



Judicial Proceedings Panel  
Minutes of May 13, 2016 Public Meeting

**AUTHORIZATION:** The Judicial Proceedings Since Fiscal Year 2012 Amendments Panel (JPP) is a federal advisory committee established pursuant to Section 576(a)(2) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013, as amended by section 1731(b) of the NDAA for FY 2014 and section 546 of the NDAA for FY 2015, and in accordance with the Federal Advisory Committee Act of 1972, the Government in Sunshine Act of 1976, and governing federal regulations.

**EVENT:** The JPP held a public meeting on May 13, 2016, from 9:28 a.m. to 3:46 p.m. At this meeting the Panel received briefings from each of the Services on military justice training for members of the Judge Advocate General's (JAG) Corps who litigate adult sexual assault crimes. The Panel first heard from leaders of the Services' JAG schools, followed by sessions focusing on the training and experience of prosecutors, defense counsel, and special victims' counsel.

**LOCATION:** The meeting was held at The Judge Advocate General's Legal Center and School, 600 Massie Road, Charlottesville, Virginia 22903.

**MATERIALS:** A verbatim transcript of the meeting, as well as preparatory materials provided to the JPP members prior to, during, and after the meeting, are incorporated herein by reference and listed individually below. The meeting transcript and materials received by the Panel are available on the JPP website: <http://jpp.whs.mil>.

## PARTICIPANTS

### Participating JPP Members:

The Honorable Elizabeth Holtzman, Chair  
The Honorable Barbara Jones  
Mr. Victor Stone  
Professor Thomas W. Taylor  
Vice Admiral (Retired) Patricia Tracy

### Participating JPP Staff:

Colonel Kyle Green, U.S. Air Force, Staff Director

### Attending JPP Staff:

Lieutenant Colonel Kelly McGovern, U.S. Army, Deputy Staff Director  
Lieutenant Colonel Patricia Lewis, U.S. Army, Incoming Deputy Staff Director  
Mr. Dale Trexler, Chief of Staff  
Lieutenant Colonel Glen Hines, U.S. Marine Corps Judge Advocate, Staff Attorney  
Ms. Julie Carson, Legislative Liaison and Staff Attorney  
Ms. Jan Chayt, Investigator  
Ms. Nalini Gupta, Staff Attorney  
Ms. Meghan Peters, Staff Attorney  
Ms. Stayce Rozell, Senior Paralegal and Meeting Recorder

Ms. Terri Saunders, Staff Attorney  
Ms. Tiffany Williams, Supervising Paralegal

Other Participants:

Lieutenant Colonel Jacqueline Stingl, U.S. Air Force, Office of General Counsel, Department of Defense (DoD), Designated Federal Officer (DFO)

Presenters:

Brigadier General Charles Pedo, U.S. Army, Commandant, The Judge Advocate General's Legal Center and School  
Colonel Kirk Davies, U.S. Air Force, Commandant, The Judge Advocate General's School  
Captain John Luce, U.S. Coast Guard, Chief, Legal Policy and Program Development and Executive Assistant to The Judge Advocate General  
Lieutenant Colonel Hanorah Tyer-Witek, U.S. Marine Corps, Executive Officer, Naval Justice School  
Colonel Katherine Oler, U.S. Air Force, Chief, Government Trial & Appellate Counsel Division  
Commander Michael Luken, U.S. Navy, Director, Trial Counsel Assistance Program  
Lieutenant Colonel Bret Batdorff, U.S. Army, Chief, Trial Counsel Assistance Program  
Major Jesse Schweig, U.S. Marine Corps, Officer-in-Charge, Trial Counsel Assistance Program  
Ms. Julia Hejazi, U.S. Marine Corps, Highly Qualified Expert, Trial Counsel Assistance Program  
Colonel Daniel Brookhart, U.S. Army, Chief, Trial Defense Service  
Colonel Daniel Higgins, U.S. Air Force, Chief, Trial Defense Division  
Colonel Terri Zimmermann, U.S. Marine Corps Reserve, Reserve Counterpart to the Chief Defense Counsel of the Marine Corps/Head, Defense Services Branch  
Commander Stephen Reyes, U.S. Navy, Director, Defense Counsel Assistance Program  
Colonel Andrea deCamara, U.S. Air Force, Chief, Special Victims' Counsel Division  
Colonel Katherine McDonald, U.S. Marine Corps, Officer-in-Charge, Victims' Legal Counsel Organization  
Lieutenant Colonel Christopher Kennebeck, U.S. Army, Chair and Professor, Criminal Law Department, The Judge Advocate General's Legal Center and School  
Ms. Charlotte Cluverius, U.S. Navy, Deputy Chief of Staff, Victims' Legal Counsel Program

## **MEETING MINUTES**

The DFO opened the public meeting at 9:28 a.m. The Honorable Elizabeth Holtzman provided opening remarks, reviewed the tasks of the JPP, and summarized the agenda for the meeting.

### Overview of Basic Judge Advocate Generals' Training and Schools

The Panel members first heard from Brigadier General Pedo, Colonel Davies, Captain Luce, and Lieutenant Colonel Tyer-Witek. The presenters testified about training provided to judge advocates in their Services and provided specific details about training in sexual assault litigation. The presenters discussed prerequisite and criteria for students at the JAG schools, courses and accreditations programs, course curricula, course schedules, and career training paths for judge advocates and paralegals. They highlighted changes that have been made to training for trial counsel, defense counsel, military judges and special victims' counsel since

2014. Additionally, all presenters discussed how the Service JAG schools collaborate to share best practices and improve training opportunities for practitioners.

#### Overview of Training and Experience of Attorneys Prosecuting Sexual Assault Cases

The Panel members next heard from Colonel Oler, Commander Luken, Lieutenant Colonel Batdorff, Major Schweig, and Ms. Hejazi, who presented testimony about training requirements and opportunities for judge advocates who prosecute sexual assault related crimes. The presenters outlined possible career paths for trial counsel and discussed how first and second chair counsel are used in cases to increase experience opportunities for junior counsel. Additionally, the presenters testified about how the Services evaluate the performance of trial counsel on cases. The Panel heard about internal and external training opportunities provided to prosecutors by the Services. Additionally, the presenters discussed how their Service administers and uses the Special Victim Investigation and Prosecution (SVIP) capability, which involves specially trained prosecutors, investigators, paralegals, and victim support personnel, in case prosecutions. The presenters also discussed their Service's use of highly qualified experts to provide reach-back expertise to prosecutors in sexual assault litigation.

#### Overview of Training and Experience of Attorneys Defending Sexual Assault Cases

In the first afternoon session, the Panel heard from Colonel Brookhart, Colonel Higgins, Colonel Zimmerman, and Commander Reyes. These practitioners discussed the career progression of defense counsel in their Services and explained the litigation experience defense attorneys obtain before they are assigned to more complex litigation such as sexual assault cases. The presenters reviewed changes their Services have made to their trial defense programs since the Response Systems Panel's assessment and evaluation in 2014. They also identified training resources and opportunities that are available from the other Services and non-DoD agencies. The presenters also explained how their Services evaluate the individual case and overall job performance of defense counsel.

#### Overview of Training and Experience of Special Victims' Counsel

The last presenters of the meeting were Colonel deCamara, Colonel McDonald, Lieutenant Colonel Kennebeck, and Ms. Cluverius, who testified about training for special victims' counsel and special victims' paralegals in their Services. They reviewed training courses in their Services and training from other Services and non-DoD agencies that special victims' counsel may receive. The presenters described changes that have been implemented in SVC course curricula since 2014. Some examples of changes include additional training in issues related to child clients; issues that are specific to DoD civilians, including labor and employment matters; vicarious trauma; interpretation of mental health records; appeals and post-trial matters; and retaliation and social ostracism.

The DFO closed the public meeting at 3:46 p.m.

## CERTIFICATION

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.



Elizabeth Holtzman  
Chair  
Judicial Proceedings Panel

## MATERIALS

### Meeting Records:

1. Transcript of May 13, 2016 JPP meeting, prepared by Neal R. Gross and Co., Inc.

### Read-Ahead Materials Provided Prior to the Meeting:

2. Meeting Agenda
3. Summary of Read-Ahead Materials of JPP Members

### Materials Relevant to Training and Resources for Counsel:

4. RSP Final Report 153-165
5. RSP RFI Responses #75b-d
6. CSS Final Report 109-140
7. CSS Final Report Appendix G
8. RFI Set 6 Response #112
9. RFI Set 6 Responses #118-122

### Materials Relevant to Special Victims' Counsel:

10. RFI Set 6 Responses #125g-h
11. RFI Set 6 Responses #133-136
12. RFI Set 6 Response #138

### Materials Provided Day of Meeting:

13. Meeting Agenda
14. Summaries of Presenters' Biographies
15. "Army and Air Force JAG Corps Need Career Litigators Now," by Cully Stimson
16. The Judge Advocate General's School Supplementary Academic Course Materials, Colonel Kirk Davies, U.S. Air Force
17. Military Justice Training Continuum Presentation, Lieutenant Colonel Tyer-Witek
18. Air Force Senior Trial Counsel Locations Presentation, Colonel Oler
19. U.S. Marine Corps Prosecutor Training Presentation, Major Schweig and Ms. Hejazi
20. Navy Defense Counsel Assistance Training Program Presentation, Commander Reyes
21. Public Comment from Mr. Paul Koffsky, April 25, 2016
22. Public Comment from Colonel (Ret.) Lisa Schenck, April 29, 2016
23. Public Comment from Major Tami Mitchell, U.S. Army, April 29, 2016

24. Public Comment from Colonel Mark Jamison, U.S. Marine Corps, May 4, 2016
25. Press Release, “McCaskill & Ernest Take Next Step to Curb Sexual Assault in the Military, Aiming to Protect Survivors from Retaliation”
26. 1-Page Summary of the Military Retaliation Prevention Act, Senator McCaskill
27. Proposed Bill to Congress – Military Retaliation Prevention Act
28. Public Comment from Ms. Meg Garvin, May 12, 2016