

## AFLOA/CLS.

### *Section I*

*A brief description of organizational mission and responsibilities.*

#### **Community Legal Services Directorate (AFLOA/CLS).**

- Provide training, resources, and policy on legal assistance matters to ensure competent legal advice for Airmen, retirees and dependents; provide legal representation for child and adult sexual assault victims and in Disability Evaluation System cases, advocating client interests while preserving privileged attorney-client relationships, ultimately ensuring our Nation's Airmen and their families are properly cared for and mission-focused.

#### **Office of Airmen's Counsel (CLSA).**

- The Office of Airmen's Counsel (OAC) provides professional, candid, and independent counsel to Airmen throughout the Integrated Disability Evaluation System (IDES). Its ten attorneys and five paralegals assist Airmen throughout the entire process and advise them on legal and practical implications of various decisions they make during the process. Ultimately, the representation culminates in a physical appearance, with counsel, in front of the Formal Physical Evaluation Board (FPEB) should the Airmen choose to do so. Thereafter, Team OAC helps clients to prepare appeals to the Secretary of the Air Force Personnel Council (SAF PC) and submit matters for Veterans Affairs (VA) Ratings Reconsiderations. In 2014, the OAC represented 1,350 Airmen undergoing military disability evaluation processing. Of those, 588 clients personally appeared at Formal Physical Evaluation Boards. Following the FPEB results, the OAC and its clients then submitted nearly 350 SAF PC appeals, as well as an additional 300 Veterans Affairs reconsiderations.

#### **Community Legal Issues Division (CLSL).**

- The Community Legal Issues Division provides education, training, oversight and policy in support of AF installation legal assistance programs around the world.

#### **Special Victims' Counsel Division (CLSV).**

- The Special Victims' Counsel (SVC) Division advances the Air Force mission by promoting justice, strengthening confidence in the military justice system, and offering legal assistance services through independent legal counsel to adult and child victims of sex related offenses during the investigation and prosecution process. SVCs and Special Victims' Paralegals (SVP) provide world-class representation and advocacy for armed forces members and dependents at military installations worldwide, protecting the rights afforded to crime victims.

### *Section V*

*Identify major changes and reorganizations within your organization during 2014, explaining in a specific and detailed way why they occurred and subsequent results.*

#### **Office of Airmen's Counsel (CLSA).**

- In 2014, two OAC Sections -- Outreach and Internal Development -- were eliminated due to a manning shortage and to meet the surge in Formal Physical Evaluation Board hearings. The Division Chief and Law Office Manager took on outreach responsibilities while all other personnel met the OAC IDES mission.

#### **Special Victims' Counsel Division (CLSV).**

- Pursuant to NDAA FY14 codification of the SVC Program, eligibility has been expanded to include not only adult victims of sex-related offenses, but minor children as well. These offenses include rape, sexual assault, other unwanted sexual contact that is aggravated, abusive, or wrongful (including unwanted and inappropriate sexual contact), forcible sodomy, stalking, other sexual misconduct, and attempts to commit these offenses, in violation of Articles 120, 120a, 120b, 120c, 125, and 80, respectively (including previous versions of Uniform Code of Military Justice (UCMJ), Article 120).
- On 24 June 2014, the AF SVC Program began representing child victims of sexual assault. The SVC Program drafted updated Rules of Practice and Procedure to incorporate this expanded client eligibility. Additionally, in partnership with the Judge Advocate General's School, the SVC Program developed and then provided specialized training to assist the SVCs in representing children. In the first six months of this expanded program, Air Force SVCs have represented 25 minor children clients. SVCs have represented child clients in law enforcement and government and defense attorney interviews, assisted in an expedited transfer request, and protected privacy interests and military crime victim rights in pretrial and trial proceedings.
- In July 2014, the Division included a headquarters staff with a Colonel (O-6) division chief, a General Schedule-14 associate chief, and 24 Special Victims' Counsel and 10 Special Victims' Paralegals who served in regional and satellite offices at 22 locations worldwide. The Master Sergeant (E-7) Special Victims' Paralegal Manager was selected for and moved to another special duty assignment on very short notice in February 2014, creating a vacancy in that position which remains vacant. As of September 2014, the Division grew to include 28 Special Victims' Counsel and 10 Special Victims' Paralegals at 19 locations worldwide. The number of SVC Counsel will continue to expand throughout FY15. In January 2015, the total number of SVCs will reach 33, and by the Summer of 2015 will expand to 40. As the number of SVCs grew, the need for mid-level Senior Special Victim Counsel (SSVC) to handle complex cases, assist in Program administration and provide mid-level supervision became clear. Consequently, in January 2015, three Major (O-4) SSVCs will join the Program, located at Joint Base San Antonio-Randolph, TX; Joint Base Andrews, MD; and Nellis AFB, NV. From the Program's inception throughout 2014, Special Victims' Counsel have represented 1307 victims of sexual assault.

## ***Section VI***

***Identify major projects of the organization during the past year, providing a brief description of each.***

### **Office of Airmen's Counsel (CLSA).**

- One of the OAC's challenges included the fact many of the Airmen in the IDES did not know of their right to counsel and/or the existence of the OAC. Outreach efforts were initiated to include making posters for dissemination to Air Force bases worldwide; producing a commercial to be broadcast worldwide on the Armed Forces Network, public television and radio; and making personal appearances to First Sergeants, Chiefs Council, and Commanders Calls. This effort began on June 11, 2014. Lt Col Trinh Peterson and TSgt Danyall Bowie are responsible for this project.
- Safety and Security Improvements. Another of OAC's challenges was the lack of safety and security protocols in a high-risk environment. The location of OAC offices was not conducive to the security of its personnel. This issue was recognized after the office had transitioned to its new location at the end of 2013. OAC was able to acquire portable duress alarms for each member of the office and an overall office security system that could be monitored by OAC personnel. OAC leadership has been in negotiation with base officials to secure new office

space for OAC paralegals so they are not exposed in an unsecure space. TSgt Danyall Bowie is responsible for this project.

- Professional Responsibility Standards. The increasing number of cases in the IDES forced OAC attorneys and paralegals to operate at a pace that threatened professional responsibility standards. The Division Chief worked with AFPC to ensure each attorney and his/her paralegal had the appropriate number of cases allowing time for client communication, research, and preparation while upholding professional responsibility standards. Each attorney now averages about three cases per week and each paralegal manages six cases per week. The office also conducts regular professional responsibility training to ensure each OAC member understands the importance of maintaining the standards. Lt Col Trinh Peterson is responsible for this initiative.
- Records Management. There was no formal records management program in the OAC until November 2014. The LOM worked tirelessly to establish relationships with the Wing and AFPC records managers in order to create an approved records management program that would meet the Air Force's inspection requirements. A file plan was developed, then approved through appropriate channels, then put into Sharepoint, an electronic file system meant to track OAC clients. TSgt Danyall Bowie and SSgt Nerissa Williams spearheaded this challenge and continue to maintain the program.

### **Community Legal Issues Division (CLSL).**

- Will Drafting Software Sustainment and Management. Throughout 2014, CLSL devoted countless hours to the sustainment and management of the Air Force Judge Advocate General's DL Wills estate planning software investment. The software is critical to the Air Force Legal Assistance Program that produces approximately 47,000 wills annually. In February 2014, CLSL began the approval process for continued use of DL Wills software on the Air Force network. On 3 May 2014, the Air Force Network Integration Center renewed the Corps' security certification for continued use of DL Wills software for another three years. Additionally, after validating field requirements in February, CLSL purchased and distributed 336 additional DL Wills licenses in September. This purchase primarily allowed the Corps to fully realize the Paralegal Will Drafting Program that began in 2011. Lastly, to consolidate licensing data and more efficiently manage licenses, a year-end audit was conducted. This was the first comprehensive audit since 2003. Prior to CLSL activation in May 2013, the audit revealed that license purchase and oversight responsibility shifted from individual units, to the Air Force Legal Operations Agency's Legal Information Services Directorate (AFLOA/JAS), to AFLOA's former Legal Assistance Division (JACA), to the Air Force Judge Advocate General's School, and back to JACA before its deactivation in May 2013. Records dating back to 1997 were reviewed documenting both individual unit and bulk Air Force purchases. The audit revealed that as of the end of 2014, the Air Force owns 2,110 licenses, which are presently distributed throughout the total force. Individuals responsible for these actions include Lieutenant Colonel Thomas F. Collick, Major Karin Peeling, and Mr. Brian Suckman (AFLOA/JAS).
- WebLIONS Power of Attorney Review and Improvement Program. The Air Force Judge Advocate General's Corps uses WebLIONS to produce approximately 200,000 Powers of Attorney (POAs) annually. WebLIONS began producing POAs over a decade ago; however, it is unknown when the last comprehensive review of the WebLIONS POA templates was conducted to ensure all WebLIONS powers of attorney products were legally sufficient. A review of over 40 types of Special Powers of Attorney (POA) began in 2013. Changes included standardizing the military preamble to match the language provided in DODD 1350.4, *Legal Assistance Matters*; removing unnecessary social security numbers; including Health

Insurance Portability and Accountability Act (HIPAA) waivers in appropriate POAs; and updating and standardizing termination clause language. Software changes were made with the support of the AFLOA's Legal Information Services Directorate (JAS). At the conclusion of 2014, the software was undergoing final field beta testing at select offices and is anticipated to be released Air Force-wide in the first quarter of 2015. Individuals responsible for these actions include Colonel Fred Davies (USAFR), Lieutenant Colonel Thomas F. Collick, Major Karin Peeling, Major David Dickinson (AFLOA/JAS) and Technical Sergeant Bradley Hill (AFLOA/JAS).

### **Special Victims' Counsel Division (CLSV).**

- Rules of Practice and Procedure were rewritten to incorporate the new NDAA legislative changes, to include child representation.
- Education for SVCs representing children. In conjunction with the JAG School, CLSV developed formal in-residence training on representation of child victims and incorporated it into the existing SVC Course curriculum by lengthening the duration of the course from 4 days to 6 days. The majority of the training was presented by civilian experts in this unique field of practice.
- Informal Training. In addition to the increasing number of formal, in-residence courses, a number of distance education courses and webinars were added in 2014, which were designed to quickly provide information on changes in the law to attorneys and paralegals in the field. The SVC Program has facilitated collaboration within the SVC community by utilizing resources available through CAPSIL, the AF JAG Corps e-learning system. An SVC Deskbook (restricted to SVCs and SVPs) was developed, including resources such as templates for basic practice, recordings of webcasts from programs by other Federal agencies (Department of Justice Office of Victims of Crime) and universities, templates for motion practice, and DoD, and civilian resources. A SVC Cohort Sharepoint site (also restricted to SVCs and SVPs) allowed for SVCs to share current experiences, strategies, responses and resources in a collaborative manner that supports one another's practice, even while SVCs are geographically separated.
- SVC Selection Procedures. As of August 2014, the JAG Corps implemented a formalized screening process for nominating the "best qualified" judge advocates for SVCs/SSVCs. This screening process was employed in the Fall of 2014 to nominate the SVCs/SSVCs projected for January 2015 and July 2015 assignments. SVC/SSVC candidates are then vetted through the following process.
  - The Director of Professional Development (AF/JAX) calls for nominations to every MAJCOM Staff Judge Advocate (SJA) and Director to solicit input for "best qualified" personnel using the following criteria:
    - Trial Experience: Candidates are analyzed on their courts-martial experience to include, the number of courts-martial tried, a breakdown of litigated, partially litigated, and guilty plea trials, an examination of the types of offenses tried, and the extent of the candidates participation in the trial (ex. opening statement, voir dire, etc.). A candidate must also be certified as a trial and defense counsel through the rigorous field certification program. In that program, judge advocates must have served effectively as a trial or assistant trial counsel on a number of courts-martial, demonstrated comprehension of fundamental principles of military criminal law, procedure, and evidence, and demonstrated competence in fundamental litigation skills including case preparation, motions practice, voir dire, opening statement, direct and cross examination, making objections, and closing and sentencing arguments. Finally, candidates must be

recommended by both a candidate's supervisory SJA and by a military judge to be trial certified. Judge advocates are not trial and defense certified directly out of the basic judge advocate training course.

- Witness/Victim Interactions: Based on inputs from a candidate's direct supervisor (e.g., SJA) and other sources, to include inputs from Senior Trial Counsel, the candidate's interaction with witnesses and victims are analyzed to ensure each candidate possesses the proper disposition to handle the sensitive nature of these duties.
- Officership/Leadership/Work Ethic: In addition to the workload and subject matter, SVCs/SSVCs must run their own office with minimal supervision. Candidates are analyzed for their officership, ability to work autonomously, organization and time-management skills, specialized training, maturity, and responsibility, to ensure they have the skills and work ethic needed for such a position.
- Supervisor/MAJCOM Recommendation: The candidate's supervisor (e.g., SJA) completes an honest assessment regarding the candidate's fitness for the position, which is then coordinated through the chain of command to the MAJCOM SJA for final concurrence/non-concurrence.
- SVC Chief Coordination: Once a candidate goes through the above vetting process, the JAX Assignments Officer coordinates all nominations with the Chief, Special Victims' Counsel Division, to ensure each candidate meets the demands and expectations of the SVC Program's leadership.
- The Judge Advocate General then makes the final assignment action of the candidate.

## ***Section VII***

### ***Report major accomplishments of the organization during 2014.***

#### **Office of Airmen's Counsel (CLSA).**

- The OAC's major accomplishments in 2014 include helping to make institutional and operational changes to the IDES. One such change was instituting regular bi-monthly meetings with FPEB presidents. During these meetings legal issues such as due process, attorney and paralegal professional standards, and FPEB decorum are addressed with decisions made for future Board hearing practice.
- Another major accomplishment was the OAC's proposal to SAF Personnel Council (SAF PC) for faster resolutions of appeal cases. The OAC developed a system to alert SAF PC to less complex cases that could be fast-tracked. This system also alerted SAF PC to cases involving time-sensitive issues such as Temporary Early Retirement Authority (TERA) and return to duty (RTD). These accomplishments were instrumental in making the IDES more efficient and giving Airmen certain resolution in their cases.

#### **Community Legal Issues Division (CLSL).**

- Legal Assistance Webcasts and Military Continuing Legal Education (MCLE) in Legal Assistance. In 2014, CLSL, in conjunction with the Air Force Judge Advocate General's School, conducted six legal assistance training webinars. CLSL webinars are recorded and become the backbone of the Corps' annual MCLE certification program, designed to ensure AFJAGC legal assistance attorneys maintain a high level of competency as they perform legal assistance. In 2014, approximately 1,400 judge advocates and civilian attorneys with legal assistance duties certified completion of four hours of MCLE training. CLSL planning began in September 2014 with the actual certification season starting in October. To successfully

ensure training and certification requirements were met, CLSL developed an MCLE advertisement campaign posted on TJAG On-line News Service, sponsored three webinars during the October – December certification season, and provided assistance to numerous individuals and supervisors. By the end of the year, all the required attorneys had completed a total of 5,600 hours of legal assistance training.

### **Special Victims' Counsel Division (CLSV).**

- **Program Recognition.** In April 2014, the Department of Justice awarded the Air Force Special Victims' Counsel Program the Federal Service Award for providing victims with free legal representation and guiding them through the military justice process. In a press release announcing the award Attorney General Eric Holder stated, "Through their courage and critical contributions to assist and empower victims, these individuals and organizations have given hope to countless Americans victimized by crime—even under the most difficult circumstances." Additionally, the Special Victims' Counsel Program was the only section to receive a "Superior Team" award during the Air Force Legal Operations Agency Unit Effectiveness Inspection (UEI). The former Special Victims' Counsel Division Chief was also the first Air Force recipient in the 15-year history of the national Burton Award for Public Service, which is presented to individuals in the legal profession demonstrating the highest degree of professionalism and integrity employed in the executive branch of government.
- **Program Contribution to Congressionally Mandated Panels and Committees.** In 2014, the SVC Program has contributed to the knowledge base regarding advocacy on behalf of sexual assault victims throughout the civilian and military legal communities. SVC Program Chiefs have testified at the Congressionally-mandated Response Systems Panel, the Military Justice Review Group, and the Judicial Proceedings Panel.
- **Program Outreach.** In 2014, members of the Special Victims' Counsel Program and Military Justice Division (AFLOA/JAJM) provided presentations at the American Bar Association Mid-Year and Annual Conferences and the National Sexual Assault Conference. Additionally, they provided the opening address at the 2014 National Crime Victims' Law Conference. AF SVC Program leaders, possessing some of the most current, broadest and successful experience in representing sexual assault victims, have informed military policy at the highest levels, paving the way for the development of similar Federal and state crime victims' policy and representation. At the Air Force level, the SVC program briefed at the 2014 SAPR Refresher Training in Pittsburgh, PA to an audience of SAPR personnel from almost every Air Force installation on contemporary issues, program challenges, and pending legal developments that will impact victims. Many SVCs provide outreach and education/training with the SAPR/FAP/VA/VWAP personnel at bases around the globe through hosted events by all agencies. Several SVC offices also participate in a local partnership councils that address broader community goals of combating sexual assault and domestic violence.
- **Provision of Training to Sister Services.** The Air Force Judge Advocate General's School hosted the first SVC Course for our Sister Services in October 2013. US Army SVCs, US Navy and Marine Corps LVCs and Army/ AF National Guard SVCs attended the May 2014 course for both basic and child representation training. AF SVCs have provided training at two Army courses in Oct 2013 and Aug 2014. They have presented "Lessons Learned as a SVC" and participated in break-out sessions involving mock client interviews.
- **Maintenance of Victim Representation Satisfaction.** The SVC Program uses several evaluation standards. Primarily, clients are provided surveys regarding their satisfaction with the SVC's representation. Over the 18 months that the survey has been used, the results of this survey show that an overwhelming majority (91% of those responding) are "extremely satisfied" with the advice and support of the SVC during the Article 32 hearing and court-martial process. Of

the remainder, 8% were “satisfied” and only 1% was “dissatisfied.” Ninety-nine percent of those surveyed would recommend other victims request an SVC. Survey results are used to shape Program policy and training. Additionally, SVC Program leadership regularly shares the responses with Air Force senior leadership to enable them to assess victims’ perception of the support they received throughout the military justice process and to note any trends. Importantly, victims’ feedback is shared with the SVCs providing them with a great sense of accomplishment and renewed motivation.

- An example of one victim’s input following their Air Force SVC representation: *“I am internally grateful for Capt XX’s representation. Capt XX literally (probably unknowingly) saved my life. He is my hero. During the most stressful, most discouraging, most painful time in my life, Capt XX was there to guide me. I spoke to Capt XX nearly every day, if not weekly, until my case was finally closed. I fully understood and supported all of the decisions made in my case. Capt XX is the epitome of a Special Victim’s Counselor. He doesn’t just file the paperwork and make phone calls; he holds you up when everything around you is crumbling down. He always knows the best move to make, and always says things in exactly the right way. This case was an emotional rollercoaster, and it seemed like every day something new and terrible came up. For over a year, I felt like there were only two people I could trust; my husband and Capt XX. I owe him my life and my sanity. Thank you Capt XX.”*

### **Section VIII**

#### ***Challenges/issues encountered by the organization during 2014, and the actions taken to resolve them.***

##### **Office of Airmen’s Counsel (CLSA).**

- The OAC encountered challenges with reduced manning during 2014. There were only 9 attorneys assigned for 12 authorized billets. The OAC met this challenge through the use of Reservist Judge Advocates (JAGs), securing additional mandays to meet the surge in FPEB hearings from August to December. The OAC was assigned two additional Reserve JAGs as part of the effort to benefit from the experienced JAGs who were required to separate from Active Duty due to the 2014 O-3 Force Shaping Boards. The OAC also made efforts to bring current Reservists (JAGs and paralegals) to perform tours whenever possible.

##### **Community Legal Issues Division (CLSL).**

- Software Management and Support. CLSL manages four software programs in support of the Air Force Legal Assistance Program. Those programs include: the Air Force Legal Assistance Website (LAWS), DL Wills software, CAPSIL Legal Assistance Learning Center, and WebLIONS. Despite this, CLSL does not have any computer programming expertise on staff and, along with the rest of the JAG Corps, receives (and competes for) its technical support from AFLOA/JAS. While each program creates its own unique challenges, CLSL has learned that in many cases, it is best to refer problems from the field directly to the designated AFLOA/JAS software support POC and let them directly interface with each other. An incredible number of attorney hours (CLSL lost their paralegal support in May 2013) were spent in lengthy back-and-forth exchanges between CLSL, attorneys/paralegals in the field, and AFLOA/JAS. This issue remains a challenge and will likely continue into the future with reduced manpower and limited IT resources.

##### **Special Victims’ Counsel Division (CLSV).**

- In January 2014, with the passage of the NDAA FY14, SVC representation expanded to include child victims of sexual assault. Because the SVC Program does not have an equivalent program in either the civilian criminal justice system or child dependency and neglect adjudication system, SVC Program Rules of Practice and Procedure had to be designed after significant legal research and analytical application of input from national experts, systemic rules for attorneys representing delinquent youth, attorneys representing dependent and neglected children, attorney ad litem and guardian ad litem programs. Additionally, significant input from attorneys specializing in ethics and professional rules of conduct was relied upon in the development of Program policy and Rules of Practice. All of the Service Program leadership reviewed, commented and collaborated in the development of the Rules relating to child representation. Input regarding child representation was received from MAJCOM and Wing Staff Judge Advocates, as well as other JA components. Finally, the NDAA FY14 also created the military crime victims' bill of rights and other major reforms of the military justice system.
- In order to competently represent child victims of sexual assault, SVCs had to receive specialized training. The initial SVC training course held in May 2013 did not include any topic relating to representing children. A training course had to be developed and delivered at the May 2014 SVC Course. Training for "child-certified" special victims' counsel included a separate two-day in-depth training course at The Judge Advocate General's School taught by experts affiliated with the National Children's Advocacy Center, focusing on child forensic interviewing, using age appropriate communication, an overview of state dependency and neglect process, and resolving ethical conflicts. In addition to the formal course discussed above, special victims' counsel training was continuously supplemented through internal training, other formal courses within the Air Force, and with external training opportunities such as the International Conference on Sexual Assault, Domestic Violence, and Trafficking; the Crime Victim Law Conference; the National Sexual Assault Conference; the National Association of the Counsel for Children Annual conference and the National Symposium on Child Abuse.
- During 2014, SVCs from the original group of 28 either separated from the AF voluntarily or were separated as a result of involuntary force reductions. Between 31 August 2014 and 30 September 2014, the termination of assignment of new cases and the beginning of transition of caseloads for 11 SVCs was accomplished. This meant that the remaining SVCs increased their average caseload of 20 to as many as 35 cases per attorney. The higher caseload placed tremendous demands on SVCs' time commitments, travel and schedule de-conflicting. To their great credit, the SVCs accomplished the significant increase in responsibility and number of clients without a break in service or without a failure in competent representation.
- In addition to shouldering the additional workload from the separating SVCs, the remaining SVCs and six new SVCs saw the Program caseload increase from FY13 numbers of 867 clients to nearly 1200 clients in FY14. The increasing caseload due to expanded eligibility and scope of representation necessitated an expansion of headquarters and supervisor management. Consequently, the Program was approved to increase the number of SVCs to thirty-three (33) and three (3) mid-level managers, Senior Special Victims' Counsel (SSVC), who begin no later than 31 Jan 2015.
- While the Program has drafted Rules of Practice and Procedure (which have been awaiting approval since June 2014) to specifically account for child representation, SVCs face challenges daily in this expanding role, especially during in-court representation and the tension caused by Article 6b(c) which requires a military judge appoint a legal guardian for minor victims. In at least one case, a military judge received a motion to exclude a child victim from the courtroom during other witness testimony under Military Rule of Evidence 615. The appointed legal guardian took the position that exclusion was appropriate. The child victim had

a different view and wanted to be present in court. The SVC requested to be heard on the issue but the military judge deferred to the decision of the appointed legal guardian as that person assumed the child victim's Article 6b rights according to the statutory language of Article 6b. To address this issue, CLSV has strongly recommended a legislative change to Article 6b(c) to read: "the military judge MAY designate a legal guardian" rather than the current language of "SHALL designate a legal guardian." This legislative change would bring Article 6b(c) in line with the Crime Victims' Rights Act, 18 U.S.C. § 3771 where the presiding judge has the discretion to appoint a guardian who may or may not assume the child crime victim's rights.

### ***Section IX***

***Provide copies of historically significant documents prepared by your organization.***

#### **Special Victims' Counsel Division (CLSV).**

- SVC Nomination Form
- SSVC Nomination Form
- SVC Map Caseload (24 Dec 2014)
- Weekly Report (19 Dec 2014)