/M7 | S8/M8 |
| 1300-1430 | VT vs. Clemson | Alabama vs. LSU | Michigan vs. Ohio State | Texas vs. Oklahoma | USC vs. Oregon | Army vs. Navy | Air Force vs. Boise State | Louisville vs. Connecticut |
| 1450-1620 | Fla. State vs. Ga. Tech | Florida vs. Mississippi | Wisconsin vs. PSU | Kansas St. vs. Tex. Tech | Washington vs. Arizona | Notre Dame vs. BYU | Fresno State vs. San Diego State | Central Florida vs. Rutgers |

45th INTERMEDIATE TRIAL ADVOCACY COURSE

DAY TEN: Friday, 8 November 2013

EXERCISE: DELIVER A VISUAL CLOSING ARGUMENT **0800-1100**

In this session students will each deliver a 15 minute closing argument using all the techniques learned throughout the course to include some form of visual aide.

| Room | <u>Conference and Teams</u> |
|-------------|--|
| 140A | ACC – Virginia Tech, Clemson, Florida State, Georgia Tech |
| 140B | SEC – Alabama, LSU, Florida, Mississippi |
| 142A | Big 10 – Michigan, Ohio State, Wisconsin, Penn State |
| 142B | Big 12 – Texas, Oklahoma, Kansas State, Texas Tech |
| 260 | PAC 12 – USC, Oregon, Washington, Arizona |
| RRR | Independent – Army, Navy, Notre Dame, BYU |
| 144B | MWC – Air Force, Boise State, Fresno State, San Diego State |
| 136 | AAC - Louisville, Connecticut, Central Florida, Rutgers |