

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 6**

III. Assessment & Trends of Training and Experience of Prosecutors and Defense Counsel

Training and Experience: Building on the data compiled as a result of paragraph [RSP Tasking] (1)(D), assess the trends in the training and experience levels of military defense and trial counsel in adult sexual assault cases and the impact of those trends in the prosecution and adjudication of such cases. (FY13 NDAA)

Training and Experience of Prosecutors and Defense Counsel

Please note: Questions in this section request updates, revisions, or any other changes to information previously provided in response to RSP RFIs 75, 76, and 145-147 (available at <http://responsesystemspanel.whs.mil/rfis>).

118. (Update to RSP RFI 75) Services: Selection criteria for attorneys:

a. What are the selection criteria (education, experience, and training) for assignment as a defense attorney detailed to an adult sexual assault case?

USA	TDS: No update to previous response to RSP RFI 75.
USAF	The Air Force employs a robust selection criterion for military defense attorneys or Area Defense Counsel (ADC) to ensure the best qualified judge advocates are selected as ADCs. ADCs are selected through a worldwide, best qualified standard. A “best qualified” candidate is one who is able to handle the demands of a steady litigation docket and represent clients in a variety of administrative proceedings while managing an office with limited oversight and, often, geographically separated supervision. This standard requires the candidate to demonstrate strong organization and time management skills, reliability, civility, professionalism, and leadership while working autonomously. The nominating SJA considers the candidate’s complete duty history, to include Officer Performance Reports, awards and decorations, assignment history, and any instances or allegations of misconduct. In assessing whether the judge advocate should be nominated for an ADC position, the SJA also considers the candidate’s court-martial experience, including (1) the number of courts-martial tried; (2) a breakdown of litigated, partially litigated, and guilty plea trials; (3) the types of offenses tried; (4) the extent of participation in the trials (e.g., opening statement, <i>voir dire</i> , direct and cross examinations); and (5) other litigation experience, including discharge boards; civil litigation (e.g., employment hearings, depositions, and federal magistrate court appearances), and any litigation experience before becoming a judge advocate. Finally, the SJA considers the judge advocate’s leadership qualities and litigation training and evaluates the candidate’s officership, ability to work autonomously, organization and time-management skills, specialized training, and any other information the SJA believes relevant. All nominations for ADC positions are coordinated with the Trial Defense Division, Air Force Legal Operations Agency (AFLOA/JAJD) for input on the candidate’s qualifications for the ADC position. After collecting nominations from supervisory SJAs and input from the Trial Defense Division, the Professional Development Directorate, Office of The Judge Advocate General (AF/JAX) evaluates all candidates’ records and nominations to provide selection recommendations to TJAG. TJAG makes the final selection decisions based on the best qualified standard.

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	<p>Senior Defense Counsel (SDC) are selected from “graduated” ADCs. Many have also served as Senior Trial Counsel (currently 6 of 20 SDCs have served a previous tour as an STC) or appellate counsel. The Trial Defense Division works with the Professional Development Division to identify the best qualified individuals to serve in SDC positions with special emphasis on leadership and experience, as SDCs directly supervise ADCs. Vetted nominations are then submitted as recommendations to TJAG, who makes the final selection decisions.</p>
USN	<p>No update to previous response, except that in the fifth sentence, beginning with the word “Additionally,” TCAP should be removed and replaced with the word DCAP.</p>
USMC	<p>Prior to detailing counsel to complex cases, the SDC consults with the RDC to ensure the right counsel is detailed to the right case. The term “complex case” is a term of art. Supervisory counsel consider the following non-exclusive list of factors when deciding what is and what is not a complex case: The forum; the number and severity of charges; the severity of any possible sentence; the number of potential witnesses; the possible requirements for expert assistance or testimony; and the relative experience base of counsel assigned to that SDC. See CDC PM 3.1, provided as enclosure (6).</p> <p>In addition to detailing decisions made by detailing authorities, CDC Policy Memo 2.1 requires new counsel to complete a training checklist prior to their detailing to a case. This training checklist includes assignments to read important case law, observation of administrative and judicial proceedings, and on the job training via “second seating” at a contested court-martial. See CDC PM 2.1, provided as enclosure (7).</p> <p>ENCLOSURES:</p> <ol style="list-style-type: none"> 1. CDC Policy Memo 3.1 – Detailing and Individual Military Counsel Determination Authority for Counsel Assigned to the Marine Corps Defense Services Organization, dated 6 October 2014 2. CDC Policy Memo 2.1 – New DSO Member Orientation Checklist
USCG	<p>By long standing memorandum of agreement between the Coast Guard and the Navy JAG Corps, the Navy is principally responsible for defending Coast Guard members accused of crimes under the UCMJ. The Coast Guard depends on the Navy JAG Corps to provide fully qualified defense counsel for Coast Guard cases. In return, seven Coast Guard judge advocates are detailed to work at various Navy Defense Service Offices on two year rotations, which provide another significant source of trial experience to Coast Guard judge advocates</p>

b. What are the selection criteria (education, experience, and training) for assignment as a prosecuting attorney detailed to an adult sexual assault case?

USA	<p>TCAP: In addition to response previously provided for RSP RFI 75, please see attachment RFI 111b.</p> <p>ENCLOSURE:</p> <p>SVP TCAP INFO Paper</p>
USAF	<p>To serve as a prosecuting attorney, or assistant trial counsel, on an adult sexual assault</p>

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	<p>case, a judge advocate must meet the minimum qualifications to serve as a judge advocate outlined in RFI 111(b). Additionally, to serve as trial counsel, or lead counsel, on a general court-martial, a judge advocate must be certified by TJAG under the criteria outlined in RFI 111(b). Typically, charges in an adult sexual assault case will be reviewed by an STC or SVU-STC, and, depending on the complexity of the case and the experience level of trial counsel assigned from the installation legal office, an STC or SVU-STC will be detailed to prosecute the case.</p> <p>Since 1972, the Air Force has selected its best and most experienced litigators to serve as STCs and try the most difficult cases, including the vast majority of sexual assault prosecutions. While there is no rank requirement to serve as an STC, judge advocates are not eligible for an STC assignment as a first assignment. As a result, STCs are either captains or majors.</p> <p>A subset of STCs with substantial training and experience in investigating and prosecuting particularly difficult cases (e.g., sexual assault, crimes against children, and homicide) are designated SVU-STCs. These SVU-STCs have primary responsibility for early interaction with local trial counsel for offenses involving a “special victim,” including consultation with investigators and trial counsel prior to the first trial counsel interview of a victim and prior to preferral of charges.</p> <p>The Chief, Government Trial and Appellate Division (AFLOA/JAJG) selects SVU-STCs and certifies that each SVU-STC possesses the requisite litigation skills, professionalism, and leadership to provide the highest quality of legal representation for the government. SVU-STCs must be capable of supervising, mentoring, and training junior counsel while providing candid, independent legal advice and expert prosecutorial support to legal offices that perform military justice functions.</p> <p>AFLOA/JAJG decides which STCs will be designated as SVU-STCs, taking into account the following criteria:</p> <ol style="list-style-type: none"> 1. Completion of one year as an STC or SDC; 2. Attendance at two or more advanced litigation skills-focused courses, such as the following: <ol style="list-style-type: none"> (a) Advanced Trial Advocacy Course (AF); (b) Prosecuting Complex Crimes Course (Navy); (c) National District Attorneys Associations Sexual Assault & Related Crimes; (d) Special Victims Unit Prosecutors Course (Army); (e) Prosecuting Alcohol-Based Sex Crimes (Navy). 3. Completion of specialized training in prosecuting or defending sexual assaults; <p>Demonstrated ability to prosecute a variety of sexual assault and complex cases. Note: There is no minimum number or type of cases required to meet this criterion. Skills include courtroom demeanor; mastery of the rules and law; ability to handle expert witnesses; and ability to work with victims and witnesses.</p>
USN	No update.
USMC	No change from RSP RFI 75.
USCG	The Coast Guard does not have any specific selection criteria. However, in general, the

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	most senior and experienced attorneys in the grades O-3 (lieutenant) through O-4 (lieutenant commander) are selected to prosecute sexual assault cases. In especially complex cases, the Coast Guard's Chief Prosecutor, a GS-15 civilian employee who is a retired Coast Guard O-6 (captain) with extensive experience as a prosecutor and trial judge can be detailed to the case.
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119. (Update to RSP RFI 75) DoD and the Services: Are there training standards or experience requirements for attorneys to prosecute or defend an adult sexual assault cases? If so, please provide a copy of any guidance.

DoD	<p>Article 27, UCMJ requires the Secretaries of the Military Departments to prescribe regulations regarding the matter in which trial and defense counsel are detailed to courts-martial. It further provides that a trial or defense counsel must be a judge advocate who is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State and must be certified as competent to perform such duties by the Judge Advocate General of the armed force of which he or she is a member. Additionally, pursuant to Article 27, TJAGS and the SJA to the CMC are responsible for assigning trial and defense counsel consistent with their regulations. Both trial and defense counsel must be similarly qualified when detailed to a court-martial.</p> <p>Additionally, as required by the National Defense Authorization Act (NDAA) for FY 2016, the DoD will develop a policy to standardize the time period within which SVCs/VLCs receive training and establish baseline training requirements for SVCs/VLCs.</p>
USA	<p>TDS: No update to previous response to RSP RFI 75.</p> <p>TCAP: In addition to response previously provided for RSP RFI 75, please see attachment RFI 111b.</p> <p>ENCLOSURE:</p> <p>SVP TCAP INFO Paper</p>
USAF	<p>To serve as a prosecuting or defense attorney on an adult sexual assault case, the judge advocate must meet the minimum qualifications to serve as a judge advocate outlined in JPP RFI 111(b). Additionally, to serve as trial counsel, or lead counsel, in a general court-martial, the judge advocate must be certified under the criteria outlined in JPP RFI 111(b). To serve as defense counsel in an adult sexual assault case, the judge advocate must meet the best-qualified standard outlined in JPP RFI 118(a). While there are no specific training requirements for trial counsel in an adult sexual assault case, the Air Force has a substantial training program and litigation roadmap that is outlined in JPP RFIs 111, 112(b), and 118(b). Other than attending the Defense Orientation Course, there is no specific training requirement for defense counsel in an adult sexual assault case, but there are multiple training opportunities. All of the classes offered and attended by trial counsel and defense counsel are listed in the attachment to JPP RFI 120.</p>
USN	<p>For defense counsel, same answer as provided in 118a.</p> <p>For government counsel, no update to experience requirements. With respect to training, Trial Counsel complete either a one week adult sexual assault course (AASAITP) or a</p>

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	<p>two week domestic violence and child abuse course (AFSVTP) at the Federal Law Enforcement Training Center. These courses are developed by the Trial Counsel Assistance Program (TCAP) in conjunction with NCIS. In addition, specialized training includes either Prosecuting Alcohol Facilitated Sexual Assault or Prosecuting Special Victim Crimes at the Naval Justice School, intermediate trial advocacy, litigating complex cases, TCAP targeted mobile training, monthly online special victim offense or litigation training and attendance at other Service courses, including regional courses sponsored by USMC TCAP.</p>
USMC	<p>For trial counsel, there are training standards and experience requirements that must be met before the counsel can prosecute a sexual assault case. These standards have not changed from those articulated in RSP RFI 75.</p> <p>For defense counsel, there are no established training standards other than the aforementioned detailing decision made by the detailing authority in accordance with CDC Policy Memo 3.1, enclosure (6). The Defense Services Organization attempts to put the best counsel on each case.</p> <p>ENCLOSURE:</p> <p>CDC Policy Memo 3.1 – Detailing and Individual Military Counsel Determination Authority for Counsel Assigned to the Marine Corps Defense Services Organization, dated 6 October 2014</p>
USCG	<p>There are no specific training standards or requirements for attorneys to prosecute or defend adult or child sexual assault cases. However, the Coast Guard’s practice is to detail the most experienced and qualified attorneys within the servicing legal office to such cases. When there is limited experience within the servicing legal office, an attorney from the Legal Service Command or from another Coast Guard office may be detailed to serve as either lead or assistant trial counsel.</p>

120. Services: For prosecutors and defense counsel detailed to adult sexual assault cases, provide information about the FY14, FY15, FY16 courses (as of March 1, 2016) on the Excel workbook tabs 1-4 of “Attachment 2, Attorney Training Courses.” Please list any additional courses planned for the remainder of FY16, and please include non-DoD courses attended and courses attended that were taught by another Service. Please provide a syllabus for each course.

USA	<p>ENCLOSURES:</p> <ol style="list-style-type: none"> 1. TJAGLCS Course Spreadsheet 2. Attorney Training Courses Spreadsheet 3. Benning Outreach Agenda 4. Bliss Outreach Agendas (Dec 14, Jan 14, and Mar 16) 5. Bragg Outreach Agendas (Nov 13, Nov 14, and Dec 15) 6. Campbell Outreach Agenda 7. Career Prosecutor Course Agendas (Jun 14 and Jun 15) 8. Carson Outreach Agenda 9. Complex Litigation Agendas (two dated Aug 14) 10. CornerHouse Child Forensic Interviews (Jan 15, Aug 15, and Mar 16)
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	<ol style="list-style-type: none"> 11. CornerHouse Child Forensic Interviewing 12. Crime Victim Services Conference Agenda 13. Crimes Against Children Agenda 14. Crimes Against Women Conference Agenda 15. Drum Outreach Agenda 16. Effective Strategies for Members Cases Agendas (Apr 15, Sep 15, and Feb 16) 17. Expert Symposium Training Agendas (Feb 14, Apr 15, and Mar 16) 18. Germany Outreach Agendas (May 14 and May 15) 19. Hawaii Outreach Agendas (Feb 15 and Feb 16) 20. Hood Outreach Agendas (Nov 14 and Nov 15) 21. Internet Sex Crimes NCMEC 22. JBLM Outreach Agenda 23. JBSA Outreach Agenda 24. Knox Outreach Agenda 25. Korea Regional Outreach Agendas (Sep 14 and Sep 15) 26. Leavenworth/Leonard Wood Outreach Agenda 27. MDW Outreach Agenda 28. Mental Health Course 29. Military Institute for the Prosecution of Sexual Violence Agenda 30. NITA Training 31. NPC Agendas (Dec 13, Mar 14, Apr 14, Nov 15 and Dec 15) 32. NPC Agenda (Belvoir) 33. NPC Agenda (JBLM) 34. NPC 35. ESSAP Agendas (Apr 15 and Aug 15) 36. Online Crimes NCMEC Agenda 37. Polk Outreach Agenda 38. Riley Outreach Agendas (Nov 13 and Nov 15) 39. SE Regional Outreach Agenda 40. Senior Trial Counsel Course 41. Sexual Assault Trial Advocacy Course Agenda 42. Sill Outreach Agendas (Nov 13 and Feb 16) 43. Special Victim Prosecutor Agendas (Jul 14 and Dec 15) 44. Stewart Outreach Agendas (Feb 14 and Mar 16) 45. USACIL Training Agendas (Jan 14, Jul 14 and Jul 16) 46. Special Victim Non-Commissioned Officer Agenda
<p>USAF</p>	<p>ENCLOSURES:</p> <ol style="list-style-type: none"> 1. Attachment 2 – Attorney Training Courses 2. Attorney Training Courses – FY14 3. Attorney Training Courses – FY15 4. Attorney Training Courses – FY16 5. ASALC Schedule 6. ASALC Master Curriculum – June 2015 7. ATAC Schedule 8. ATAC Mater Curriculum – July 2012 9. DOC Schedule 10. DOC Mater Curriculum – March 2012

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	<ol style="list-style-type: none"> 11. Gateway Schedule 12. Gateway Mater Curriculum – October 2015 13. ISALC Schedule 14. ISALC Master Curriculum – February 2015 15. JASOC Schedule 16. JASOC Master Curriculum – January 2015 17. MJAC Schedule 18. MJAC Master Curriculum – May 2012 19. SJC Course Schedule 20. SJA Course Master Curriculum – January 2005 21. SVC Course Schedule 22. SVC Course Master Curriculum – February 2016 23. TDAC Schedule 24. TDAC Master Curriculum – January 2015 25. TRIALS Schedule 26. TRIALS Master Curriculum – May 2012 27. AFOSI Sex Crimes Investigations Training – February 2015 28. Army Child SVC Course Schedule – February 2015 29. Army Child SVC Course Schedule – September 2015 30. Army SVU Investigations Course Schedule – June 2015 31. Army SVC Course Schedule – May 2015 32. Army SVC Course Schedule – July 2015 33. LA for Victims of Crime Training – July 2015 34. European SVC/VLC Training – September 2015 35. International Conference on Family and Children – January 2015 36. TASSA for Victims of Crime Training – July 2015 37. National Sexual Assault Conference – August 2015 38. Defending Sexual Assault Course – August 2015 39. NACDL Defending Sex Crimes – November 2014
USN	<p>See attachments.</p> <p>ENCLOSURES:</p> <ol style="list-style-type: none"> 1. Attachment 2 – Attorney Training Courses 2. TMTT Agenda – FY14 3. TMTT Agenda – FY15 4. TMTT Agenda – FY16 5. NCIS-AASAITP-501 Class Schedule 6. NCIS-AFSVTP-502 Class Schedule 7. DSAC Agenda – FY14 8. DSAC Agenda – FY15 9. Webinar Schedule – FY16 10. Lejeune TCAP Training Agenda – FY16 11. Pendleton TCAP Training Agenda – FY16 12. NACDL Agenda – FY14 13. NACDL Agenda – FY15 14. PAFSA Schedule – FY14 15. P-SVC Calendar

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	<p>16. TCAP DCO Training Schedule – FY14 17. TCAP DCO Training Schedule – FY15 18. Bronx Defenders’ Agenda – FY15</p>
USMC	<p>a. Tab 1 & 2: TC Training by Services/non-DoD See enclosure (8), containing 15 trial counsel training course syllabi.</p> <p>b. Tab 3 & 4: DC Training by Services/non-DOD See enclosure (9), containing 14 defense counsel training course syllabi.</p> <p>c. Tab 5 & 6: VLC Training by Services/non-DoD See enclosure (10), containing 9 victims’ legal counsel training course syllabi.</p> <p>ENCLOSURES:</p> <ol style="list-style-type: none"> 1. Attachment 2 – Attorney Training Courses 2. Trial Counsel Training Course Syllabi, dated 9 – 11 September 2014 3. Defense Counsel Training Course Syllabi, dated 7 – 13 September 2014 4. Special Victims' Counsel Training Course Syllabi, dated 22 – 26 June
USCG	<p>ENCLOSURE:</p> <p>Attorney Training Courses</p>

121. Services: Do the Services coordinate or collaborate on best practices used to train prosecutors or defense counsel on sexual assault training techniques? If so:

a. How often are meetings held among the Services to discuss sexual assault case training for prosecutors or defense counsel?

USA	<p>TCAP: TCAP meets with the other services’ equivalent organization regularly to discuss sexual assault training techniques and other military justice-related concerns. Additionally, other Services’ trial counsel frequently attend the Army’s TCAP-sponsored training including the New Prosecutor Course and Outreaches. For example, Navy trial counsel participated in Army TCAP’s December New Prosecutor Course in San Diego. Also, Air Force trial counsel participated in Army TCAP’s Alaska Outreach training at Joint Base Elmendorf-Richardson. Army, Navy, Marine and Air Force TCAP-equivalent representatives participate. TCAP has not modified training as a result of this coordination and collaboration.</p>
USAF	<p>The Services coordinate on judge advocate and paralegal training. For the Air Force, the office of primary responsibility for training is the Professional Development Directorate, Office of The Judge Advocate General (AF/JAX). AF/JAX collaborates with its sister-service counterparts to ensure cross-service professional development opportunities are provided to Air Force legal personnel.</p> <p>Additionally, the Chief SVU-STC maintains regular contact with his sister-service equivalents. Informal meetings or teleconferences are held to address training and other issues. Since 1 July 2015, there have been three meetings to discuss existing inter-service training opportunities. The Services also keep each other informed of short-notice training opportunities for counsel.</p>

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	<p>For defense counsel, the heads of the Army, Navy, Air Force, Marine Corps and Coast Guard Trial Defense Divisions meet approximately once per quarter to discuss matters of mutual concern, including training of defense counsel and defense paralegals.</p>
USN	<p>For government counsel, Navy Trial Counsel Assistance Program (TCAP) meets with the other Services' TCAPs at least annually to discuss current training efforts and trends in prosecution. In addition, the Navy, Marines and Army have HQEs who frequently collaborate on current issues and exchange training materials and other resources. This year the Service TCAPs have traded planning schedules to offer more training opportunities to their respective counsel. For example, in FY-15 more than 50 USMC Trial Counsel attended USN's SVIP course for counsel. In turn this Fiscal Year, USN has sent Trial Counsel and paralegals to their SVIP courses on the east and west coast. USAF and USA courses were offered to USN Trial Counsel as added opportunities for qualifications.</p> <p>For defense counsel, the defense leaders of the services hold a quarterly call to discuss important and emerging issues regarding defending military justice cases. While sexual assault training is not its primary purpose, the topic is discussed by the group.</p>
USMC	<p>The services meet regularly to discuss how to improve training for defense counsel. The services do not meet regularly to discuss ways to improve training for trial counsel; however, the Marine Corps collaborates on a weekly basis with Navy TCAP on training-related matters. Additionally, the Marine Corps uses several other methods to improve training for prosecutors.</p> <p>The Defense Services Organization participates in internal and external meetings to discuss sexual assault case training for defense counsel. Internally, the DSO conducts regular conference calls among senior DSO leadership to remain current on trends in sexual assault and other complex litigation. The Defense Counsel Assistance Program (DCAP), in conjunction with the Chief Defense Counsel (CDC) and highly qualified experts (HQEs), works to identify available training events that address those litigation issues. The CDC also published a Training Campaign Plan which serves as a training roadmap for defense counsel as they grow from new and inexperienced to seasoned and competent attorneys.</p> <p>As for trial counsel, the Services use a variety of methods to coordinate and collaborate on best practices for training trial counsel for sexual assault prosecution. This coordination is conducted through consultation and discussions between the members of each headquarters staff who are responsible for overseeing the training of prosecutors.</p> <p>Further, Marines attend prosecutor training provided by the other services. After attending these courses, the trial counsel often offers feedback to the Marine Corps to incorporate best training practices into the training offered within the service. Similarly, the Marine Corps invites and welcomes members of other services to attend our training. As an example, the Fiscal Year 2016 Trial Counsel Assistance Program weeklong training course on prosecuting special victims' cases was attended by Marines, Sailors, and Coast Guard personnel.</p>

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	<p>In the formal school environment, the Marine Corps gleans best practices from both the Navy and the Army. Several Marine instructors are permanently stationed at the Naval Justice School in Newport, Rhode Island, and there are Marine instructors who teach advanced courses at The Judge Advocate General’s Legal Center and School, which is the Army’s ABA accredited school.</p> <p>Feedback-based modifications are the norm for improving prosecutor training. Based on Congressional praise of the Sex Crimes Unit of the Manhattan District Attorney’s Office, the Marine Corps invited four members of the unit, including the chief, to attend the Trial Counsel Assistance Program’s annual training in Camp Pendleton, California in February and Camp Lejeune, North Carolina in March 2016. These New York prosecutors participated in panel discussions, taught class, and will be making suggestions the Marine Corps will use to improve its training practices. Additionally, based on feedback from course participants during the first session of annual TCAP training, the second TCAP course syllabus was modified to better meet the needs of course participants in the next course, which was conducted several weeks later. The overall feedback from this year’s courses will be used to further improve the training which will be provided next year.</p> <p>Finally, the Marine Corps employs civilian Highly Qualified Experts (HQEs) on the Regional Trial Counsel (RTC) staff in each of the regional Legal Services Support Sections. These HQEs are longtime civilian prosecutors who are hired for their experience and knowledge of special victims’ cases. They serve a constant training function by consulting with attorneys on every special victim case, and provide classes during formal training events. In addition to informal interactions, the HQEs also have a quarterly teleconference that allows them to share lessons learned and to coordinate best practices in prosecuting special victim cases.</p> <p>As discussed above, the Marine Corps employs many different means of improving its training on sexual assault prosecution. However, there are no formal inter-service meetings specifically designed to discuss sexual assault training.</p> <p>The Marine Corps DSO meets quarterly with the defense services organizations from the other military branches. These meetings are referred to as Joint Defenders meetings. The Chief Defense Counsel of whichever branch is hosting the meeting typically leads these meetings.</p>
<p>USCG</p>	<p>The Coast Guard participates in the Litigation Training Coordination Committee through the Naval Justice School. This committee meets at least quarterly, if not more often. The goal of the Committee is to improve all of military justice practice and does not focus solely on sexual assault cases. The participants include the appropriate Navy and Marine Corps headquarters staff elements, the respective Trial and Defense Counsel Advisory Panels and the Coast Guard’s Office of Military Justice and the Coast Guard liaison to the Naval Justice School. The results of these meetings have informed, and continue to inform the Coast Guard’s analysis of training requirements.</p>

b. Who leads/manages coordination efforts and who participates?

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USA	TDS: The Joint Defenders is an informal group comprised of the leadership teams of each Service's trial defense organization. The Joint Defenders meet on a quarterly basis to discuss issues of mutual concern such as best practices for training defense counsel. Responsibility to coordinate and host the quarterly Joint Defenders meeting rotates among the participants. The Air Force coordinated and hosted the last event in February 2016. Defense leadership from the Army, Navy, Air Force, Marines, Coast Guard and the military commissions routinely participate. As a result of this coordination and collaboration, the Army has made substantive changes to our training. We have also exchanged ideas for training programs offered by non-military organizations.
USAF	For the Air Force, AF/JAX manages formal training opportunities for trial and defense counsel and paralegals and coordinates formal training with the other Services. For STCs, AFLOA/JJG conducts informal coordination with the other Service equivalent organizations and enables cross-feed of new trial techniques and developments in the law, which are then incorporated into training and practice. For defense counsel, AFLOA/JJD coordinates with the other Service equivalent organizations, including at the quarterly meeting of heads of Trial Defense offices. For the quarterly defense meeting, the location rotates among the Services and the meeting host coordinates the meeting date and agenda. The meetings are normally attended by each of the Service's most senior defense counsel and select members of their staff. The most recent meeting was held on 17 February 2016, hosted by the Air Force, and attended by 14 individuals, including the senior defense counsel from the Air Force, Navy, Army, Marine Corps, Coast Guard, and Military Commissions.
USN	For government counsel, the Service Trial Counsel Assistance Program leads/manages coordination. For defense counsel, the leadership responsibilities for the meeting shift between the services. Participants include: <ul style="list-style-type: none"> - Marines: Chief Defense Counsel of the Marine Corps and members of the Marine Defense Counsel Assistance Program Team - Navy: Director and Deputy Director Defense Counsel Assistance Program - Air Force: Chief Trial Defense Division - Army: Various members of the Defense Counsel Assistance Program - Coast Guard: Deputy Office of Member Advocacy and Legal Assistance and Chief Defense Services.
USMC	There are no formal inter-service meetings designed to improve sexual assault prosecution training. The Chief Defense Counsel participates in quarterly meetings with the sister services' Chief Defense Counsel. These quarterly meetings are led by whichever office is hosting the meeting that quarter.
USCG	See 121a.

c. Have modifications been made to training needs/requirements as a result of this coordination and collaboration?

USA	See 121b.
USAF	AF/JAX and the other Service agencies responsible for professional development of

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	judge advocates continually assess training needs and modify as necessary training opportunities. This includes making training slots available to other Services, particularly in specialized courses, such as ISALC and the Army’s Sexual Assault Investigations and Prosecution Course. For defense counsel in particular, the Services continue to create new or expanded training opportunities. Recently, the Air Force opened ISALC to defense counsel from the other Services. At the most recent ISALC held 8-10 February 2016, two Army defense counsel joined 14 Air Force defense counsel.
USN	No, because consultation is done prior to training being developed.
USMC	As discussed in the main answer above, the Marine Corps exercises several methods other than inter-Service meetings to address modifications and improvements to training needs/requirements. These methods produce a variety of frequent inputs and feedbacks that result in frequent adjustments to trainings. This includes both adjustments to internal training provided by supervisors and Marine Corps TCAP as well as reprioritization of external training courses to which we send prosecutors. For the Defense Services Organization, the meetings serve as a platform for leadership to highlight strengths and weaknesses with the performance of defense counsel. By analyzing an individual’s strengths and weaknesses, the DSO leadership identifies areas of training that require more or less concentration. Modifications that have been made in those meetings include a continued focus on identifying and sending defense counsel to civilian training events and adjusting the defense counsel orientation provided to junior defense counsel.
USCG	See 121a.

Metrics to Measure the Impact of Training

122. Services: What metrics, if any, are used to measure the effectiveness of training for adult sexual assault cases for prosecutors and defense counsel?

USA	The Army monitors attendance at all military justice training to ensure the requisite level of skills and experience Army-wide. Surveys are administered after every military justice training course to evaluate the effectiveness of the training for all attendees. Additionally, OTJAG, TCAP, DCAP, The Judge Advocate General’s Legal Center and School (TJAGLCS), and the trial judiciary meet bi-annually for a training synchronization meeting to evaluate effectiveness of current training for all aspects of military justice, including sexual assault cases.
USAF	The Air Force JAG School conducts Kirkpatrick Level 3 graduate assessments for most courses, including the Advanced Sexual Assault Litigation Course (ASALC), Intermediate Sexual Assault Litigation Course (ISALC), Special Victims Counsel Course, Advanced Trial Advocacy Course (ATAC), Trial and Defense Advocacy Course (TDAC), Defense Orientation Course (DOC), and Judge Advocate Staff Officer Course (JASOC). Graduate assessments are administered between six and 12 months after course completion. Each graduate assessment surveys course graduates on accomplishment of the course mission, achievement of specific course objectives, and how course instruction has prepared graduates for their duties. For JASOC, the JAG School also surveys the SJAs and supervisors of course graduates on the graduates’ level of proficiency in each of the specific skill sets addressed by the course.

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<p>USN</p>	<p>For government counsel, the Trial Counsel Assistance Program (TCAP) Director coordinates with Region Legal Service Office (RLSO) Commanding Officers (CO) to monitor the relative experience levels of trial counsel through on-site, periodic observations of Navy judge advocates in the performance of their prosecution functions. TCAP provides recommendations for improvement as well as resources recommendations to Chief of Staff – Region Legal Service Offices as necessary. <i>See</i> section 1502 of the Naval Legal Service Command (NLSC) Manual, 5800.1G, available here http://www.jag.navy.mil/library/instructions/5800_1G_NLSC_Manual.pdf.</p> <p>Similarly, for defense counsel, the Defense Counsel Assistance Program (DCAP) Director monitors the relative experience levels of trial defense counsel through onsite, periodic observations of Navy judge advocates in the performance of their defense functions. DCAP coordinates with Defense Service Office COs to continually assess the quality of defense counsel functions as well as the professional training and continuing legal education opportunities provided for defense counsel. DCAP Director provides reports to Chief of Staff – Defense Service Offices as required. <i>See</i> section 1202 of the NLSC Manual, 5800.1G.</p>
<p>USMC</p>	<p>For defense counsel, the most common method for measuring the effectiveness of training for adult sexual assault cases is the use of after action reports. These after action reports range from surveys to one-on-one discussions with training attendees. For statistical measures of effectiveness, the DSO maintains a Case Information System that tracks all pending and completed litigation and allows for computation of litigation statistics to include acquittal/conviction rates in sexual assault cases. For example, in FY15 DSO attorneys contested 31 Article 120 offense cases. Of those 31 contested cases, 16 resulted in full acquittals, for an acquittal rate of 52%. During that same FY15 time period, DSO attorneys fully contested 131 courts-martial receiving full acquittals in 44 cases, for an acquittal rate of 34%. So statistically speaking, DSO attorneys obtain better results in sexual assault cases than in cases overall. Due to the degrees of freedom associated with these statistics, it is not conclusory that these results are attributable solely to sexual assault litigation training. However, from the defense perspective, this is an indicator that sexual assault litigation training for defense counsel remains important as the high acquittal rate reflects that significant deprivations of liberty as a result of false sexual assault allegations remain a threat to innocent Marines.</p> <p>Because preparing and successfully prosecuting adult sexual assault cases for trial at court-martial is as much art as science, the Marine Corps uses an approach whereby best practices are modeled by experienced military practitioners and civilian Highly Qualified Experts. Trainees are then expected to demonstrate their mastery of these practices in practical applications while receiving expert feedback. Ultimately, the effectiveness of this training is measured in the courtroom. However, end of course surveys are used to gauge the effectiveness of the training and allow for improvements to future classes.</p> <p>The information below is an analysis of the end of course survey data from the Marine Corps’ FY 2016 Western Region Trial Counsel Assistance Program’s Course, Prosecuting Special Victims’ Cases. <i>See</i> enclosure (11) for the surveys used and full</p>

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data set compiled during the 2016 prosecutor training courses. Skill-based Improvements. 88% of end-of-course survey respondents (respondents) reported measurable improvement on at least 1 concrete skill (85% of officer respondents and 92% of enlisted respondents). 46% of officer respondents and 73% of enlisted respondents reported improvement on three or more skills, as shown in Figure 1, below.

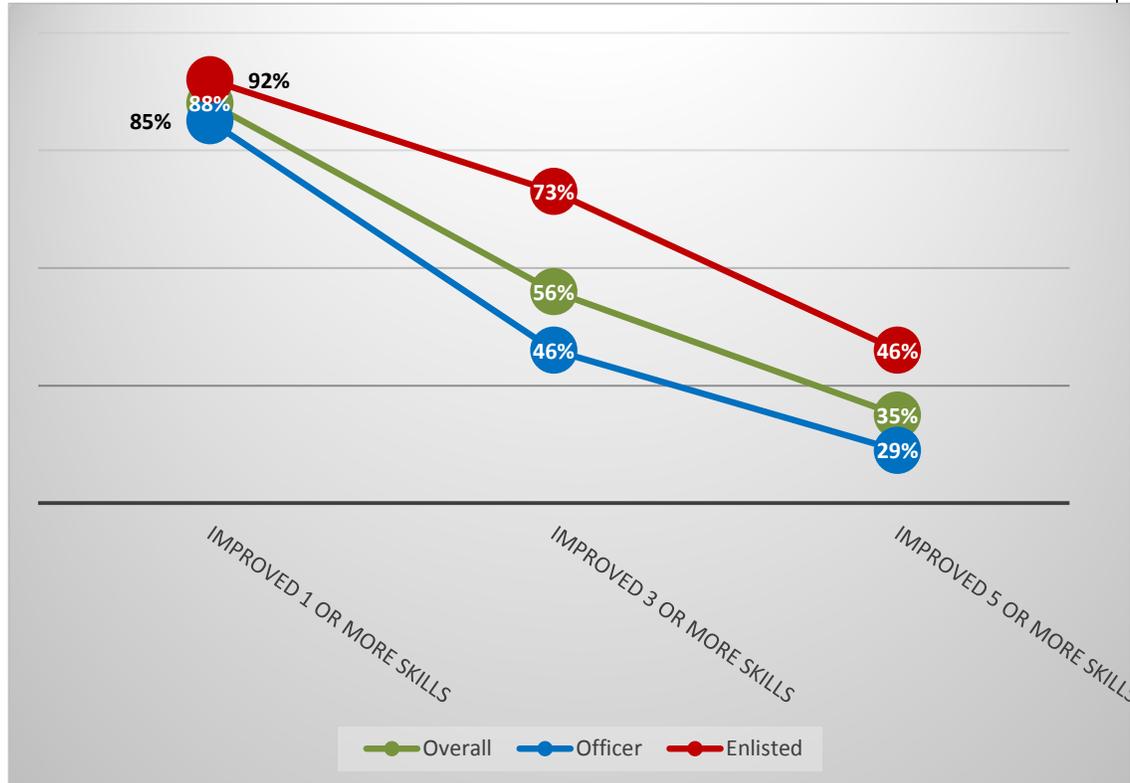


Figure 1. FY 2016 Western Region TCAP Training Assessment for “Prosecuting Special Victims’ Cases” Course

Examining Witnesses. Officer respondents identified their competency at conducting cross examination as lower than that of any other skill surveyed. They also reported significant improvement on this skill throughout the course (self-reported 13% improvement) and identified the portions of the course relating to cross examination as a favorite in terms of content..¹

Trial presence, laying foundation, preparing the victim to testify, and conducting direct

¹ Officers ranked the top 8 courses based on content in the following order:

1. Discovery
2. Theme/Theory
3. Charging
4. Panel with civilian ADAs
5. Objecting
6. Cross Exam
7. Direct Exam
8. Foundations

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examination of the victim were consistently identified by officer respondents as needing emphasis and improvement. Incorporating more practice time for laying foundation and requiring attorneys to move evidence around the courtroom will address at least three of these skills and will also improve another of the skills identified as most needing emphasis: trial/courtroom presence. The classes on conducting direct examination were also rated as a top pick for value in terms of course content, and laying foundation tied with conducting cross-examinations as the skill at which the attorneys made the second greatest improvement over the course of the week (self-reported 13% improvement), and—after this improvement—was judged by them as their best skill (4.1 average on a scale of 1 to 5).

In response to the question “did any class or topic receive too much emphasis?” one officer wrote: “In general, classes focused on theory (e.g. counter-intuitive behavior) are not immediately useful/practical. A topic such as discovery is more immediately useful.” This failure to realize the direct and practical applicability of a class on something like counter-intuitive behavior emphasizes the need to incorporate this instruction with a discussion of victim interviewing, victim preparation, and conducting direct examination of a victim.

Future classes will consider providing more practical application and group discussion/critique time for conducting direct and cross examination; this should include working with, preparing, and eliciting testimony from victims, conducting direct examination of experts, and laying foundation (for real evidence and reputation or opinion testimony) in the direct examination classes and practical applications.

Trial Advocacy. The skill second most identified by the officer respondents as needing emphasis was improving trial/courtroom presence and advocacy. The skill fourth most identified as needing improvement was conducting opening statements, closing arguments, and sentencing arguments. Despite this result, officers identified conducting openings and closing as their second best skill before the training (3.68 average on a scale of 1 to 5). Advocacy typically occurs during closing argument, opening statement, and the conduct of the trial in that order. Consequently, the theme/theory discussions and practical applications lend themselves naturally to discussion and practice of various persuasive techniques. The survey results support this conclusion. Officer respondents chose the theme and theory related courses as the best overall instruction of the week in terms of content and reported a 10.5% improvement in conducting openings and closings—enough for this skill to maintain its number two ranking after training—despite marked improvement in other areas.

Future classes should consider placing greater emphasis on theme and theory focused training, with a focus on practical applications using either the mock case or a real case.

Marine Paralegal Training. An overwhelming number of officer respondents identified discovery as the skill most needing emphasis for enlisted Marines. However, only 1 of the 26 enlisted respondents identified discovery as one of the two Marine paralegal skills most needing improvement. Apart from this disparity, there was general consensus between the enlisted and officer respondents that drafting charges; reading a casefile; talking to, interviewing, and preparing witnesses; and using Microsoft and Adobe

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products are the skills most needing emphasis. A summary of this data is provided in Figure 2. Future training will place greater emphasis on development of these practical skills.



Figure 2. FY 2016 Western Region TCAP Training Assessment of Enlisted Skills Most Needing Emphasis

USCG

Coast Guard prosecutors and defense counsel are evaluated using the normal officer evaluation report (OER).