

**COMPARATIVE SYSTEMS SUBCOMMITTEE
ISSUE ASSESSMENT- PROSECUTION/DEFENSE TRAINING**

SUBCOMMITTEE MISSION STATEMENT:

Assess and compare military and civilian systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses, under 10 U.S.C. 920 (Article 120, Uniform Code of Military Justice (UCMJ)).

SUBCOMMITTEE OBJECTIVES AND SCOPE:

- Compare military and civilian systems for the investigation, prosecution, and adjudication of adult sexual assault crimes.
- Compare and assess the training level of military defense and trial counsel, including their experience in defending or prosecuting adult sexual assault crimes and related offenses, to the training level of prosecution and defense counsel for similar cases in the Federal and State court systems.
- Identify best practices from civilian jurisdictions that may be incorporated into any phase of the military system.

ISSUE:

Should the training of prosecutors and defense counsel in the military be changed to improve the military's response to sexual assault?

REPORT OUTLINE:

I. Methodology and Overview of Subcommittee Analysis

A. Meetings/discussions held

B. Presenters heard

1. 11-12 Dec. 2013

- a. Major Ryan Oakley, U.S. Air Force, Deputy Director, Office of Legal Policy, Office of the Undersecretary of Defense (Personnel & Readiness)
- b. Captain Jason Brown, U.S. Marine Corps, Military Justice Officer, Military Justice Branch (JAM), Judge Advocate Division, Headquarters Marine Corps
- c. Captain Robert Crow, U.S. Navy, Director, Criminal Law Division (Code 20)
- d. Lieutenant Colonel Mike Lewis, U.S. Air Force, Chief, Military Justice Division
- e. Colonel Michael Mulligan, U.S. Army, Chief, Criminal Law Division, Office of The Judge Advocate General
- f. Martha Bashford, Chief, Sex Crimes Unit, New York County District Attorney's Office
- g. Lane Borg, Executive Director, Metropolitan Public Defenders, Portland, Oregon
- h. Colonel Don Christensen, Chief, Government Trial and Appellate Counsel Division, Air Force Legal Operations Agency, U.S. Air Force
- i. Lieutenant Colonel Erik Coyne, Special Counsel to The Judge Advocate General
- j. Kelly Higashi, Assistant United States Attorney, Chief, Sex Offense and Domestic Violence Section, U.S. Attorney's Office, District of Columbia

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- k. Laurie Rose Kepros, Director of Sexual Litigation, Colorado Office of the State Public Defender
- l. Commander Don King, Director, Defense Counsel Assistance Program, U.S. Navy
- m. Lieutenant Colonel Fansu Ku, Chief, Defense Counsel Assistance Program, U.S. Army Trial Defense Service, U.S. Army
- n. Lieutenant Colonel Mike Lewis, Chief, Military Justice Division, U.S. Air Force
- o. Bill Montgomery, Maricopa County Attorney, Maricopa County, Arizona
- p. Lieutenant Colonel Jay Morse, Chief, U.S. Army Trial Counsel Assistance Program, U.S. Army
- q. Amy Muth, Attorney-at-Law, The Law Office of Amy Muth
- r. Wendy Patrick, Deputy District Attorney, Sex Crimes and Stalking Division, San Diego County District Attorney's Office
- s. Lieutenant Colonel Julie Pitvorec, Chief Senior Defense Counsel, U.S. Air Force
- t. Barry G. Porter, Attorney & Statewide Trainer, New Mexico Public Defender Department
- u. Commander Aaron Rugh, Director, U.S. Navy Trial Counsel Assistance Program, U.S. Navy
- v. Major Mark Sameit, Branch Head, Trial Counsel Assistance Program, U.S. Marine Corps
- w. Captain Scott (Russ) Shinn, Officer-in-Charge, Defense Counsel Assistance Program, Marine Corps Defense Services Organization, U.S. Marine Corps
- x. James Whitehead, Supervising Attorney, Trial Division, Public Defender Service for the District of Columbia

2. 7 Jan. 14

- a. Candace Mosley, NDAA
- b. Viktoria Kristiansson, AEquitas
- c. Lisa Wayne, NACDL
- d. Yvonne Younis, Defender Association of Philadelphia
- e. LTC Matthew Calarco (TJAGLCS)
- f. Mr. Dave Houghland (HQE)
- g. LCDR Justin McEwen (NJS)
- h. LtCol George Cadwalader (NJS)
- i. Ms. Bridget Ryan (HQE)
- j. Ms. Sandra Tullius (HQE)
- k. Mr. Ron White (HQE)
- l. Mr. Edward O'Brien (HQE)
- m. Col Ken Theurer (USAF)
- n. Col Vance Spath (USAF)
- o. Mr. David M. Houghland (HQE)
- p. Mr. Neal Puckett (HQE)
- q. Ms. Teresa Scalzo (HQE)

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- r. Ms. Kathleen Coyne (HQE)
- s. Ms. Claudia Bayliff

C. Materials reviewed

- 1. RFIs
 - a. 1d (Metrics to measure success and MOEs for training trial and defense)
 - b. 75b, c, d (training, education, experience of counsel)
 - c. 76 career tracks for counsel

D. Installations visited

- 1. Fort Hood, TX
- 2. Lackland AFB (JBSA)
- 3. JBLM
- 4. Naval Station Norfolk
- 5. Marine Corps Base Quantico

II. Training of Civilian Prosecutors

A. Civilian Jurisdictions—Prosecutors

- 1. NDAA
- 2. AEquitas
- 3. NAC

III. Training of Civilian Defense Counsel

A. Civilian Jurisdictions—Defense Counsel

- 1. NACDL

IV. Basic Judge Advocate Training of Military Lawyers

- A. Army
- B. Air Force
- C. Coast Guard
- D. Marine Corps
- E. Navy

V. Specialized Training of Military Prosecutors

- A. Army
- B. Air Force
- C. Coast Guard
- D. Marine Corps
- E. Navy

VI. Specialized Training of Military Defense Counsel

- A. Army
- B. Air Force
- C. Coast Guard
- D. Marine Corps
- E. Navy

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VII. Training Best Practices

VIII. Findings Based on Above Evidence

IX. Recommendation(s)

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