



# Staff Judge Advocate to the Commandant of the United States Marine Corps



## Western Region TCAP Training Agenda

MCB CAMP PENDLETON  
FEBRUARY 1-5, 2016

Presented by  
**Trial Counsel Assistance Program (TCAP)**  
With support from  
**Navy TCAP, LSSS-West, and LSSS-Pacific**

Enlisted Breakout
Lecture / Demo
Practical Exercise
Drill

DAY 1: MONDAY, February 1st			
0800 – 0830	<p><b>Opening Remarks - VTC</b> MajGen John Ewers, SJA to CMC</p>		
0830 – 0930	<p><b>Ethics</b> LtCol Steve Keane</p> <ul style="list-style-type: none"> <li>❖ <i>LtCol Keane is the regional trial counsel for the west region.</i></li> <li>➤ Instruction will discuss ethics as applied to prosecution. It will use case law and specific examples to examine the limits of appropriate behavior.</li> </ul>		
0930 – 1030	<p><b>VLCO</b> Col Katherine McDonald</p> <ul style="list-style-type: none"> <li>❖ <i>Col McDonald is the OIC of the Marine Corps VLCO.</i></li> <li>➤ Instruction will discuss the role the VLCO plays in the process and how TCs can constructively interact with the VLCs assigned to their cases.</li> </ul>		
1030 – 1130	<table border="1" style="width: 100%;"> <tr> <td style="width: 60%;"> <p><b>PMMs and Sex Assault / Domestic Violence corroboration</b> Ms. Julia Hejazi</p> <ul style="list-style-type: none"> <li>❖ <i>Ms. Hejazi is the highly qualified expert for HQMC and LSSS-NCR.</i></li> <li>➤ <i>Instruction will focus on those issues unique to SA and DV cases.</i></li> </ul> </td> <td style="width: 40%;"> <p><b>Learning to Read an Investigation</b> Maj Jesse Schweig</p> <ul style="list-style-type: none"> <li>❖ <i>Class will focus on reading an NCIS or CID investigation and how this practically applies to gathering evidence.</i></li> </ul> </td> </tr> </table>	<p><b>PMMs and Sex Assault / Domestic Violence corroboration</b> Ms. Julia Hejazi</p> <ul style="list-style-type: none"> <li>❖ <i>Ms. Hejazi is the highly qualified expert for HQMC and LSSS-NCR.</i></li> <li>➤ <i>Instruction will focus on those issues unique to SA and DV cases.</i></li> </ul>	<p><b>Learning to Read an Investigation</b> Maj Jesse Schweig</p> <ul style="list-style-type: none"> <li>❖ <i>Class will focus on reading an NCIS or CID investigation and how this practically applies to gathering evidence.</i></li> </ul>
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1130 – 1300	<p><b>Working Lunch and Review of Mock Case File</b> Teams</p> <ul style="list-style-type: none"> <li>❖ <i>The format for this year's training will be slightly different. Participants will work all practical exercises as teams. Additionally, time will be granted during the workday to prep for all events. This is the first such block of prep time.</i></li> <li>➤ The goal is to review the mock case file and to discuss what evidence is missing. The team leader should task the team members with drafting appropriate documents to obtain these missing items of evidence.</li> </ul>		
1300 – 1400	<table border="1" style="width: 100%;"> <tr> <td style="width: 60%;"> <p><b>Sample Direct of a Strangulation Expert</b> Mr. Jack McMahon and Ms. Gael Strack</p> <ul style="list-style-type: none"> <li>❖ <i>Mr. McMahon is the highly qualified expert for LSSS-Pacific</i></li> <li>❖ <i>Ms. Gael Strack is an expert in the field of strangulation as it applies to domestic violence</i></li> <li>➤ <i>Instruction will provide a template for conducting the direct examination of an expert strangulation witness.</i></li> </ul> </td> <td style="width: 40%;"> <p><b>Creating a Proof Chart</b> Maj Tanzania Jaysura</p> <ul style="list-style-type: none"> <li>❖ <i>Class will focus on using the Benchbook to draft a proof chart for your TC as you create the charge sheet.</i></li> </ul> </td> </tr> </table>	<p><b>Sample Direct of a Strangulation Expert</b> Mr. Jack McMahon and Ms. Gael Strack</p> <ul style="list-style-type: none"> <li>❖ <i>Mr. McMahon is the highly qualified expert for LSSS-Pacific</i></li> <li>❖ <i>Ms. Gael Strack is an expert in the field of strangulation as it applies to domestic violence</i></li> <li>➤ <i>Instruction will provide a template for conducting the direct examination of an expert strangulation witness.</i></li> </ul>	<p><b>Creating a Proof Chart</b> Maj Tanzania Jaysura</p> <ul style="list-style-type: none"> <li>❖ <i>Class will focus on using the Benchbook to draft a proof chart for your TC as you create the charge sheet.</i></li> </ul>
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1 4 0 0 – 1 4 3 0	<b>Victimology Drill</b> ❖ <i>There will be a series of “drills” throughout the training. These will be live action and will be conducted in front of the entire audience. The goal of the drills is to make counsel think on their feet in a time-compressed situation.</i>	
1 4 3 0 – 1 7 0 0	<b>Whiteboarding and Charging Exercise</b> ❖ <i>This team exercise will be conducted in the small group conference rooms. The group leader will take the teams through a whiteboarding exercise, a charge analysis exercise, and a PMM exercise. The teams will also generate their subpoenas and other documents that will enable them to complete their case file.</i>	
1 7 0 0 – 1 9 0 0	<b>Optional Panel Discussion</b> Reservists and Retired Marines ❖ <i>The panel will field questions from TCs regarding the interviewing and hiring process post Marine Corps. The panel will also discuss the reserves and what resources are available.</i>	

**DAY 2: TUESDAY, February 2nd |**

0 6 3 0 – 0 7 3 0	<b>Mandatory Group PT Event</b>	
0 8 3 0 – 1 0 0 0	<b>Evidentiary Foundations in Sex Assault Cases</b> RTCs <ul style="list-style-type: none"> <li>❖ <i>LtCol Keane and LtCol Lee will discuss appropriate methods of laying foundations. They will also run the class through a series of drills.</i></li> </ul>	<b>Drafting Subpoenas and Creating Witness Lists</b> Capt Seth Engel <ul style="list-style-type: none"> <li>❖ <i>Class teaches enlisted how to obtain virtually any piece of evidence and how to pre-populate a witness list.</i></li> </ul>
1 0 0 0 – 1 1 3 0	<b>Making Objections</b> HQEs <ul style="list-style-type: none"> <li>❖ <i>Instructors will give a short lecture on objections; however, the bulk of the class will be a group drill.</i></li> </ul>	<b>Working with and Interviewing Witnesses</b> Capt Eric Neuman and Capt Trysten Villarreal <ul style="list-style-type: none"> <li>❖ <i>Class will explore and provide witness interview templates.</i></li> </ul>
1 1 3 0 – 1 3 0 0	<b>Lunch</b>	
1 3 0 0 – 1 4 3 0	<b>Dissecting the Direct Exam</b> Mr. Rob Giles <ul style="list-style-type: none"> <li>❖ <i>Mr. Giles is the highly qualified expert for Navy TCAP.</i> <ul style="list-style-type: none"> <li>➢ <i>Instruction will discuss the content of an effective direct examination of a victim.</i></li> </ul> </li> </ul>	<b>Enlisted Panel Discussion</b> Legal Chiefs <ul style="list-style-type: none"> <li>❖ <i>Panel will explore best practices around the Marine Corps legal community.</i></li> </ul>
1 4 3 0 – 1 5 3 0	<b>Prep Direct Exams</b> <ul style="list-style-type: none"> <li>❖ <i>Teams will prepare a model direct of their victim. The output will be a prepared and structured written direct exam.</i></li> </ul>	
1 5 3 0 – 1 7 0 0	<b>Conduct Directs</b> <ul style="list-style-type: none"> <li>❖ <i>Teams will conduct their prepared direct exams in the small group conference rooms.</i></li> </ul>	
1 7 0 0 – 1 9 0 0	<b>Optional Panel Discussion</b> Special Guests Ms. Coleen Balbert and Ms. Vanessa Puzio of the New York District Attorney's Office <ul style="list-style-type: none"> <li>❖ <i>This panel will focus on the differences between civilian and military sexual assault prosecutions.</i></li> </ul>	

**DAY 3: WEDNESDAY, February 3rd |**

0 6 0 0 – 0 7 0 0	<b>Optional Group PT Event</b>	
0 7 3 0 – 0 9 0 0	<b>Cross Examination Demonstration and Class</b> RTCs and HQEs  ❖ <i>Class discusses the theory of cross and how to use it to further the theme of your case. Class includes a drill portion.</i>	<b>Use of ADOBE Pro and Other Office Products</b> Capt Mark Pfizenmayer and 1stLt Nick Mote  ❖ <i>Class ensures widest dissemination of best practices regarding Office products. Focuses on shortcuts and maximizing efficiency.</i>
0 9 0 0 – 1 0 0 0	<b>The DSO</b> Col Steve Newman  ❖ <i>Col Newman is the Chief Defense Counsel of the Marine Corps.</i> ➤ <i>Class will discuss the interaction between TCs and DCs.</i>	
1 0 0 0 – 1 1 3 0	<b>Discovery v. Production</b> LCDR Ryan Stormer, JAGC  ❖ <i>LCDR Stormer is the deputy director of Navy TCAP.</i> ➤ <i>Class will pull back the curtain on this confusing subject area.</i>	
1 1 3 0 – 1 3 0 0	<b>Working Lunch and Prep of Cross-Examinations</b>	
1 3 0 0 – 1 4 3 0	<b>Conduct Crosses</b> Teams  ❖ <i>Teams will conduct mock cross-examinations of the accused in the small group conference rooms.</i>	<b>Setting up a Courtroom &amp; Pretrial Matters</b> Maj Wayne Shew, Capt Zack Goodman, Capt Thomas Endicott, and SSgt Michael Smyth  ❖ <i>This practical application class will ensure that all enlisted personnel know how to set-up a courtroom for any contested case. Class includes construction of the TC's trial notebook and preparation of evidence.</i>  ➤ <i>Class will be held in the Camp Pendleton courtrooms.</i>
1 4 3 0 – 1 5 3 0	<b>Proper use of an Expert Toxicologist</b> Capt Mark Pfizenmayer and Mr. Jack McMahon  ❖ <i>Instructor will discuss how to use an expert toxicologist in a sexual assault case. The class will include a model direct examination of an expert.</i>	
1 5 3 0 – 1 6 3 0	<b>Addressing Counter-Intuitive Victim Behaviors</b> LtCol Wilbur Lee  ❖ <i>LtCol Lee is the regional trial counsel for the pacific region.</i> ➤ <i>Class will discuss ways to address counter-intuitive victim behaviors. It will include suggestions for when to call an expert.</i>	
1 6 3 0 – 1 9 0 0	<b>Optional Videotaping of and Feedback on an Opening/Closing</b>  ❖ <i>This gives attendees an option to deliver an opening/closing from one of their cases or from the TCAP mock case. The presentation will be videotaped and will then be reviewed with an experienced practitioner. The goal is self-evaluation and self-improvement.</i>	

**DAY 4: THURSDAY, February 4th |**

0 6 3 0 – 0 7 3 0	<b>Mandatory Group PT Event</b>	
0 8 3 0 – 0 9 3 0	<b>Theme and Theory of the Case</b> Mr. Rob Giles  ❖ <i>Instructor will discuss how to derive a theme/theory from the evidence and witness interviews. Instructor will then explain how to use this theme/theory throughout the presentation of the case.</i>	<b>VWAP and Post-Trial Packages</b> Capt Justin Nakajo-Kleinman  ❖ <i>Class focuses on VWAP compliance, drafting confinement orders, and drafting RROT's.</i>
0 9 3 0 – 1 1 0 0	<b>Theme and Theory Drill</b>	<b>Archiving a Case and CMS</b> MSgt Renaldo Lafoucade  ❖ <i>What needs to be part of an archived case file and how it should be maintained pursuant to regulation.</i>
1 1 0 0 – 1 2 0 0	<b>Create a Theme and Theory for the Mock Case</b>  ❖ <i>Teams will work on a theme and theory and will present it to the other teams in their small group conference rooms. This exercise takes the place of the more traditional opening statement presentations.</i>	
1 2 0 0 – 1 3 0 0	<b>Lunch</b>	
1 3 0 0 – 1 4 3 0	<b>The Opening Statement</b> LTC George Brauchler, USA  ❖ <i>Instructor will give a sample opening statement relating to the mock case. He will then provide practice pointers for structuring the opening.</i>	
1 4 3 0 – 1 5 3 0	<b>The Closing Argument</b> LTC George Brauchler, USA  ❖ <i>Instruction will cover theory surrounding the closing argument. The context will be an actual closing prepared in conjunction with the mock case.</i>	<b>NJIS</b> Maj Jesse Schweig  ❖ <i>Explanation of where we might be headed and a solicitation of good ideas.</i>
1 5 3 0 – 1 6 3 0	<b>Creating an Effective Visual Closing</b> LTC George Brauchler, USA  ❖ <i>Instruction will give pointers and techniques for incorporating technology into the closing and how to use it to supplement the argument.</i>	
1 6 3 0 – 1 9 0 0	<b>Optional Videotaping of and Feedback on an Opening/Closing</b>  ❖ <i>This gives attendees an option to deliver an opening/closing from one of their cases or from the TCAP mock case. The presentation will be videotaped and will then be reviewed with an experienced practitioner. The goal is self-evaluation and self-improvement.</i>	

**DAY 5: FRIDAY, February 5th |**

0 7 3 0 – 0 8 3 0	<p><b>Military Justice Resources</b> Maj Jesse Schweig</p> <ul style="list-style-type: none"> <li>❖ <i>Maj Schweig is the branch head for Marine TCAP.</i> <ul style="list-style-type: none"> <li>➤ Class will discuss websites, publications, and other documents pertaining to military justice. It will also include a discussion of NJIS.</li> </ul> </li> </ul>
0 8 3 0 – 1 0 0 0	<p><b>Sentencing Argument Demonstrations</b> Capt Thomas Endicott and CDR Jon Stephens, JAGC</p> <ul style="list-style-type: none"> <li>❖ <i>Two experienced TCs will deliver model sentencing arguments from their own cases. They will then explain how they structured their argument and why.</i></li> </ul>
1 0 0 0 – 1 1 0 0	<p><b>Case Law Update</b> Ms. Julia Hejazi</p> <ul style="list-style-type: none"> <li>❖ <i>Instruction will discuss recent sexual assault cases that have been overturned for lack of factual sufficiency. It will also touch on other developments relevant to our practice.</i></li> </ul>
1 1 0 0 – 1 1 3 0	<p><b>Presentation of Awards</b> RTCs</p>
1 1 3 0 – 1 2 0 0	<p><b>Closing Remarks / Critiques</b> Maj Jesse Schweig</p>