



MEMBERS CASES

Training Agenda

Presented by
Trial Counsel Assistance Program (TCAP)

FORT MCNAIR, DC
28 APRIL-1 MAY 2015

DAY 1: TUESDAY, 28 APR

0 8 4 5 - 0 9 0 0	Welcome/Opening Remarks (LTC Batdorff)
0 9 0 0 - 0 9 5 0	<u>Lecture</u> : Psychology of Persuading the Panel (LTC Batdorff)
0 9 5 0 - 1 0 0 0	Break
1 0 0 0 - 1 0 4 0	<u>Lecture</u> : Case Preparation and Organization (LTC Batdorff)
1 0 4 0 - 1 0 5 0	Break
1 0 5 0 - 1 2 1 5	<u>Lecture</u> : Panel Case Admin and Logistics (CPT Mathew)
1 2 1 5 - 1 3 4 5	Lunch
	BLOCK 2 – Voir Dire
1 3 4 5 - 1 7 0 0	<u>Lecture & Exercises</u> : Selecting the Member- Voir Dire
1 8 0 0 - U T C	Icebreaker

DAY 2: WEDNESDAY, 29 APR

	BLOCK 2 (cont'd) – Voir Dire
0 8 4 5 - 1 2 1 5	<u>Lecture & Exercise</u> : Selecting the Members- Voir Dire(Ms. Ryan, Ms. Tullius, LTC Stelle)
1 2 1 5 - 1 3 4 5	Lunch
	BLOCK 3 – Opening
1 3 4 5 - 1 7 0 0	<u>Lecture, Exercise, & Demonstration</u> : Opening Statements (Ms. Odom, LTC Stelle)

DAY 3: THURSDAY, 30 APR

	BLOCK 4 – Government Case-in-Chief
0 8 4 5 - 1 2 0 0	<u>Lecture & Exercise</u> : Government Case-in-Chief (cont'd)

1 2 0 0 - 1 3 3 0	Lunch
1 3 3 0 - 1 5 1 5	<u>Lecture & Exercise:</u> Government Case-in-Chief (cont'd)
1 5 1 5 - 1 5 3 0	Break
	BLOCK 5 – Instructions
1 5 3 0 - 1 7 0 0	<u>Exercise:</u> Instructions

DAY 4: FRIDAY, 1 MAY

	BLOCK 6 – Closing
0 8 4 5 - 1 0 1 5	<u>Lecture, Exercise, & Demonstration:</u> Closing (Ms. Odom, LTC Stelle, CPT Heaser)
1 0 1 5 - 1 0 3 0	Break
	BLOCK 7 – Sentencing
1 0 3 0 - 1 2 3 0	<u>Lecture & Exercise:</u> Sentencing (CPT Stapley)
1 2 3 0 - 1 4 0 0	Lunch
1 4 0 0 - 1 5 3 0	<u>Guest Speaker:</u> LTC (ret) Varley
1 5 3 0 - 1 5 4 0	Break
1 5 4 0 - 1 6 1 0	<u>Demonstration:</u> Sentencing Argument (LTC Batdorff)
1 6 1 0 - 1 6 3 0	Closing Comments and Evaluation Turn-In



EFFECTIVE STRATEGIES FOR MEMBERS CASES (ESMC)

Presented by
**The U.S. Army's
Trial Counsel Assistance Program (TCAP)**

**FORT BELVOIR, VA
1-4 FEBRUARY 2016**

RED TEAM: TRIAL TEAM 1 & TRIAL TEAM 2
BLUE TEAM: TRIAL TEAM 3 & TRIAL TEAM 4

DAY 1: Monday, 1 February

0 9 0 0 - 0 9 1 5	Welcome/Opening Remarks (LTC Batdorff)
	BLOCK 1 – Basics
0 9 1 5 - 1 0 0 5	<u>Lecture:</u> Psychology of Persuading the Panel (LTC Batdorff)
1 0 0 5 - 1 0 1 5	Break
1 0 1 5 - 1 0 4 5	<u>Lecture:</u> Case Preparation and Organization (LTC Batdorff) <ul style="list-style-type: none"> • Trial Preparation Checklist, Trial Notebook (circulate example trial notebooks), QRTB • Instructions → Closing Argument → Opening Statement • Electronic Benchbook, Instructions, Elements/Defense Checklists • Exhibits and Visual Aids • Select and Prepare Witnesses, Order of Proof
1 0 4 5 - 1 1 0 0	Break
1 1 0 0 - 1 2 1 5	<u>Lecture:</u> Panel Case Admin and Logistics (CPT Mathew & CPT Zukauskas) <ul style="list-style-type: none"> • Hand out actual panel member notebooks for <i>US v. Groves</i> and <i>US v. Jackson</i> • CMCOs, vicing orders, superceding orders • Notifying Members, Seating Chart, Nameplates, Flyer, Worksheets, Administering the Members' Oath, Bailiff duties, etc... • Include example Seating Charts, Flyer, Findings & Sentencing Worksheets in binder
1 2 1 5 - 1 3 3 0	Lunch (<i>students should review their fact pattern during lunch</i>)
1 3 3 0 - 1 4 4 5	Themes and Theories (Ms. Odom & Ms. Ryan) <ul style="list-style-type: none"> • <u>Lecture:</u> <i>Themes & Theories: How to Select a Theme & Theory (Ms. Odom & Ms. Ryan)</i> [30 mins.] • <u>Small Group Exercise:</u> Students will break into their trial teams, continue the discussion regarding the importance of themes and theories, brainstorm, and select a theme and theory for the <i>US v. Groves</i> (Red Team) and <i>US v. Jackson</i> (Blue Team). [45 mins.]
1 4 4 5 - 1 5 0 0	Break
	BLOCK 2 – Voir Dire
1 5 0 0 - 1 7 0 0	Selecting the Members: Voir Dire (Ms. Odom & LTC Stelle) <ul style="list-style-type: none"> • <u>Lecture:</u> <i>Preparing & Delivering Voir Dire: the Law, the Procedure, the Art (LTC Stelle & Ms. Odom)</i> [45 mins.] • <u>Small Group Exercise:</u> Students will break down into trial teams and develop proposed group voir dire questions using their respective fact pattern, questionnaires, theme, and theory. Training Officers will compile and turn-in their trial team's questions to LTC Batdorff (hard copy, email, or disk). LTC Batdorff will "grade" the proposed voir dire questions Monday evening [1 hr, 15 mins.] • <u>Note:</u> <i>Facilitators must emphasize to the students the need to study their assigned panel member questionnaire prior to Tuesday's exercises.</i>
1 8 3 0 - U T C	Icebreaker

DAY 2: Tuesday, 2 February

	BLOCK 2 (cont'd) – Voir Dire
0 9 0 0 - 1 0 3 0	<p>Selecting the Members: Voir Dire (cont'd)</p> <ul style="list-style-type: none"> • Red Team Group Voir Dire Exercise: LTC Batdorff will read from the MJBB Script from “Bailliff, please call the Members...” and will ask the MJBB general voir dire questions to the “Blue Team Members.” Using the <i>US v. Groves</i> fact pattern, Red Team students will play the TC & ATC. TC & ATC will account for the members, administer the members’ oath, etc.... All Red Team students will practice annotating the Blue Team members’ answers using a general voir dire spreadsheet (to be provided). [30 mins.] • Practical Exercise: Red Team 1 will ask their group voir dire questions [15 mins.] followed by faculty and blue team feedback [10 mins.] • Practical Exercise: Red Team 2 will ask all group voir dire questions [15 mins.] followed by faculty and blue team feedback [10 mins.] • Defense group voir dire: Defense Counsel (MAJ Hillner) will ask Def group voir dire [10 mins.]
1 0 3 0 - 1 0 4 5	Break
1 0 4 5 - 1 2 3 0	<p>Selecting the Members: Voir Dire (cont'd)</p> <ul style="list-style-type: none"> • Small Group Exercise: Red Teams 1 and 2 develop requests for individual voir dire. [10 mins.] • Practical Exercise: Red Team 1 will ask individual voir dire questions to the individual Blue Team members [20 mins.] followed by Faculty and Blue Team feedback [10 mins.] • Practical Exercise: Red Team 2 will ask individual voir dire questions to the individual Blue Team members [20 mins.] followed by Faculty and Blue Team feedback [10 mins.] • Small Group Exercise: Red Teams 1 and 2 discuss which members to challenge. [5 mins.] • Practical Exercise: Student from Red Team 1 will make one government challenge for cause. Defense Counsel (MAJ Hillner) will argue against the government challenge and lodge a separate defense challenge for cause. Red Team 2 will respond to the defense challenge for cause. [20 mins.] Faculty and Blue Team will provide feedback [10mins]
1 2 3 0 - 1 3 3 0	Lunch
1 3 3 0 - 1 5 0 0	<p>Selecting the Members: Voir Dire (cont'd)</p> <ul style="list-style-type: none"> • Blue Team Group Voir Dire Exercise: LTC Batdorff will read from the MJBB Script from “Bailliff, please call the Members...” and will ask the MJBB general voir dire questions to the “Red Team Members.” Using the <i>US v. Jackson</i> fact pattern, Blue Team students will play the TC & ATC. TC & ATC will account for the members, administer the members’ oath, etc.... All Blue Team students will practice annotating the Red Team members’ answers using a general voir dire spreadsheet (to be provided). [30 mins.] • Practical Exercise: Blue Team 3 will ask their group voir dire questions [15 mins.] followed by Faculty and Red Team feedback [10 mins.] • Practical Exercise: Blue Team 4 will ask all group voir dire questions [15 mins.] followed by Faculty and Red Team feedback [10 mins.] • Defense group voir dire: Defense Counsel (MAJ Hillner) will ask Def group voir dire [10 mins.]
1 5 0 0 - 1 5 1 5	Break
1 5 1 5 - 1 7 0 0	<p>Selecting the Members: Voir Dire (cont'd)</p> <ul style="list-style-type: none"> • Small Group Exercise: Blue Teams 3 and 4 develop requests for individual voir dire. [10 mins.] • Practical Exercise: Blue Team 3 will ask individual voir dire questions to the individual Red Team members [20 mins.] followed by Faculty and Red Team feedback [10 mins.] • Practical Exercise: Blue Team 4 will ask individual voir dire questions to the individual Red Team members [20 mins.] followed by Faculty and Red Team feedback [10 mins.] • Small Group Exercise: Blue Teams 3 and 4 discuss which members to challenge. [5 mins.] • Practical Exercise: Student from Blue Team 3 will make one government challenge for cause. Defense Counsel (MAJ Hillner) will argue against the government challenge and lodge a separate defense challenge for cause. Blue Team 4 will respond to the defense challenge for cause. [20 mins.] Faculty and Red Team will provide feedback [10mins]

DAY 3: Wednesday, 3 February

	BLOCK 2 (cont'd) – Voir Dire
0 9 0 0 - 1 0 0 0	Selecting the Members: Voir Dire (cont'd) <ul style="list-style-type: none"> • <u>Expert Demonstration</u>: LTC Stelle will conduct expert demonstration of group voir dire using <i>US v. Groves</i> fact pattern [45 mins.] • <u>AAR</u>: Led by Ms. Odom [15 mins.]
1 0 0 0 - 1 0 1 5	Break
1 0 1 5 - 1 1 3 0	Opening Statements <ul style="list-style-type: none"> • <u>Lecture</u>: <i>Effective Opening Statements Delivered to Members</i> (Ms. Odom) [45 mins.] • <u>Demonstration</u>: Opening Statement (LTC Batdorff) [15 mins.] • <u>AAR</u>: Led by Ms. Odom & LTC Batdorff [15 mins.]
1 1 3 0 - 1 2 4 5	Lunch
	BLOCK 4 – Government Case-in-Chief
1 2 4 5 - 1 4 1 5	Government Case-in-Chief <ul style="list-style-type: none"> • <u>Lecture</u>: <i>Presenting Government's Case-in-Chief to the Members</i> (CPT Parnell) [45 mins.] • <u>Small Group Exercise</u>: Students will break into their trial teams and discuss foundation questions for the government case-in-chief foundation Practical Exercise [45 mins.]
1 4 1 5 - 1 4 3 0	Break
1 4 3 0 - 1 6 0 0	Government Case-in-Chief (cont'd) <ul style="list-style-type: none"> • <u>Practical Exercise</u>: Government Direct of Victim-Witness, PVT Hailey (Ms. Tullius will play PVT Hailey) [1 hr., 15 mins.] (Students in Panel Box) <ul style="list-style-type: none"> • Oath and Preliminary Questions (CPT Heaser) [10mins] • Foundation for Apartment Sketch (Red Team 1) (followed by feedback) [15mins] • Foundation for Text Messages (Red Team 2) (followed by feedback) [15mins] • Foundation for Drunk Picture of PVT Hailey on the Floor (Blue Team 3) (followed by feedback) [15mins] • Expert demonstration of Foundation (CPT Parnell) [10mins] • SVP-Member will ask a question using the panel questionnaire form (CPT Parnell is TC, MAJ Hillner is DC). [10mins] • <u>Practical Exercise</u>: Defense counsel (MAJ Hillner) will conduct cross examination of PVT Hailey. Blue Team 4 will play the role of trial counsel. During cross, defense counsel will ask a question that violates the MJ's MRE 412 ruling. Blue Team 4 will be required to respond appropriately. (followed by feedback) [15 mins.]
1 6 0 0 - 1 6 1 5	Break
	BLOCK 5 – Instructions
1 6 1 5 - 1 7 1 5	Instructions <ul style="list-style-type: none"> • <u>Small Group Class</u>: In small groups, Instructors will lead discussion on the importance of instructions (knowing the instructions beforehand, reviewing the MJ's proposed instructions carefully, incorporating the instructions into closing argument, importance of reviewing the instructions for appellate reasons, etc...). • <u>Small Group Exercise</u>: Instructors will hand out a summary of the facts as they came out during the trial of <i>US v. Groves</i>. Trial Teams will use the Instructions Checklist and discuss which instructions they will want. Next, Instructors will hand out the MJ's proposed instructions that the MJ would have emailed to the Trial Counsel. Trial Teams will review the MJ's proposed instructions and look for errors and missing instructions. [60 mins.]

DAY 4: Thursday, 4 February

	BLOCK 6 – Closing
0 9 0 0 - 1 0 1 5	Closing <ul style="list-style-type: none"> • <u>Lecture</u>: CPT Dixon [45 mins.] • <u>Good Demonstration</u>: CPT Dixon [15 mins.] • <u>AAR</u>: CPT Dixon [15 mins.]
1 0 1 5 - 1 0 3 0	Break
	BLOCK 7 – Sentencing
1 0 3 0 - 1 2 3 0	Sentencing <ul style="list-style-type: none"> • <u>Lecture</u>: MAJ Wheeler [45 mins.] • <u>Practical Exercise</u>: Students will interview PVT Hailey and develop direct examination of PVT Hailey (in 30 min. breakout sessions). Students will conduct short direct examinations of PVT Hailey (in 45 min large group session). One of the Small Group leaders in each break out session will play the role of PVT Hailey for their team's mock interview and direct exam. • <u>AAR</u>: Led by MAJ Wheeler
1 2 3 0 - 1 4 0 0	Lunch
1 4 0 0 - 1 5 3 0	Distinguished Guest Speaker <i>Judicial Perspective on Members Cases</i> LTC (ret) James Varley
1 5 3 0 - 1 5 4 0	Break
1 5 4 0 - 1 6 0 0	Sentencing Argument Demonstration MAJ Wheeler
1 6 0 0 - 1 6 3 0	Closing Comments and Evaluation Turn-In



EFFECTIVE STRATEGIES FOR MEMBERS CASES

Presented by
Trial Counsel Assistance Program (TCAP)

**FORT BELVOIR, VA
22-25 SEPTEMBER 2015**

DAY 1: TUESDAY, 22 SEPTEMBER

0 8 3 0 - 0 8 4 5	Welcome/Opening Remarks (LTC Batdorff)
	BLOCK 1 – Basics
0 8 4 5 - 0 9 3 5	<u>Lecture</u> : Psychology of Persuading the Panel (LTC Batdorff)
0 9 3 5 - 0 9 4 5	Break
0 9 4 5 - 1 0 2 0	<u>Lecture</u> : Case Preparation and Organization (LTC Batdorff)
1 0 2 0 - 1 0 3 0	Break
1 0 3 0 - 1 2 0 0	<u>Lecture</u> : Panel Case Admin and Logistics (CPT Mathew)
1 2 0 0 - 1 3 3 0	Lunch
1 3 3 0 - 1 4 4 5	<u>Lecture and Exercise</u> : Themes and Theories (Ms. Ryan & Ms. Tullius)
1 4 4 5 - 1 5 0 0	Break
	BLOCK 2 – Voir Dire
1 5 0 0 - 1 7 1 5	<u>Lecture and Demonstration</u> : Selecting the Members: Voir Dire (Ms. Ryan, Ms. Tullius, CPT Zukauskas)
1 8 3 0 - U T C	Icebreaker

DAY 2: WEDNESDAY, 23 SEPTEMBER

	BLOCK 2 (cont'd) – Voir Dire
0 8 4 5 - 1 1 4 5	<u>Exercise:</u> Selecting the Members: Voir Dire (cont'd)
1 1 4 5 - 1 3 1 5	Lunch
1 3 1 5 - 1 4 4 5	<u>Exercise and Demonstration:</u> Selecting the Members: Voir Dire (cont'd)
1 4 4 5 - 1 5 0 0	Break
	BLOCK 3– Opening Statements
1 5 0 0 - 1 7 1 5	<u>Lecture, Exercise, and Demonstration:</u> Opening Statements (Ms. Odom, CPT Zukauskas, MAJ Hillner)

DAY 3: THURSDAY, 24 SEPTEMBER

	BLOCK 4 – Government Case-in-Chief
0 8 4 5 - 1 1 4 5	<u>Lecture and Exercise:</u> Government Case-in-Chief (CPT Parnell and CPT Heaser)
1 1 4 5 - 1 3 1 5	Lunch
1 3 1 5 - 1 5 3 0	<u>Exercise and Lecture:</u> Government Case-in-Chief (cont'd) (MAJ Hillner, Ms. Ryan, Ms. Tullius)
1 5 3 0 - 1 5 4 5	Break
	BLOCK 5 – Instructions
1 5 4 5 - 1 7 0 0	<u>Exercise:</u> Instructions (LTC Batdorff)

DAY 4: FRIDAY, 25 SEPTEMBER

	BLOCK 6 – Closing
0 8 4 5 - 1 0 1 5	<u>Lecture and Demonstration:</u> Closing (MAJ O’Dea, MAJ Sykes)
1 0 1 5 - 1 0 3 0	Break
	BLOCK 7 – Sentencing
1 0 3 0 - 1 2 3 0	<u>Lecture and Exercise:</u> Sentencing (MAJ Hillner)
1 2 3 0 - 1 4 0 0	Lunch
1 4 0 0 - 1 5 3 0	Guest Speaker Retired Military Judge TBD
1 5 3 0 - 1 5 4 0	Break
1 5 4 0 - 1 6 1 0	Sentencing Argument Demonstration LTC Batdorff
1 6 1 0 - 1 6 3 0	Closing Comments and Evaluation Turn-In