

Report to Congress

U.S. Army Report on Military Justice for Fiscal Year 2024

31 December 2024

Prepared by:

**THE OFFICE OF THE JUDGE ADVOCATE GENERAL, U.S. ARMY
ARMY PENTAGON
WASHINGTON DC 20310-2200**

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REPORT OF THE JUDGE ADVOCATE GENERAL OF THE ARMY
ARTICLE 146a, UNIFORM CODE OF MILITARY JUSTICE
OCTOBER 1, 2023 TO SEPTEMBER 30, 2024

In Fiscal Year 2024 (FY24), The Judge Advocate General's Corps (JAG Corps) continued to reform the practice of military justice by assessing, planning, and executing the training, policy, infrastructure, and technology changes necessary to support the military justice reforms required by the FY22 NDAA and FY23 NDAA.

On December 28, 2023, the Office of Special Trial Counsel (OSTC) was fully operational and began to make initial disposition decisions and binding referral decisions for the 13 covered offenses required by the FY22 NDAA and FY23 NDAA.

Given statutory and technological changes, increased complexity in litigation, and increased responsibilities in record management and disclosure, the JAG Corps modernized its structure, training, policies, and doctrine to optimize the administration of court-martial proceedings at scale. The Trial Judiciary assumed administrative and supervisory responsibility for court-reporting, post-trial, and assembly of records of trial. Further, all military justice personnel—including the Trial Judiciary, the OSTC, the Trial Defense Service (TDS), and the Special Victims' Counsel (SVC) Program—were realigned and now operate under a uniform eight judicial circuit model.

In furtherance of TJAG's duties under Article 6(a), UCMJ, TJAG and senior leaders in the JAG Corps conducted 20 worldwide visits to installations and commands to inspect the delivery of military justice support to commanders and Soldiers.

1. Data on the number and status of pending courts-martial cases: The Army manages and tracks courts-martial and other military justice actions through its Army Court-Martial Information System (ACMIS) and Military Justice Online (MJO) applications. At the end of FY24, the Army had 281 pending courts-martial cases, 121 of which were referred for trial by courts-martial, with the remainder pending disposition decisions. Data on the number of cases pending, as well as cases completed in FY24 is provided in the Appendix.

2. Information on the appellate review process:

a. Compliance with processing time goals: In FY24, 346 records of trial and 1,100 motions and briefs were referred to one of the three judicial panels comprising the U.S. Army Court of Criminal Appeals (ACCA) for judicial review. Of those 346 records, 331 were received for the first time (rather than on remand from the Court of Appeals for the Armed Forces (CAAF) or returned from the convening authority after remand). Of these cases, none were processed under the procedures applicable prior to the effective date of the Military Justice Act of 2016 (MJA 16) involving a promulgating order and 331 were processed under MJA 16 procedures involving an

entry of judgement. In 169 of the 331 cases processed under MJA 16 procedures, the certification of the record of trial was completed within 120 days. In 250 of the 331 cases processed under MJA 16 procedures the record was received by ACCA within 30 days of the completion of the later of certification of the record of trial or entry of judgement.

In FY24, ACCA rendered an initial decision in 306 cases, with an average processing time of 241 days from receipt of the record of trial by the clerk of court to decision by ACCA. Of the 306 decisions, 295 were issued within the 18-month period prescribed by *United States v Moreno*.

b. Descriptions of the circumstances surrounding cases in which general or special court-martial convictions were:

(1) Reversed because of command influence or denial of the right to speedy review: One general court-martial conviction was set aside due to unlawful command influence. The accused committed an assault off-post, was charged by civilian authorities, and the charges were disposed of through a judicial diversion program. The accused's company commander did not wish to prefer court-martial charges as the matter had been address in civilian court. However, after being told by his legal advisor that "Division" was expecting him to prefer charges, the commander preferred charges.

(2) Otherwise remitted because of loss of records of trial or other administrative deficiencies: None.

c. Analysis of each case in which a provision of the UCMJ was held unconstitutional: None.

d. Analysis of each case in which a Court of Criminal Appeals made a final determination that a finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case: None.

3. Measures implemented by the Army to ensure the ability of judge advocates to participate competently as trial counsel, defense counsel, military judges, and Special Victims' Counsel, with emphasis on capital cases, national security cases, sexual assault cases, and proceedings of military commissions:

a. **Institutional Programs for all Judge Advocates.** The JAG Corps focused in FY24 on executing the training, policy, infrastructure, and technology changes necessary to support the military justice reforms required by the FY22 NDAA and FY23 NDAA. It was a year of transformation focused on structural changes.

(1) The Office of Special Trial Counsel. Pursuant to the FY22 NDAA and FY23 NDAA military justice reforms and guidance from the Secretary of Defense, the OSTC began to exercise its authority over 13 specified UCMJ offenses on December 28, 2023. The new Lead Special Trial Counsel assumed his duties in June 2024. The OSTC currently has 159 personnel authorized and will grow to 180 personnel by FY25. The permanent OSTC headquarters is

located at Fort Belvoir, VA. The OSTC operates eight Circuit Headquarters and 28 Field Offices located across the Army.

(2) Trial Defense Service. To ensure parity in the military justice system, additional resourcing for TDS was necessary to continue to provide principled counsel to Soldiers accused of crimes. The Trial Defense Service will grow by approximately 60 authorized personnel by the end of FY25, including 21 litigation billets for judge advocates serving as defense counsel. In FY24, the JAG Corps continued numerous initiatives in support of defense counsel control of defense resources.

(3) Court Reporting Operational Planning Team. In FY22 The Judge Advocate General directed formation of an operational planning team (OPT) to assess the allocation of personnel and resources in the courts-martial process from the point of referral of charges to trial by court-martial to submission of a record of trial to ACCA, with specific emphasis on court-reporting. The OPT met frequently in FY24 to focus on the mission of modernizing the structure, training, policies, and doctrine applicable to courts-martial processing, given statutory and technological changes, increased complexity in litigation, increased responsibilities for records management and public access. In FY24, the OPT recommended the realignment of administrative control over the court reporters, and the Trial Judiciary now has administrative and operational control of all court reporters.

(4) Additional Transformation. In FY24 the JAG Corps continued its focus on the redesign of training, policy, infrastructure, and technology changes necessary to support the military justice reforms required by the FY22 NDAA and FY23 NDAA. The JAG Corps continued to develop and implement a comprehensive training curriculum to educate Soldiers, Commanders, and judge advocates on changes to the military justice system, including the authorities of special trial counsel. During FY24, the JAG Corps continued to participate in the Joint Service Committee on Military Justice efforts to revise the Manual for Courts-Marital (MCM). Finally, during FY24 the JAG Corps continued to modernize and significantly modernized one of its military justice databases, MJO.

b. Trial Counsel.

(1) Trial Counsel Assistance Program. In FY24, TCAP continued its three focused lines of effort by (1) providing continuing legal education and trial advocacy training at all levels to legal professionals across the Army, and sister services; (2) delivering specialized technical and direct prosecutorial assistance for all criminal prosecutions, including complex and high profile courts-martial; and (3) providing world-wide direct assistance to trial counsel, chiefs of justice, paralegals, and prosecution professionals remotely and in person.

In FY24, TCAP personnel supported litigation as detailed counsel in 25 courts-martial, completed 18 courses that trained over 300 personnel, and provided onsite training to 10 installations. TCAP integrated paralegal specialists into the Basic Trial Advocacy Course (BTAC). This innovation allowed trial teams to be composed of two counsel and a paralegal, with the paralegal supporting counsel as they would during trial. BTAC now serves as a second-level course for both trial counsel who have completed the New Prosecutor Course and

paralegals who have completed the Trial Paralegal Course. Additionally, TCAP developed a new Guilty Plea and Sentencing Course to begin in FY25. This new course is designed to teach trial counsel skills to negotiate, draft, and execute plea agreements and sentencing hearings. TCAP continued to facilitate trial counsel attendance at the Advanced Laboratory Training at the United States Army Criminal Investigation Laboratory, providing the field with knowledge and training on forensic examination of evidence.

(2) Office of Special Trial Counsel. In FY24, the OSTC revamped its special victim training to increase efficiency and reduce redundancy in training courses. A new course, Prosecuting Interpersonal Violence (IPV), was created. The course combines elements of the former Military Institute for the Prosecution of Sexual Violence and Prosecuting Domestic Violence courses. The IPV focuses on counter-intuitive behavior and dynamics of special victim crimes that are common to both sexual assault and domestic violence cases. The OSTC continues to teach the Prosecuting Child Abuse Course. All three courses consist of formal classroom instruction from nationally renowned experts on all aspects of developing and prosecuting these complex cases. The courses are required training for all STCs and open to Trial Counsel who wish to join OSTC in the future. In February 2024, the OSTC conducted its first ever Homicide Course, which was a joint training with Army Criminal Investigation Division and OSTC personnel that focused on both the investigation and prosecution of homicide cases. In FY24, OSTC conducted a total of nine special victim courses.

The OSTC conducted its second Special Trial Counsel Certification Course in May 2024 and September 2024. This course focused on advanced classroom instruction and advocacy exercises related to the prosecution of covered offense cases. Completion of this course is a prerequisite for certification by TJAG as special trial counsel in accordance with 10 U.S.C. § 824a. A total of 86 attorneys have been certified as special trial counsel.

Throughout FY24 OSTC attorneys presented at various conferences and external organizations such as the National District Attorneys Association and the Annual Conference on Crimes Against Women, which is the Nation's largest and most prestigious annual conference to address special victim crimes. Due to the positive response from OSTC participation, the above organizations have sought to formally incorporate military justice related topics into their future agendas.

(3) Government Appellate Division. In accordance with 10 U.S.C. § 870, Government Appellate Division (GAD) counsel represent the U.S. Army in all appeals before ACCA, CAAF, and the Supreme Court of the United States (SCOTUS), when requested to do so by the Attorney General. It also represents the United States in government appeals in accordance with 10 U.S.C. § 862 and petitions for extraordinary relief. Additionally, GAD oversees the operations of TCAP and provides support to the rehearing center at Fort Leavenworth, Kansas. Government Appellate Division currently consists of 14 judge advocates, seven reserve component judge advocates, and two civilian paralegals.

Government Appellate Division represented the Government in approximately 245 cases in FY24 and filed 259 briefs at ACCA, including responses to 258 specific assignments of error, 11 specified issue briefs, five supplemental briefs, and five appeals in accordance with 10 U.S.C.

§ 862. At CAAF, GAD filed 110 responses to petitions for grants of review and 13 briefs, which included five final briefs, two TJAG certification briefs, four responses to extraordinary writs, and two other briefs. The GAD argued 17 cases before ACCA and eight cases before CAAF.

Government Appellate Division counsel participated in six ACCA Outreach Arguments in FY24 including oral arguments held at Campbell University School of Law (Raleigh, North Carolina), Syracuse University College of Law, Suffolk University Law School (Boston, Massachusetts), Northern Illinois University College of Law (DeKalb, Illinois), (Southern Methodist University Law School (Dallas, Texas), and the University of Buffalo Law School.

Training for GAD counsel in FY24 included attendance at the annual two-day CAAF Continuing Legal Education and Training Program held at the Antonin Scalia School of Law at George Mason University; and the 11th Annual two-day Joint Appellate Advocacy Training held at Fort Belvoir, Virginia.

c. Defense Counsel.

(1) Trial Defense Service. In FY24, approximately 482 judge advocates, six legal administrators, 203 enlisted paralegals, 23 defense investigators, and 42 DA Civilian support personnel were serving in the active duty, U.S. Army Reserve (USAR), and Army National Guard (ARNG), components of TDS. This included 142 judge advocates on active duty, two legal administrators, 58 enlisted paralegals, 21 defense investigators and 35 DA civilian support personnel. While their oversight and supervision are independent from Commanders and Staff Judge Advocates, defense counsel assigned to TDS are stationed at 42 active-duty military installations worldwide and approximately 47 reserve component locations. The Chief, TDS is located at Fort Belvoir, VA and exercises centralized supervision over all TDS assigned counsel.

Detailed TDS counsel zealously represented Soldiers at Army special and general courts-martial. In addition, TDS counsel assisted Soldiers facing other military justice related adverse actions such as administrative separation proceedings, nonjudicial punishment, and memoranda of reprimand rebuttals. In FY24 active-duty defense counsel assisted Soldiers with the following actions:

General and Special Courts-Martial: 709
Administrative Representation / Consults: 49,455
Nonjudicial Punishment: 40,290
Other Military Justice Consultations: 17,378

From the TDS field office in Kuwait, TDS provided defense services to Soldiers deployed worldwide, including Iraq, Kuwait, and Qatar.

In FY24, USAR TDS consisted of approximately 201 judge advocates, three legal administrators, 69 enlisted paralegals, and seven DA civilian support personnel. These personnel were assigned to three separated LODs. The 22d LOD, headquartered in San Antonio, Texas, area of responsibility included all states west of the Mississippi River, as well as the Republic of Korea and other locations in the Indo-Pacific region. The 154th LOD, headquartered in Alexandria, Virginia, area of responsibility included the southeastern United States, the lower

Mississippi River valley, and Puerto Rico. The 16th LOD, headquartered in Fort Hamilton, New York, area of responsibility included the northeastern and Midwest United States and Europe.

The ARNG TDS, headquartered in Arlington, Virginia, consisted of approximately 139 judge advocates, one legal administrator, 69 enlisted paralegals, and two defense investigators stationed in 50 states, the District of Columbia, and three territories. The Office of the Chief, ARNG TDS in Arlington, Virginia provides the technical supervision, management, direction, and legal defense training for all ARNG TDS while in Title 32 status.

The initial cohort of complex litigation defense counsel were assigned to each of the eight circuits in TDS during the summer of 2023, provided exceptional support to Regional Defense counsel during FY24, adding an increased capability in not only defending clients in the most complex cases, but also in teaching, training, and mentoring the more inexperienced defense counsel to become better trial advocates. In FY24, two additional complex litigation defense counsel were assigned to TDS headquarters at Fort Belvoir, Virginia. These officers assisted complex litigation defense counsel within each of the eight circuits, identified defense training opportunities, planned and executed a joint capital litigation training event, and were detailed to five complex murder/death cases referred to general courts-martial in FY24.

In FY24, TDS continued to hire and onboard defense investigators, including 21 defense investigators stationed at 16 field offices worldwide. Defense investigators provided case reviews of countless case files and were detailed to numerous courts-martial resulting in positive outcomes for TDS Soldier-clients.

(2) Defense Counsel Assistance Program. The Defense Counsel Assistance Program (DCAP) is the training branch of TDS. In FY24, DCAP included four judge advocates, two civilian attorney advisors, and one legal administrator. The Defense Counsel Assistance Program provided on-site training and real-time advice to active-duty defense counsel and paralegals assigned to field offices worldwide.

In FY24, DCAP training events included three iterations of Defense Counsel 101, a five-day course that instructed newly assigned defense counsel, paralegals, and defense investigators on all aspects of client representation with an emphasis on professional responsibility, complex issues arising in sexual assault cases, and negotiations. Approximately, 70 defense counsel and defense complex litigators attended one of four iterations of Defense Counsel 102 and received training on new developments in military justice and hands-on trial advocacy training, with a focus on sexual assault litigation. Approximately, 80 defense counsel attended Defense Counsel 103, which focused on digital evidence and motions preparation. DCAP also led the Joint Capital Defense Course, where 31 attendees from the Army, Navy, Air Force, and Marine TDS and Military Commissions received instruction on capital defense, mitigation, psychodrama, and negotiations in death and other complex cases. Regional defense counsel, senior defense counsel, defense paralegal non-commissioned officers in charge, and defense investigators from the active duty, USAR, and ARNG components received instruction on their TDS leadership duties at the Trial Defense Leader Training (TDLT). Additionally, defense investigators received two days of instruction on substantive investigation issues. Additionally, 28 attorneys attended Intermediate Trial Advocacy Course, and 17 attended the Advanced Practitioners Course. The Defense

Counsel Assistance Program also coordinated defense counsel attendance at the following courses: Advanced Trial Communications, Advanced Strategies for Child Abuse Cases, Classified Litigation, Forensic Child Interviewing, and Making a Case for Life. Defense counsel also had the opportunity to tour the U.S. Army Criminal Investigation Laboratory and receive instruction regarding forensic laboratory services.

In FY24, DCAP received over 1,500 emails, phone calls, and in-person inquiries from defense counsel. The Defense Counsel Assistance Program civilian attorney advisors provided direct assistance to defense counsel by researching case law, answering case specific questions, and providing sample motions, expert requests, and other trial documents. Moreover, DCAPs website provided counsel with DCAP trainings, desk books, and other reference materials on critical issues. Through DCAP 5-for-5, DCAP helped improved defense counsel practice, provided notice of changes in the law, and discussed the application of emerging appellate case law to trial defense strategy and practice. Through DCAP Bloviates, DCAP provided in-depth analysis on significant advocacy issues. Finally, DCAP also worked with DAD to assist TDS counsel in the preparation and filing of extraordinary writs before ACCA and CAAF.

In FY24, DCAP updated the Defense Counsel 102 Deskbook and released the 14th edition of the Defense Counsel 101 Deskbook. Both were distributed to all newly assigned defense counsel. Finally, DCAP continued its monthly newsletter, designed to provide information on appellate case law, law and advocacy practice tips, court-martial lessons learned, and the use of emerging technology and software in practice.

(3) Defense Appellate Division. The Defense Appellate Division (DAD) provided appellate representation to eligible Soldiers before ACCA, CAAF, and SCOTUS. Eligible Soldiers included those Soldiers convicted at courts-martial. The Defense Appellate Division included seventeen active duty and nine reserve component appellate defense counsel, one civilian senior capital appellate defense counsel, and two civilian paralegals. Appellate defense counsel assisted military and civilian trial defense counsel in the preparation and filing of extraordinary writs before ACCA and CAAF and represented Soldiers during interlocutory appeals in accordance with 10 U.S.C § 862.

At the end of FY24, DAD counsel represented Soldiers in approximately 395 cases at various stages of the appellate process and had 154 cases pending review and submission to ACCA. In FY24, DAD counsel filed 382 briefs with ACCA and 114 petitions with CAAF. DAD counsel also represented Soldiers during numerous oral arguments, including 17 cases argued before ACCA and 8 argued before CAAF.

Defense Appellate Division counsel participated in three ACCA Outreach Arguments in FY24 including oral arguments held at University of Buffalo School of Law (Buffalo, New York); Suffolk University School of Law (Boston, Massachusetts); and Northern Illinois University of Law (DeKalb, Illinois). Through these outreach arguments, appellate counsel showcased advocacy skills to potential future officers and increased the level of understanding and familiarity with the military justice system among audiences at law schools, military installations, and other public facilities.

d. **Special Victim's Counsel.** Special Victim's Counsel provided legal counsel to eligible clients who reported as victims of sex-related or domestic violence offenses. Special Victim's Counsel ensured clients' interests and rights were recognized and protected throughout the courts-marital process, and they empowered clients through professional competency and advocacy.

(1) The Army SVC Program provided technical and policy oversight, training, and technical support for all Army SVCs. Special Victim's Counsel also received supervision and support from Chiefs of Legal Assistance, SVC Regional Managers (RM), and senior Judge Advocates at their installation. In circumstances where the interests of victim-clients do not align with the interests of the Government, RMs and the SVC Program provided technical advice and professional responsibility supervision.

(2) Every Army SVC must complete either the Army or the Air Force SVC Certification Course and be personally certified by The Judge Advocate General (TJAG) prior to representing SVC clients. In FY24, the Army conducted two SVC Certification Courses at TJAGLCS in Charlottesville, VA. The first course was held in February, and it provided instruction on representation of adult sexual assault victims. The students who attended this course returned to TJAGLCS for the Child and Domestic Violence Certification Course, held in August. In total, the Army trained 163 students, including active duty, USAR, and ARNG judge advocates, paralegals, other service personnel, as well as 12 Army civilian legal assistance attorneys. During these courses the students participated in plenary lectures and discussions, break-out groups, and a motion exercise led by the Army's Chief Trial Judge and other currently serving Army judges. The course addressed the law, procedures, best practices, introduction to other stakeholders, the justice process, investigation through post-incarceration client rights, and high-level trauma informed tactics. These courses also focused on wellness of the SVCs themselves and incorporated victim perspectives through presentations by domestic violence and sexual assault victims.

(3) Prior to attending the SVC Certification Course, nominees were required to complete the online DoD Catch a Serial Offender (CATCH) Program training. Special Victim's Counsel stationed within the continental United States were required to complete state-specific training prior to client representation as required by Section 550C of the FY20 NDAA. Additionally, in FY24, the SVC Program conducted four three-day trainings. In FY24, the SVC Program modified its approach to regionalized training. The modified approach managed the training the Program Office level, allowing for a uniform curriculum and reducing the burden on RMs. This approach allowed for collaboration between counsel of different regions and focused on new developments, stakeholders, best practices, and emphasized the importance of balance and wellness. Special Victims Counsel were required to attend one iteration of this training.

(4) In FY24 the SVC Program continued its Leadership Development Program (LDP) specifically for SVCs and SVC paralegals. During FY24, the SVC Program trained SVCs on OSTC and military justice changes, wellness, and the new DoDI 1030.04, including SVC training, rating schemes, and tour length. Additionally, the SVC Program office hosted a one-week training specifically for the RMs to provide leadership instruction specific to the SVC

mission. This week allowed RMs to focus on more complex and advanced aspects of their SVC practice as well.

(5) During FY24, the Civilian SVC Pilot Program continued throughout 2024. To date, the pilot program has successfully allowed SJAs to better align SVC resources to clients and has improved access to SVC services for victims. The continuity of services provided by virtue of a civilian SVC was well received, and the expertise in client management provided by the experienced civilian counsel benefitted both their clients and more junior uniformed counsel. Since its inception, 18 civilians have been trained and certified as SVC. The pilot program continues to be evaluated for permanent implementation.

(6) In FY24, the SVC Program continued to assign SVCs to a minimum tour-length of 18-24 months. Minimum tours continued to reduce the frequency of SVC turnover for clients while allowing flexibility in the judge advocate assignment process and ensuring SVCs have sufficient time in positions to learn and thrive.

(7) In FY24, the caseload for SVCs continued to be capped at 25 clients per SVC. This policy ensured the Army met its statutory obligations, allowed SVCs to provide the best possible care to their clients, and enabled better management of SVC client caseloads and personal well-being. The authority to grant an exception to policy for caseloads was delegated to RMs to approve up to 27 clients. Seven exceptions to policy above 27 clients were submitted to the SVC Program Office during FY24.

(8) During FY24, the active-duty Army SVC Program included 94 SVCs and 16 SVC NCO billets.

(9) During FY24, 169 judge advocates performed SVC duties. This included 113 judge advocates who performed SVC duties full-time and 56 who performed SVC duties part-time, throughout or at some point during the fiscal year. Special Victim's Counsel provided services throughout the world, including deployed locations such as Iraq, Kuwait, Africa, Europe, and Asia. During FY24, SVCs assisted 2,132 new clients. Special Victim's Counsel services were provided to an additional 574 clients reporting allegations of domestic violence. Of these clients, 113 were initially restricted reports that were later converted to unrestricted reports. Special Victim's Counsel clients included 1,417 Servicemembers, 18 DoD civilian employees, 635 adult dependents, and 53 minor dependents. In support of these clients, SVCs conducted 29,121 legal counselings, attended 2,599 interviews, and represented clients at 263 administrative separation proceedings and 211 courts-martial. To ensure military communities were aware of SVC Program services, SVCs conducted presentations at 612 outreach or training events.

e. The Judge Advocate General's Legal Center and School Criminal Law Academic Department. The mission of The Judge Advocate General's Legal Center and School (TJAGLCS) Criminal Law Department (ADC) in Charlottesville, Virginia, is to educate, develop, inspire, and sustain excellence in the practice of military criminal law. The need to hone military justice skills in today's technology driven, joint, expeditionary force is paramount and is the primary focus of the curriculum. The ADC is responsible for developing new judge advocates' understanding of substantive criminal law and military justice procedure and basic

trial advocacy skills. It also trains seasoned advocates on intermediate to advanced trial advocacy skills and keeps them apprised of recent changes to military justice practice. The ADC professors also provide limited off-site instruction and critical reach-back capability for military justice practitioners world-wide.

(1) The ADC provides a variety of courses to diverse audiences to include judge advocates (from all services), commanders, and international students. Courses are designed for: initial-entry judge advocates in the Officer Basic Course (OBC); new trial counsel, defense counsel in the Intermediate Trial Advocacy Course (ITAC); new SVC in the Special Victim Counsel Course; mid-level judge advocates in the Graduate Degree Program, the Military Justice Leaders Course, the Judge Advocate Officer Advanced Course, and the SVC Advanced Course; experience judge advocates in the Advanced Justice Practitioners Course; senior judge advocates in the Military Judges' Course and the Staff Judge Advocate Course; and commanders in the Senior Officer Legal Orientation Course (SOLO), Army Strategic Education Program (ASEP), and General Officer Legal Orientation Course (GOLO). Additionally, every ADC student, both judge advocate and commander, received training on "Eliminating Bias in Military Justice." Those courses focused on training trial counsel, defense counsel, and SVC are taught utilizing a sexual assault fact pattern, domestic violence fact pattern, and general crimes fact pattern, and are synchronized with other JAG Corps training agencies to maximize interagency operability.

(2) The ITAC is an advocacy-centered course designed to be more challenging than the OBC and serves as intermediate level advocacy training. The ITAC builds on prior courses for more junior judge advocates, including: the Basic Trial Advocacy Course (offered by TCAP), Defense Counsel 101 (offered by DCAP), and the SVC Course (offered by ADC). Students learn how to conduct sophisticated case analysis of four types of cases (sexual assault, domestic violence, fraud, and drug use), conduct voir dire, prepare panel member instructions, interview victims and witnesses, interact with an SVC, conduct direct and cross-examination of victims and witnesses, interview and conduct direct examinations of expert witnesses, and use technology and demonstrative evidence in an opening statement and closing argument. During FY24, the ADC continued to refine the course by ensuring advocates conducted four separate trials during the two-week course. To add realism to this intensive training, students had to interview and cross-examine a forensic psychologist, digital forensic analysts, toxicologists, and sexual assault medical forensic examiners. Additionally, judge advocates in the Graduate Degree Program serve as role players and provide ITAC students with the challenge of interviewing and interacting with victims and witnesses. This course was also greatly enhanced through partnership with the University of Virginia by integrating experts from their nursing school, multiple Ph.D. programs, and medical school as both guest instructors and testifying experts. This demanding course was offered twice during FY24.

(3) Successful completion of the SVC Certification Course is required prior to certification by TJAG as an SVC. In this course, judge advocates learn best practices for working with victims of sexual assault, how trauma impacts crime victims, how to work with law enforcement and victim-care professionals, how to manage professional responsibility and scope of representation issues, and how to advocate for victims' rights while working most effectively with commanders, law enforcement, and others in the military justice system. The SVC Certification Course includes a roundtable discussion where several individuals discuss their

experience and the assistance they received from an SVC. As victim's rights and policies continue to develop, the ADC assists in the implementation and education of those policies and makes recommendations for policy changes and improvements.

(4) The ADC continued to refine the SVC Certification Course curriculum this year through continued development of the SVC Child Victim Course, which follows the SVC Certification Course and is required prior to SVC representation of child clients. In FY24, courses were held 5–9 August 2024 and 11–17 August 2024. A second SVC Certification Course was held in the winter to increase the number of available training opportunities and the overall number of SVCs throughout the Army. That course was held 26 February–1 March 2024. For all SVC courses, ADC continued to develop relationships with outside organizations such as the Army Family Advocacy Program (FAP), the Behavioral Science Education Division at the U.S. Army Military Police School, and the National Crime Victim Law Institute (NCVLI) at Lewis and Clark Law School, among others. Guest instructors from these various programs provided expert instruction to SVC on the dynamics of representing victims of domestic violence. The SVC Certification Course is offered twice a year while the SVC Child and Domestic Violence Certification Course is offered once a year.

(5) The ADC continued to create courses and content to respond to needs of the force. The ADC designed and executed the 3rd Military Justice Advisor Course to provide tailored legal training to military justice advisors, judge advocates whose primary responsibility is to provide military justice legal advice to commanders.

(6) The ADC annually conducts the three-week-long Military Judge's Course. The Military Judge's Course is an academically rigorous course and has been recognized for excellence by the American Bar Association. The Military Judge's Course trains new military judges from all services and is conducted in close coordination with the chief trial judges of each service. Graduates of the course become certified as military judges, with Army graduates being conferred the 27B military occupational specialty to differentiate them from 27A judge advocates. This year, the course was held from 22 May to 7 June 2023 and 41 military judges were certified, including 16 from the Army, 6 from the Air Force, 3 from the Coast Guard, 9 from the Marine Corps, and 7 from the Navy.

(7) In FY24, the ADC implemented a systems approach to planning, executing, and improving its curriculum through an iterative in-progress review and after-action review process. The intent of this approach is to make courses more practical for students.

(8) The ADC traditionally hosts the Kenneth J. Hodson Lecture in Criminal Law each year. Colonel (Retired) James Pohl, gave the Kenneth J. Hodson Chair lecture on 23 May 2024. Colonel Pohl spoke at length about his more than thirty years of service as a judge advocate, military judge, and Chief Trial Judge of the Military Commissions.

f. Trial Judiciary.

(1) At the end of FY24 there were 24 active duty and 18 reserve component military judges in the U.S. Army Trial Judiciary. The Chief Trial Judge, located at Fort Belvoir, Virginia, leads the Trial Judiciary, which currently consists of eight circuits worldwide. Chief Circuit Judges supervise the judges within each circuit. In FY24 there were two military judges stationed at overseas locations, including one in Korea and one in Germany. Reserve component military judges were assigned to the 150th Legal Operations Detachment headquartered in Alexandria, Virginia and commanded by the Chief Trial Judge, USAR. Additionally, the Trial Judiciary provided military judges to serve as judges with the Military Commissions Trial Judiciary.

(2) Military judges primarily presided over trials referred to general and special courts-martial. In FY24, military judges presided over 603 original courts-martial, a 10% decrease from FY23. Of the total cases tried in FY24, 123 were fully contested, 37 involved mixed pleas, 300 were guilty pleas, and the remaining 147 were terminated prior to findings. Of the 460 cases in which findings were entered in FY24, 190 of them (59%) included sexual misconduct related offenses (including alleged violations of Articles 120, 120b, and 120c, UCMJ), which is an 18% increase from FY23.

(3) The strength of the Trial Judiciary will always be its trial judges in the field, who rely on a robust training program to maintain their proficiency. The Trial Judiciary conducts an annual Military Judges' Course at The Judge Advocate General's Legal Center and School in Charlottesville, Virginia. The three-week course is a certification course for judge advocates from all services—Army, Navy, Marine Corps, Air Force, and Coast Guard—prior to assignment as military judges. In FY24, 42 judge advocates attended the 67th Military Judges' Course held from 20 May 2023 to 7 June 2023. Seven active component, four USAR, and three ARNG judge advocates graduated from the course and were sworn in as new military trial judges. In addition to comprehensive military justice instruction, targeted and tailored instruction on unconscious bias and judicial wellness were two areas of emphasis during the FY24 course. The keynote speaker for the course was the Honorable Gregory Maggs, a sitting judge on the CAAF.

(4) In February 2024, the Air Force conducted and facilitated the Joint Military Judges' Annual Training for all active duty and reserve trial judges. The Army Trial Judiciary held its annual Trial Judge's Sexual Assault Training in September 2024 at Fort Belvoir, VA. As part of the trial judiciary's continued focus on wellness and resiliency, a retired federal judge spoke to the judges on "Leading a Balanced Life as a Judge: Recognizing Secondary Trauma and Mitigating its Effects." He candidly spoke about his personal trauma, effective coping mechanisms, and offered military judges hope as they routinely deal with difficult subject matter. The trial judiciary continues to search for new and impactful ways of supporting, training, and better equipping its judges.

(5) The Trial Judiciary maintains and updates Department of the Army Pamphlet 27-9, Military Judges' Benchbook, which is used by all services and contains trial scripts and pattern instructions for panel members. Changes to the Military Judge's Benchbook are approved by the Chief Trial Judge following review and comment by a committee and other stakeholders in the military justice community. Anyone, to include members of the public, may propose changes to

the Benchbook. The process to propose changes as well as an electronic version of the Benchbook, containing all approved changes to date, can be found on the Trial Judiciary website at www.jagcnet.army.mil/USATJ.

(6) In FY24 the Trial Judiciary supported the training efforts of the JAG Corps, through participation in trial, defense, and special victim's counsel training events, paralegal and court reporter training, and advocacy training. Several years ago, the Trial Judiciary created an MS Teams "Bridging the Gap" channel for judges to provide timely feedback to counsel regarding advocacy. At the end of FY24, the channel had over four hundred members and was routinely praised by both trial counsel and defense counsel for its usefulness. The trial judiciary also participated in mock trial and moot court competitions; several judges volunteered to speak to mentorship groups, both within and outside the JAG Corps; and many engaged in recruitment opportunities for the Army and the JAG Corps. These efforts fulfilled the enduring vision of the Trial Judiciary: Independent but Invested.

g. **Litigation Division.** During FY24, Litigation Division's caseload included several civil lawsuits involving military justice matters. Most suits were brought by former Soldiers seeking collateral review of military court-martial proceedings pursuant to a petition for writ of habeas corpus in federal district court. The Military Personnel Litigation (LTM) Branch was involved in 45 habeas corpus or military justice cases in FY24, 27 of which remain active. In the 18 cases that were concluded, LTM successfully defended against collateral attacks on court-martial convictions, as well as requests for federal court intervention with respect to issues such as confinement conditions, illegal detention, loss of good conduct time, and transfer from military confinement facilities.

(1) While many of these collateral attacks concerned traditional evidentiary and procedural challenges such as those pertaining to jurisdiction, sufficiency of the evidence, or the effectiveness of counsel, several recent cases involved novel, or otherwise undeveloped, areas of the law that are currently on appeal. In FY24, a significant case involving a collateral attack by petitioner challenging his court-martial conviction began appellate briefing on the merits. In addition, LTM continued to successfully defend against several challenges to the Army's court-martial jurisdiction over retirees, including medical disability retirees.

(2) Litigation Division periodically handles civil lawsuits involving Constitutional challenges to the military justice system or military confinement conditions, such as alleged violations of equal protection, due process, freedom of religion, and the First Amendment, as well as Freedom of Information Act requests pertaining to military justice cases. Overall, Litigation Division has not noted any trends with respect to civil litigation concerning the military justice system.

h. **Commanders.** Judge Advocates continue to provide training, advice, and assistance to Commanders as they execute their central role in ensuring good order and discipline, justice, and accountability. By regulation, Army Senior Leadership requires Brigade level commanders to attend the Senior Officer Leadership Orientation (SOLO) Course at TJAGLCS, and many battalion commanders also attend on a space available basis. In FY24, 507 commanders attended the SOLO, including all command-selected brigade commanders. At the SOLO, a faculty

member from TJAGLCS ADC teaches commanders a specific block of instruction on sexual assault response and prevention. All new Army general officers attend the Senior Leader Development Seminar (ASEP-B) and receive a day of instruction and lecture from Judge Advocate Senior Leaders and TJAGLCS faculty. General officers may also request to attend the General Officer Leadership Orientation (GOLO), a one-on-one desk side briefing covering victims' rights, convening authority responsibilities/duties, military justice updates, retaliation issues and prevention strategies. Sixteen general officers attended GOLO training at TJAGLCS in FY24. Company commanders and First Sergeants receive onsite training on various legal topics, including victims' rights, reporting and processing sexual assault cases. The JAG Corps leadership also provided eleven hours of instruction for active duty battalion commanders and four hours of instruction for active duty battalion command sergeants major attending the Pre-Command Course at Fort Leavenworth, Kansas. This instruction ensured compliance with Article 137, UCMJ.

4. The independent view of The Judge Advocate General on the sufficiency of resources available within the Army, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions: The Army JAG Corps, through the Plans, Programs, and Policies (P3) office, continues to work with Army leadership to ensure sufficient legal support to the force. The JAG Corps continues to study, develop, and implement the necessary changes in the military justice enterprise to enable effective, efficient support to the commanders and leaders at camp, post, and station. Always seeking to develop and improve, the JAG Corps continues deliberate planning to assess if increased resources are necessary to ensure an efficient, fair, and professional military justice enterprise.

a. On 30 September 2024, the Army's end-strength was 449,747 Soldiers on active duty compared to an end strength of 453,468 in FY23. The attorney strength of the JAG Corps active component (AC) at the end of FY24 was 1,843. This figure does not include general officers or the 65 officers and eight enlisted Soldiers attending law school while participating in the Funded Legal Education Program. The FY24 end-strength of 1,843 is higher than the end-strength of 1,833 in FY23. The composition of the FY24 active component judge advocate population was 9% African American, 6% Asian American, 3% two or more races, 1% American Indian or Alaskan Native, 1% Native Hawaiian or Pacific Islander, and 30% female.

b. The grade distribution of the active-duty judge advocate population for FY24 was: eight general officers (which includes the Legal Counsel to the Chairman Joint Chiefs of Staff; the Lead Special Trial Counsel; and the Chief Defense Counsel for the Office of Military Commissions); 147 colonels; 278 lieutenant colonels; 554 majors; and 864 captains and first lieutenants. An additional 111 warrant officers, 684 civilian attorneys, 616 civilian paraprofessionals and 1,561 enlisted paralegals from the active component supported legal operations worldwide.

c. The USAR judge advocate end strength at the end of FY24 was 1,741 (which includes officers serving in Troop Program Units, the Drilling Individual Mobilization Augmentee (DIMA) Program, the Individual Ready Reserve, and the Active Guard Reserve Program). The total ARNG strength at the end of FY24 was 1,618. This includes 753 attorneys, 57 warrant officers, and 808 enlisted paralegals.

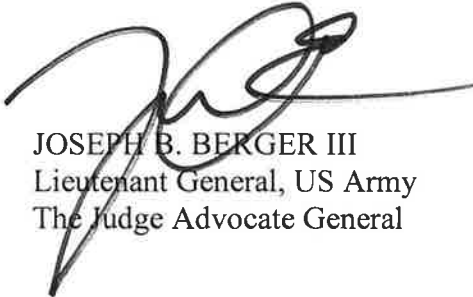
d. At the end of FY24, more than 226 JAG Corps personnel were deployed to assist operations in Guantanamo Bay, Germany, Poland, Romania, Kosovo, Syria, Iraq, Qatar, United Arab Emirates, Kuwait, Israel, Jordan, Djibouti, and other locations around the world.

CONCLUSION

The Army JAG Corps is trained, resourced, and ready to implement the FY22 and FY23 NDAA military justice reforms. These reforms require transformational change to the military justice process and all judge advocates are prepared to assist—whether advising Commanders in maintaining a disciplined fighting force, referring covered offenses to trial by courts-martial, representing accused Soldiers, or providing services to victims of sex-related and domestic violence offenses. As we implement these changes, the JAG Corps will continue to assess, refine, and improve the military justice system.

In the next fiscal year, the JAG Corps will be steadfast in advising on all aspects of military justice. For non-covered offenses, principled counsel will continue to be provided to commanders and aid them in maintaining good order and discipline. For covered offenses, the JAG Corps will diligently ensure the success of the OSTC as it achieves FOC on 28 December 2023. Further focusing on systems, the JAG Corps will continue the work of the Court Reporting OPT to modernize the structure, training, and policies applicable to processing courts-martial. Put simply, the JAG Corps will focus on implementing the necessary structural, training, and regulatory changes to promote fairness, efficiency, and trust in the military justice system.

In this period of great change, the JAG Corps will use its people, programs, and technology to continue to deliver a military justice system, rooted in our constitutional principles, that treats all participants with respect. Through it all, our JAG Corps' trusted professionals will continue to provide principled legal counsel and premier legal services to senior commanders, leaders, Soldiers, and Families.



JOSEPH B. BERGER III
Lieutenant General, US Army
The Judge Advocate General

APPENDIX

Report Period: FISCAL YEAR 2024

PART 1 - PENDING COURTS-MARTIAL (As of 30 September 2024)			
TYPE COURT	PREFERRED PENDING DISPOSITION DECISION	REFERRED	TOTAL
GENERAL		98	
BCD SPECIAL		13	
NON-BCD SPECIAL		0	
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))		4	
SUMMARY		6	
TOTAL:	160	121	281

PART 2 - BASIC COURTS-MARTIAL STATISTICS (Persons)					
TYPE COURT	TRIED		CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OVER NUMBER OF CASES TRIED TO COMPLETION LAST REPORT
	Arraigned	Completion			
GENERAL	438	321	278	43	-9.8%
BCD SPECIAL [A]	118	97	92	5	-18.4%
NON-BCD SPECIAL	0	0	0	0	0.0%
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))	47	42	40	2	90.9%
SUMMARY	38				11.7%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT					

PART 3 – ACCUSED DEMOGRAPHIC DATA (Persons) [B]												
TYPE COURT	Total	GENDER		ETHNICITY		RACE						
		Male	Female	Hispanic / Latino	Non-Hispanic / Latino	American Indian / Alaska Native	Asian	Black / African American	Native Hawaiian / Pacific Islander	White	Other	Unknown
GENERAL	321	317	4	69	252	3	2	89	0	193	28	6
BCD SPECIAL	97	87	10	20	77	2	2	35	1	52	5	0
NON-BCD SPECIAL	0	0	0	0	0	0	0	0	0	0	0	0
MILITARY JUDGE ALONE SPECIAL	42	41	1	5	37	0	2	13	0	21	6	2
SUMMARY	38	33	5	12	26	0	0	13	0	24	1	0

APPENDIX

PART 4 – VICTIM DEMOGRAPHIC DATA (Persons) [C]												
TYPE COURT	Total*	GENDER		ETHNICITY**			RACE					
		Male	Female	Hispanic / Latino	Non-Hispanic / Latino	American Indian / Alaska Native	Asian	Black / African American	Native Hawaiian / Pacific Islander	White	Other	Unknown
GENERAL	356	63	293	61	244	3	10	53	3	234	35	18
BCD SPECIAL	35	8	27	5	27	0	0	5	0	26	1	3
NON-BCD SPECIAL	0	0	0	0	0	0	0	0	0	0	0	0
MILITARY JUDGE ALONE SPECIAL	10	1	9	0	10	0	0	1	0	9	0	0
SUMMARY	20	9	11	3	16	1	0	2	0	16	1	0

* Total number of identifiable victims

** Total does not include 55 victims with other/unknown ethnicity

PART 5 – DISCHARGES APPROVED/ENTERED ON ENTRY OF JUDGMENT [D]		
GENERAL COURTS-MARTIAL (CA LEVEL) NUMBER OF DISHONORABLE DISCHARGES (+ dismissals)	97 (+20)	
NUMBER OF BAD-CONDUCT DISCHARGES	132	
SPECIAL COURTS-MARTIAL NUMBER OF BAD-CONDUCT DISCHARGES	67	

PART 6 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG		
FOR REVIEW UNDER ARTICLE 66(b)(1) – APPEALS BY ACCUSED	9	
FOR REVIEW UNDER ARTICLE 66(b)(2) – CASES FORWARDED FOR REVIEW BY TJAG	0	
FOR REVIEW UNDER ARTICLE 66(b)(3) – AUTOMATIC REVIEW	337	
FOR EXAMINATION UNDER ARTICLE 65(d)	108	

PART 7 – WORKLOAD OF THE U.S. ARMY COURT OF CRIMINAL APPEALS		
TOTAL ON HAND BEGINNING OF PERIOD	59	
TOTAL CASES THAT CAME AT ISSUE	353	
TOTAL CASES DECIDED	325	
TOTAL PENDING AT CLOSE OF PERIOD	87	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES DECIDED DURING LAST REPORTING PERIOD	1.2%	

PART 8 – APPELLATE COUNSEL REQUESTS BEFORE U.S. ARMY COURT OF CRIMINAL APPEALS (ACCA)		
NUMBER	352	
PERCENTAGE	99.7%	

APPENDIX

PART 9 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF)	
TOTAL PETITIONS TO CAAF	119

PART 10 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ			
TOTAL PENDING BEGINNING OF PERIOD		1	
RECEIVED		1	
DISPOSED OF			
GRANTED	0		
DENIED	1		
NO JURISDICTION	0		
WITHDRAWN	0		
TOTAL PENDING AT END OF PERIOD		1	

PART 11 – ORGANIZATION OF COURTS [G]			
TRIALS BY MILITARY JUDGE ALONE			
GENERAL COURTS-MARTIAL		254	
SPECIAL COURTS-MARTIAL		91	
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))		41	
TRIALS BY MILITARY JUDGE WITH MEMBERS			
GENERAL COURTS-MARTIAL		66	
SPECIAL COURTS-MARTIAL		6	

PART 12 – STRENGTH		
AVERAGE ACTIVE DUTY STRENGTH	449,747	

PART 13 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	17,993	
RATE PER 1,000	40.00	

EXPLANATORY NOTES

[A] Cases convened by GCM convening authority.

[B] The accused demographic data presented in this report relates only to courts-martial cases conducted on or after 17 June 2020, in accordance with section 540I of the National Defense Authorization Act for Fiscal Year 2020. For the purposes of this report, conducted means completed.

[C] The victim demographic data presented in this report relates only to courts-martial cases conducted on or after 17 June 2020, in accordance with section 540I of the National Defense Authorization Act for Fiscal Year 2020. For the purposes of this report, conducted means completed.

[D] Based on Entry of Judgment and records of trial received in FY for appellate review.

[E] Includes only cases briefed and at issue.

[F] Includes Article 62 appeals, All Writs Act cases, and appeals withdrawn.

[G] Only includes cases that were tried to completion.

[H] This number includes only Active Component Soldiers and does not include USAR, National Guard or AGR personnel.

Report to Congress

U.S. Navy Report on Military Justice for Fiscal Year 2024

31 December 2024

Prepared by:

**THE OFFICE OF THE JUDGE ADVOCATE GENERAL, U.S. NAVY
NAVY PENTAGON
WASHINGTON DC 20310-1000**

The estimated cost of this report or study for the Department of Defense is approximately \$2,540 for the 2025 Fiscal Year. This includes \$0 in expenses and \$2,540 in DoD labor.

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REPORT OF THE JUDGE ADVOCATE GENERAL OF THE NAVY
ARTICLE 146a, UNIFORM CODE OF MILITARY JUSTICE
OCTOBER 1, 2023 TO SEPTEMBER 30, 2024

1. Introduction: The Office of the Judge Advocate General (OJAG), Department of the Navy (DON), submits this report pursuant to Article 146a, Uniform Code of Military Justice (UCMJ) for fiscal year 2024 (FY24). The Navy tried 173 courts-martial (combined general, special, and summary courts-martial) and the Navy-Marine Corps Court of Criminal Appeals (NMCCA) reviewed 209 Navy and Marine Corps cases on appeal. The highly professional military litigators, advisors, paralegal support staff, and civilian partners within the Judge Advocate General's Corps (JAGC) made numerous contributions to the improvement and expansion of the military justice mission in FY24. Major developments over the last fiscal year brought improvements to JAGC processes in key mission sets relating to training, assessments, and implementation of military justice reforms.

- The FY24 National Defense Authorization Act (NDAA) expanded the discretion of the Office of Special Trial Counsel (OSTC) to assume exclusive authority over covered offenses, including sexual assault, occurring before December 28, 2023. This expansion has provided the Navy OSTC with the opportunity to address alleged misconduct previously outside the scope of their authority. In response to this expansion, the Navy deployed new assessment tools and added manpower to OSTC to handle the increased caseload.
- The Navy OJAG advanced its efforts to improve training and practitioner development. In FY24, OJAG established a new Assistant Judge Advocate General (AJAG) for Education, Training, and Professional Development. This new position will lead strategic planning, oversee fleet legal training and education, and administer assessment programs for identifying improvements to the military justice process. Additionally, in the first quarter of FY24, OJAG met the demand for training on military justice reforms through the development and deployment of in-person and online instruction focused on major statutory and regulatory changes, including the stand up of OSTC.
- Pursuant to Sec. 541(f) of the FY23 NDAA, OJAG, in coordination with the Joint Service Committee on Military Justice (JSC), began its first overall assessment of the impact of recent military justice reform. OJAG conducted several on-site inspections in fleet concentration areas to assess how JAGC and fleet components are operating under military justice reforms and the stand up of OSTC.

The Navy JAGC made great strides over the course of the last fiscal year to embrace historic military justice reforms and continue to promote trust and confidence in our processes. These

efforts demonstrate the Navy JAGC's commitment to continuous improvement, regular assessment, and the provision of professional service across the legal community.

2. Data on the number and status of pending courts-martial: The Navy tracks courts-martial information through the Naval Court-Martial Reporting System (NCORS) case management database.¹ At the end of FY24, there were 112 pending Navy courts-martial (64 referred for trial and 48 with preferred charges pending disposition decisions). Additional information on the status of pending cases is available in Part 1 of the Appendix.

3. Information on the appellate review process:

a. Compliance with processing time goals.

(1) During appellate review, no Navy cases referred prior to January 1, 2019, exceeded 18 months (the "Moreno III" guideline) from docketing to decision by the Navy-Marine Corps Court of Criminal Appeals (NMCCA). Two Navy cases referred on or after January 1, 2019, exceeded 18 months from docketing to decision by NMCCA ("the Post Trial III" guideline). First, *United States v. Becker*, which is still in appellate review, is a complex homicide case that was the subject of extensive appellate litigation, with a 4,000-page record of trial and thirteen assignments of error.² Second, *United States v. Maebane*, was a complex manslaughter case with a 6,000-page record of trial that missed the post-trial III guideline by approximately one week.³ More information on these cases follows in para. a.(3) below.

(2) The following Navy cases exceeded 150 days from announcement of sentence to docketing with the Navy-Marine Corps Court of Criminal Appeals:

- i. *United States v. Smiley* – NMCCA received at day 235 (exceeded by 85 days);
- ii. *United States v. Morales* – NMCCA received at day 159 (exceeded by 9 days);
- iii. *United States v. Murphy* – NMCCA received at day 154 (exceeded by 4 days).

(3) The following cases exceeded 18 months from docketing to final decision by NMCCA ("the Post Trial III" guideline):

- i. *United States v. Becker*, NMCCA 202200212: As of 21 March 2024, the case has been docketed more than 18 months with NMCCA. On 17 July 2024, oral argument was conducted. On 26 August 2024, the NMCCA issued an Order Denying Appellant's Motion for Leave to File Memorandum of Argument on evidence that was not in the record. Currently, the case is pending a decision with the NMCCA.

¹ Prior to the standup of NCORS, the Navy utilized the Wolverine case management system. That platform remains in use as an archive to collect court-martial data, but all new active cases are submitted to NCORS.

² *United States v. Becker*, NMCCA No. 202200212.

³ *United States v. Maebane, III*, NMCCA No. 202200223, 2024 CCA LEXIS 171, *1-35 (N-M. Ct. Crim. App. 2024).

ii. *United States v. Maebane*, NMCCA 202200228: As of 26 April 2024, the case had been docketed more than 18 months with NMCCA. An opinion was issued by NMCCA on 3 May 24. A CAAF petition was filed 1 July 24 and the case is pending a decision with CAAF.

b. Descriptions of the circumstances surrounding cases in which general or special court-martial convictions were reversed on appeal because of unlawful command influence or denial of the right to speedy review or otherwise remitted because of loss of records of trial or other administrative deficiencies: None.

c. Analysis of each case in which a provision of the UCMJ was held unconstitutional: None.

d. Analysis of each case in which a Court of Criminal Appeals made a final determination that the finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case: Two.

(1) *United States v. Aguilar*, NMCCA No. 202300092.⁴ The NMCCA set aside Appellant's conviction for extramarital sexual conduct because the evidence admitted at trial was factually insufficient to sustain the conviction. At trial, Appellant's ex-wife testified that though she had moved away from Appellant, the two intended to reconcile. However, in a state court proceeding prior to the court-martial, a civilian judge ruled that Appellant's ex-wife moved away and "intended to remain separate and apart permanently." This conflict was left unresolved at trial, calling into question Appellant's actual relationship status and thus whether his conduct was of a nature to bring discredit upon the armed forces. Applying the factual sufficiency standard for offenses that occurred prior to 2021, the Court held that Appellant's conviction for extramarital sexual conduct was factually insufficient. The Court affirmed the remaining findings.

(2) *United States v. Hirst*, NMCCA No. 202300208.⁵ Applying the standard of review for charges preferred after 1 January 2021, the NMCCA set aside Appellant's conviction for wrongful use of a controlled substance. The Court identified a number of issues with the handling of Appellant's urine sample to include a six-week delay in shipping, issues relating to the chain of custody documentation, and other bottles leaking in the package containing Appellant's sample. The Court also noted that one of the secondary observers from the Navy Drug Screening Lab made a previously documented mistake in processing a different sample one month prior to the testing of Appellant's sample. The Court compared those issues to the "impressive" character witnesses that testified on behalf of the Appellant. One witness testified to specific acts of heroism that Appellant displayed while in combat.

⁴ 2024 CCA LEXIS 398, *25-26 (N-M. Ct. Crim. App. September 30, 2024).

⁵ 2024 CCA LEXIS 372, *12-15 (N-M. Ct. Crim. App. 2024).

4. Measures implemented by the Navy to ensure the ability of judge advocates to participate competently as trial counsel and defense counsel; preside as military judges; and perform the duties of Victims' Legal Counsel, with emphasis on capital cases,⁶ national security cases, sexual assault cases, and proceedings of military commissions:

a. Military Justice Litigation Career Track (MJLCT).

(1) In 2007, the Navy JAGC established the MJLCT to develop and retain a cadre of specialized litigators to serve across the spectrum of military justice billets. The MJLCT currently recognizes three standards of qualification: Specialist I, Specialist II, and Expert. In FY24, the MJLCT comprised of 117 designated officers (from Specialist I to Expert) in paygrades O-3 (Lieutenant) to O-7 (Rear Admiral Lower Half).⁷ These officers served in the Navy's most significant military justice billets, including: the Lead Special Trial Counsel (LSTC); Commanding Officer and Executive Officer of several Region Legal Service Offices (RLSO) and Defense Service Offices (DSO); The Director and Deputy Director of the Trial Counsel and Defense Counsel Assistance Programs (TCAP/DCAP)⁸; Directors of the OJAG Appellate Defense and Criminal Law Divisions; Senior prosecutors in all eight Navy commands with prosecutorial responsibility; Chief Special Trial Counsel in ten Offices of Special Trial Counsel; the Trial Department Heads in the prosecution offices of each RLSO; Senior Defense Counsel in all four Navy commands with criminal defense responsibility; Victims' Legal Counsel in various locations; Military Commissions counsel (both prosecution and defense), including the Chief Prosecutor for the Military Commissions; the Assistant for Prosecution Services (APS); Military Judges assigned to the Navy-Marine Corps Trial Judiciary⁹; and four of the six Navy judges assigned to the Navy-Marine Corps Court of Criminal Appeals.

(2) In FY24, OJAG disestablished the position of Assistant Judge Advocate General (AJAG), Chief Judge Department of the Navy, and created the distinct position of Chief Judge, Department of the Navy (CJDON) to assume those duties and responsibilities as the senior supervising jurist and community sponsor for the MJLCT. The OJAG implemented this change to permit the creation of the Assistant Judge Advocate General of the Navy, Education, Training, and Professional Development (AJAG 07). The CJDON position is a competitive billet for the active-duty flag positions of Lead Special Trial Counsel and Commander, Naval Legal Service Command.

⁶ While the Navy has not tried a capital-referred case in recent decades, Navy judge advocates have served in military commissions as trial or defense counsel on two capital-referred cases. The JAGC continues to work with Department stakeholders to update its capital litigation requirements.

⁷ Increased from 110 such officers in FY23.

⁸ TCAP and DCAP provide real-time assistance in individual trials, and vital reach-back resources for litigators throughout the fleet.

⁹ All but one of the Navy judges assigned to the Navy-Marine Corps Trial Judiciary were MJLCT officers that were designated as either a MJLCT Specialist II or Expert. The one exception was a JAG Corps Officer with extensive military justice experience and prior service as an Appellate Judge.

(3) The Navy continues to place a MJLCT officer in a rotational, one-year assignment with the U.S. Attorney's Office for the Southern District of California in San Diego, CA to gain exposure to federal practice in a high-volume jurisdiction. In FY25, the Navy will expand this program to include an additional rotational assignment in the Eastern District of Virginia in Norfolk, VA.

(4) To improve judicial stability and facilitate more judicial experience for MJLCT officers, the Navy continues to assign O-4 special courts-martial (SPCM) judges to fleet concentration areas, allowing for the timely adjudication of pretrial matters, SPCMs, and judicial magistrate functions.

b. Military Justice Training and Professional Development Programs.

(1) The Naval Justice School (NJS), headquartered in Newport, RI, provided accessions training to new Navy judge advocates, along with new Marine Corps and Coast Guard counsel, at the NJS Basic Lawyer Course (BLC). The unit conducted 128 total resident and virtual courses in FY24, providing training to 4,334 students. Five weeks of this course focused on military justice, culminating in a mock court-martial. In FY24, NJS implemented an updated fact pattern that served as the foundation for all five weeks of the military justice accessions curriculum. The new fact pattern was designed to better prepare new judge advocates to succeed in their first assignment by targeting those offenses they will most likely encounter.

(2) All Navy judge advocates in their initial tours underwent a robust professional development program in assignments across the globe. This program included professional development in military justice, with year-long assigned rotations in prosecution or defense offices. NJS reviewed and updated the professional development standards for this program to ensure it contains the most up-to-date training objectives and policies.

(3) NJS facilitated 10 intermediate and advanced military justice courses in FY24, providing 414 experienced military justice practitioners with advanced training. NJS-facilitated courses this year included: three Military Justice Orientation Courses (MJOC), two Paralegal Litigation Support Courses, the Victims' Legal Counsel Certification Course, Defending Sexual Assault Cases Course, Senior Counsel Manager's Course, Classified Information Litigation Course, and, for the first-time, the new Trial Department Course.

c. Trial Counsel.

(1) Region Legal Service Office (RLSO) Trial Counsel. RLSO Trial counsel are assigned to each of the eight RLSOs worldwide and prosecute non-covered offenses. Every RLSO trial counsel is supervised by an experienced O-5 (Commander) or O-4 (Lieutenant Commander) Military Justice Litigation Career Track (MJLCT) designated officer serving as Trial Department Head (TDH), each of whom was selected based on military justice experience, capacity for complex litigation, and their ability to supervise subordinate counsel and manage a prosecution office.

(2) Trial Counsel Assistance Program (TCAP) is tasked with ensuring that RLSO trial counsel receive proper training, support, resources, and, when necessary, serve as supervisory counsel on cases. If requested, TCAP also consults with counsel assigned to OSTC. For most of FY24, TCAP was staffed with an O-5 (Commander) MJLCT “Expert” designated officer as Director, an O-5 MJLCT “Specialist II” designated officer as Assistant Director, and an E-6 (First Class Petty Officer) Legalman lead paralegal.¹⁰ By the end of FY24, TCAP consisted of an O-5 MJLCT “Specialist II” as Director, an O-4 (Lieutenant Commander) MJLCT “Specialist I” as Assistant Director, an E-6 lead paralegal, and a civilian (GS-15) attorney with extensive military justice criminal experience as Deputy Director.

(3) New trial counsel completed the TCAP-led, two-week Military Justice Orientation Course (MJOC), offered three times during the year and designed to provide critical foundational knowledge to new prosecutors at both RLSO and OSTC.

(4) As a result of covered offense case prosecution transitioning to OSTC, TCAP established a first-of-its-kind annual “Trial Department Course” as a baseline training for all RLSO trial counsel and paralegals focusing on non-covered offense prosecutions. The mandatory week-long course included targeted training on investigating and prosecuting non-covered offenses, and guest speakers from Department of Defense criminal laboratories, the Naval Criminal Investigative Service (NCIS), and civilian prosecutors who presented tailored training for these specific offenses. TCAP also provided virtual training and held monthly prosecution strategy discussions at each of the RLSOs and conducted regular training webinars on critical and emerging issues in litigation practice and provided focused training to individual prosecution offices by request. New trial counsel also completed the TCAP-led, two-week Military Justice Orientation Course (MJOC), offered three times during the year and designed to provide critical foundational knowledge to new prosecutors at both RLSO and OSTC.

(5) TCAP supported trial counsel with extensive “reach back” support and conducted recurring case review conferences with trial counsel to provide guidance and case analysis. TCAP facilitated multiple online community discussions targeted at different groups (Trial Department Heads, core counsel, initial tour judge advocates, and litigation paralegals) that provided real-time advice, calibrated based on experience level, to counsel worldwide. To leverage some of the more experienced trial counsel assigned to the RLSOs, TCAP supported Commander, Naval Legal Service Command’s (CNLSC) “One RLSO concept,” which facilitated the detailing of more experienced trial counsel to serve as supervisory counsel on complex cases being held outside of the geographic area to which they are assigned. In FY24, five experienced counsel supported and led courts-martial under this framework. The JAGC established a separate line of accounting to support this initiative to detail trial counsel across the worldwide enterprise at the end of FY24. Finally, TCAP continued to maintain the Trial Counsel Manual¹¹, a comprehensive guide to prosecuting cases designed to promote consistency throughout the trial practice, in partnership with APS.

¹⁰ During FY24, TCAP was gapped in the O-4 MJLCT “Specialist I” designated officer billet.

¹¹ The Trial Counsel Manual was designed in close coordination with the OSTC and informed the development of the OSTC Manual.

(6) Assistant for Prosecution Services (APS). In addition to TCAP, trial counsel are assisted by APS, an O-6 MJLCT Expert and former military judge. APS is responsible for oversight and standardization of the trial practice throughout NLSC, managing the trial counsel manual, and participating in case discussions at all levels of the trial process. APS tracks all high visibility, pretrial restraint, and national security cases, and conducts annual inspections of each RLSO with the NLSC Inspector General. To effect oversight and ensure efficiency in the RLSO trial practice, APS routinely engages RLSO leadership, meets weekly with TDHs, and participates in several TCAP led trainings. APS further establishes and monitors trial processing time goals throughout the enterprise.

d. OSTC.

(1) The Navy achieved full operational capability (FOC) for the OSTC prior to the statutory requirement of December 27, 2023. From FOC to present, OSTC has detailed or filled 98 total billets, including 35 MJLCT qualified judge advocates, 18 legalmen support staff, and 25 civilian personnel. The AJAG for Military Law conducted focused assessments of OSTC case processing times, per counsel caseloads, and effectiveness of available administrative resources in early FY24, leading to an increase in manning of STC certified counsel and additional resources approved through FY26.

(2) OSTC hosted the annual Sea Services Special Trial Counsel Certification Course. At the course, Navy and Marine Corps judge advocates, newly assigned to OSTC, train in-person alongside their U.S. Coast Guard colleagues on substantive law, policy, and practical skills. STCs also completed one week of additional virtual training through the Army's Judge Advocate General Legal Center and School focused on black letter law training. All STCs are required to complete the STC Certification Course prior to receiving certification to perform STC duties, among other requirements. Additionally, OSTC holds a Sea Service Symposium annually for the Navy, Marine Corps, and Coast Guard judge advocates currently assigned to OSTC.

e. Defense Counsel.

(1) Defense Counsel Assistance Program (DCAP) provided support, resources, and training to Navy and Coast Guard defense counsel worldwide, while also providing oversight assistance to the Director, Defense Service Office Operations (DSO OPS). DCAP provided assistance to the defense practice by providing subject matter expertise on complex defense matters, to include providing strategic advice to counsel, providing ethics advice and conflict-free counsel, and serving as supervisory or detailed defense counsel when necessary. In FY24, DCAP was staffed with an O-5 (Commander) MJLCT "Specialist II" designated officer as Director, an O-5 MJLCT "Specialist II" designated officer as Deputy Director, an O-4 (Lieutenant Commander) MJLCT "Specialist I" designated officer, a Chief Legalman with significant defense paralegal experience, and a GS-15 civilian Deputy Director with more than 30 years of criminal defense experience.

(a) DCAP utilized a variety of methods to provide support to counsel, including in-person and virtual training, a monthly newsletter highlighting emerging issues, and tailored advice to defense counsel throughout the enterprise. DCAP also maintained a central repository of defense resources and an online discussion board. In FY24, DCAP generated three new comprehensive online resources for attorneys and paralegals in the field, including a Trial Rulings Bank, a DCAP Newsletter Index (cataloging historical versions of DCAP's monthly newsletters for easier review and access), and an updated Expert Bank. DCAP further supported trial defense counsel with extensive case consultations and ethics support. On several occasions, DCAP personnel provided on-site support to courts-martial and worked alongside defense counsel as counsel of record or supervisory counsel.

(b) DCAP staffed a robust training continuum throughout FY24, leading two sessions of the defense focused two-week MJOC at NJS. This course included classroom instruction by DCAP's leadership, senior defense counsel, and other military justice specialists providing hands-on practical exercises that culminated in a head-to-head mock trial. DCAP revised the curriculum this year to improve the sequence of instruction and provide new takeaway products to students to accompany instruction blocks. DCAP also presented the annual in-person Defending Sexual Assault Cases course and the Senior Counsel Managers Course, which DCAP gears toward more experienced defense counsel and defense leaders, respectively. These courses included training from outside experts in mitigation and sentencing evidence to prepare counsel for the new sentencing parameters. DCAP also provided staff support for two sessions of the NJS week-long Paralegal Litigation Support Course, which trains new paralegals on supporting litigation in both defense and trial offices. In addition to the NJS courses, DCAP conducted four, week-long individualized Mobile Training Team (MTT) events at each of the four defense offices throughout the world. Throughout the year, defense counsel also attended a variety of advanced training in complex litigation, including training provided by the National Criminal Defense College, National Association of Criminal Defense Lawyers, Army DCAP, the U.S. Army Criminal Investigation Laboratory (USACIL), and Temple Law School.

(c) In addition to providing trainings, resources, and case advice, DCAP and DSO OPS spearheaded the first annual summit, consisting of each service branch's defense leaders and DCAPs, to collaborate on common issues facing the services' defense bar. In addition, DCAP began a structured collaboration with Navy and Marine Corps Appellate Defense Division (Code 45) and USMC defense leadership to improve and standardize certain facets of litigation with an eye toward appellate success and increased awareness of emerging appellate issues at the trial level. The DCAP team was also active with identifying process improvements and data collection gaps in NCORS, serving as the touchpoint between the defense offices worldwide and the contractors working to develop and improve the system. DCAP advocated for improvements that are poised to make data reporting across defense practices more efficient for use in manning, training, and resourcing each defense office.

(2) Defense Service Office (DSO) Defense Counsel. Four regional DSO commands, under the supervision of DSO OPS, provided defense services to the Fleet. For the majority of FY24, DSO OPS was a post-command O-6. An O-6 Commanding Officer led each DSO, assisted by an O-5 Executive Officer. In FY24, all defense commands were led by either a commanding officer or executive officer with significant military justice experience. Similar to the prosecution command structure, each defense counsel was supervised by a Senior Defense Counsel at one of four regional defense commands. During FY24, two of the senior defense counsel were O-5 (Commander) MJLCT-designated officers and two were O-4 (Lieutenant Commander) MJLCT-designated officers.

(a) Eight criminal investigators, designated as Defense Litigation Support Specialists (DLSS), supported the four defense commands. These civilian investigative experts attended specialized trainings presented by civilian public defender offices and utilized investigative tools secured by Navy Independent Defense Funding (NIDF). Additionally, DLSS assisted DCAP's MTT and global defense training efforts.

(b) In FY24, DSO OPS managed the NIDF budget. Implemented in FY23, this resource was critical in ensuring defense counsel had timely access to required resources for independent investigations before and after referral of charges, including expert consultations, which provided the ability to prepare for trial without revealing defense strategy to the prosecution. DSO OPS improved the standard operating procedures to receive and process requests from defense counsel for all aspects of pretrial investigations and case preparation while also increasing efficiency by maximizing delegation of approval for lower-cost requests to DSO commanding officers. Additionally, DSO OPS identified specific process improvements and action items in data collection and reporting that directly contribute to expanding the Defense bar Manning for the future. Additional defense counsel and staff support billets planned for onboarding in FY26 will support DSO counsel across the DSO enterprise.

f. Victims' Legal Counsel.

(1) During FY24, 44 Victims' Legal Counsel (VLC) provided legal support to approximately 1,700 sexual offense and domestic violence victims at over 500 proceedings and conducted more than 600 outreach briefs to more than 25,000 personnel. Throughout FY24, VLC were in compliance with statutory-mandated caseload caps. VLC and civilian paralegals were supervised and trained within the VLCP, which is overseen by a senior O-6 (Captain) Chief, a civilian GS-15 Deputy, and a senior O-5 (Commander) Operations Officer.

(2) The JAGC maintained a rigorous selection process and extensive training program for new VLC, ensuring that motivated, capable attorneys were assigned to this critical function. Every VLC candidate was screened based on their experience, maturity, and judgment, and were interviewed by Commander Naval Legal Service Command (CNLSC) and the VLCP Chief prior to selection as a VLC. Fifteen new VLC were selected in FY24. All new VLC completed the NJS Victims Legal Counsel Certification Course (VLCCC) and were certified by the Navy Judge Advocate General prior to representing clients. VLC also attended specialized training in representing child victims and victims of domestic violence. In August 2024, the VLCP held its ninth annual training symposium. This three-and-a-half-day, in-person program consisted of training on a wide range of topics, including: vicarious trauma, representing child victims, recent appellate activity, professional responsibility, domestic violence resources, and leadership. The training program also included a presentation by the Navy Judge Advocate General and a discussion with CNLSC. In addition, the VLCP conducted monthly training for all personnel throughout FY24. The next VLC certification course will take place in April 2025.

(3) During FY24, the Navy VLCP chaired the Special Victims' Counsel/Victims' Legal Counsel Interservice Coordination Committee, bringing together DoD representatives and the leadership from each Service victims' counsel program on a quarterly basis to coordinate efforts, collaborate and discuss military justice issues affecting victims' rights to include appellate cases, disclosure of information to victims/victims' counsel, access to filings, and notification to victims in administrative actions.

(4) The VLCP also utilized an internal Victims' Counsel Assistance Program (VCAP) to facilitate reach-back support for VLC practitioners in the field. This program, staffed by VLC personnel as a collateral duty and advised by the VLCP Senior Policy and Appellate Advisor (SPAA), provides military justice expertise and support to VLC personnel at trial. The VLCP continued its appellate practice, utilizing a team of VLC appellate practitioners assigned, as a collateral duty, to aid on interlocutory and appellate issues, advised by the SPAA. During FY24, the VLCP appellate team filed multiple briefs, including amicus filings, with the NMCCA and CAAF. In addition, the VLCP actively supported several sister service requests for their service Judge Advocate General's certification of issues on victims' right for review by CAAF.

g. Military Judges.

(1) The Navy-Marine Corps Trial Judiciary (NMCTJ) details judges presiding over all courts-martial within the Department of the Navy. In FY24, the NMCTJ consisted of 26 active-duty Navy and Marine Corps judges and 14 Reserve Navy and Marine Corps judges assigned throughout ten judicial circuits. In FY24, the NMCCA consisted of nine active-duty Navy and Marine Corps appellate judges, six Navy Reserve appellate judges, and two Marine Corps Reserve appellate judges.

(2) Selection Requirements. The Navy continued to employ rigorous screening and training requirements for military judges in FY24, in accordance with 10 U.S.C. §§ 826 and 866.

(a) Before assignment to a trial or appellate judicial billet, Navy and Marine Corps military judges were screened by a Judicial Screening Board and certified by the JAG as qualified for judicial duties. This process, unique to the Navy and Marine Corps, ensures only highly qualified judge advocates are recommended for the bench.

(b) All newly reporting trial and appellate judges attended the three-week Military Judge Course hosted by the U.S. Army's Judge Advocate General's Legal Center and School in Charlottesville, VA. The course included detailed instruction on the court-martial process, evidence, procedure, constitutional law, judicial problem solving, and judicial methodology. It also incorporated demonstrations and practical exercises.

(3) Military Judges Continuing Education.

(a) In February 2024, the NMCTJ judges attended the Joint Military Judges Annual Training at Maxwell Air Force Base in Montgomery, Alabama with instructors from the NMCTJ, the Honorable Judge M. Tia Johnson from the Court of Appeals for the Armed Forces (CAAF), and Professor Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, University of California, Berkeley School of Law. U.S. Marshals also trained the judges on courtroom and personal safety. Twenty-seven active duty and reserve judges assigned to the NMCTJ participated in this three-day course, as did over 100 additional judges across all services.

(b) Active-duty Navy judges attended the JAG Corps Development Symposium in September, where they joined other active-duty judge advocates in training designed to ensure the JAG Corps is prepared to meet the needs of the future. To accommodate this training, the traditional September judicial training for active and reserve Navy and Marine Corps judges was shifted to October 2024. Topics at that training include evidentiary issues associated with Military Rules of Evidence 412, 413, 414, and 513, and 514, judicial ethics, voir dire and members selection in sexual assault cases, among others.

(c) The NMCCA judges also attended the annual Fulton Conference hosted by the Air Force Court of Criminal Appeals. The Court heard from the Chief Judge of CAAF and learned about developments in military justice, advancements in forensic technology and artificial intelligence, and judicial ethics. Members also discussed emerging trends in appellate litigation from their sister service courts of criminal appeals.

h. National Security Cases.

(1) The National Security Division (Code 30) in OJAG remains the only office across the DoD exclusively dedicated to supporting litigation involving classified information. It is the Navy JAGC's center of excellence for classified information litigation and courts-martial designated as national security cases. In FY24, Code 30 staff consisted of an O-5 (select) (Commander) Director and an O-3 (Lieutenant) Deputy Director.

(2) Code 30 provided advice and resources in twenty-six cases involving classified information (three courts-martial, three federal district court criminal cases, four administrative hearings, and sixteen active investigations). In addition to serving as a litigation resource for judge advocates in the field, Code 30 coordinated with Original Classification Authorities, facilitated security clearance requests for court-martial personnel, and advised on classified information safeguards, including applicability of Military Rule of Evidence (MRE) 505, during the court-martial process. Code 30 also worked with the Department of Justice (DoJ), intelligence and law enforcement partners, and other Services, to refine the classified litigation practice and improve the use of classified information in military and DoJ cases.

(3) In partnership with the U.S. Army Advocacy Center at Fort Belvoir, VA, Code 30 orchestrated the annual Joint Classified Litigation Course in FY24. This week-long, DoD-wide course provided training to 74 students and brought together subject matter experts from the DoJ, National Security Administration, National Geospatial-Intelligence Agency, Central Intelligence Agency, Federal Bureau of Investigations, NCIS, Army and Navy Trial Judiciaries, and the Federal Judiciary. This course is in its second year and saw a large increase in attendance from FY23.

(4) In collaboration with NJS, Code 30 also provided classified information litigation training to 49 military justice practitioners at Code 30's annual Classified Information Litigation Course (CILC). Focused on foundational concepts and practical advice, the CILC included training on classified information under MRE 505 and 506, charging considerations, intelligence equities, classified information handling procedures, and trial, defense, and judiciary perspectives.

(5) Code 30 maintained a library of resources for national security/classified information cases, including distributing its National Security Litigation Primer to military justice practitioners in the field working on active cases.

(6) In support of the Navy's two National Security Litigation "hubs," Code 30 provided design input for construction of state-of-the-art facilities located at the Fleet Legal Services Complex in Norfolk as well as improvements in Building 56 at Naval Base San Diego. This will ensure both sites remain equipped to litigate national security and classified information cases well into the future.

i. Military Commissions.

(1) The Office of Military Commissions – Prosecution (OCP). In FY24, 10 active-duty Navy judge advocates (including the Chief Prosecutor for Military Commissions), one Navy Reserve judge advocate, and 7 Legalmen served at OCP, which used a robust orientation program to train new counsel and paralegals. All personnel were trained in the role of the Commissions, the rules and procedures of the Military Commissions Act of 2009, and litigating classified information cases under the Military Commissions Act corollary to the Classified Information Procedures Act. All counsel and paralegals worked under the supervision of experienced attorneys to gain practical experience and training.

(2) The Military Commissions Defense Office (MCDO). Legal efforts at MCDO combine criminal law, constitutional law, international humanitarian law, and international relations. In FY24, 8 active-duty Navy judge advocates and 8 active duty legalmen served at the MCDO. Each military counsel was assigned to one of 10 defense teams, trained in the rules and procedures of the Military Commissions Act of 2009, and worked under the mentorship of an experienced attorney. A Managing Defense Counsel also supervised day-to-day operations of each defense team, with senior Navy judge advocates typically assigned as Managing Defense Counsel for their respective joint teams.

5. The independent views of the JAG on the sufficiency of resources available within the Navy, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions:

a. Significant Developments in FY24. OJAG engaged with a complex set of new regulatory and statutory requirements that combined to create additional need for legal resources and improved processes in information technology (IT). Statutory changes brought forward by the FY22 and FY23 NDAA's, and renewed calls to improve processes for tracking and maintaining public access to military justice records, have each placed increased demand on OJAG's capabilities. The following lines of effort warrant further emphasis as essential areas where additional resources were dedicated in FY24 and may be needed moving forward.

(1) OSTC. OSTC reached FOC ahead of the effective date of 28 December 2023. However, additional statutory reforms will become effective in 2025, including the addition of sexual harassment as a covered offense, that may necessitate additional resourcing to effectively address an anticipated increase in the volume of cases it processes.

(2) Independent Defense Funding. IRC Recommendation 1.7.e called for the military services to "study and establish funding for defense counsel control." Importantly, however, Independent Defense Funding was made available in FY23 as a pilot program only. JAGC was able to realign funds from IRC Rec 1.7d to support FY24 efforts and plans to do the same in FY25.

b. Resourcing. Over the course of the Program Objectives Memorandum (POM) FY26 budgetary cycle, OJAG, NLSC, and OSTC requested an increase in military and civilian manpower and support as the JAGC continues to experience growth in mission requirements. These new mission developments drive a continuing and critical need for additional military and civilian personnel and support. To meet these needs in FY24, the JAGC has worked within current budgetary limits and received additional funding support to fund and properly equip personnel.

c. Funding process. Continuing resolutions impact the ability to execute funding earlier in the fiscal year, leading to lower execution rates. This hampers OJAG's ability to obtain additional funding as the fiscal year progresses.

(1) The JAGC relies upon supplemental Sexual Assault Prevention and Response (SAPR) funding to resource parts of the military justice mission. However, SAPR funding is also regularly delayed due to continuing resolutions and the requisite steps in the reprogramming process.

(2) Historically, the JAGC has used under-executed labor to supplement funding for unfunded (or underfunded) support needs, including military justice requirements. In FY25, the JAGC does not anticipate having labor under-execution. As of 09 Oct 2024, the JAGC has a 4% vacancy rate.

d. Judge advocate manning. In FY24, the JAGC was supported by 990 judge advocates with an officer end strength of 1014, an overall growth of 32 billets from FY23. Reserve officer manning is at 100% of their end strength (446 judge advocates out of 446 authorized).

e. Enlisted paralegal manning. The Navy JAGC was supported by 561 active-duty personnel in the Legalman rating in FY24 – 7 fewer than the authorized end strength of 568. We are currently in a healthy state and manned at 99%. As a result, the JAGC is filling many of the gapped billets that affected workload distribution in prosecution and defense offices. The Navy JAGC is continuing to work with Navy Personnel Command with the goal of eliminating shortfalls. Reserve legalmen strength is currently 74% with 124 legalmen filling 167 billets.

f. Civilian attorneys, paralegals and other specialists. The JAGC received approval to hire 96 civilian billets in FY22. 31 billets comprised of civilian attorneys, paralegals, and courtroom security personnel hired for military justice support; 17 billets to provide legal counsel to domestic violence victims (for legal assistance and VLC services); and the remaining for other JAGC mission areas; to include administrative support personnel for military justice activities.

g. Training. The JAGC made significant training advancements in FY24, as referenced in other sections of this report.

h. Retention. Retaining litigators across all pay grades represented a challenge in FY24. In FY24, however, the JAG Corps saw losses below the five-year average at every paygrade, except O-3 (Lieutenant). An increasing number of mid-career officers are taking advantage of Public Service Loan Forgiveness (PSLF) relief and the Blended Retirement System (BRS), decreasing the financial incentives for completing a twenty-year career. OJAG remains focused on monitoring how retention incentives such as Judge Advocate Continuation Pay (JACP) and geographically flexible billets offset the combination of PSLF forgiveness and BRS for mid-career and senior litigators.

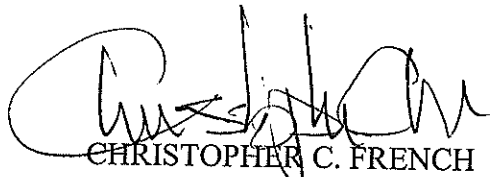
i. Technology

(1) In July 2023, the U.S. Navy deployed a new military justice case management system, the Naval Court-Martial Reporting System (NCORS), which collects required demographic and case data, manages cases throughout the court-martial process, and enables processing for public access to dockets, filings, and records, as required by Article 140a, UCMJ. In July 2024, NCORS deployed under Full Operational Capability (FOC), and initiated a twelve-month sprint schedule to refine configuration of military justice workflows and support stakeholder modules. In conjunction with NCORS reaching FOC, the AJAG for Military Law established and continues to direct the NCORS Steering Committee, a working group focused on leveraging the technological capabilities of NCORS to directly support the Navy's military justice policy goals.

(2) OJAG requested NCORS funding support for an additional three years of administration and maintenance support of the platform through the SRB. The SRB directed OJAG to seek funding from other sources, including DoD SAPR funds, which have been utilized in previous years. Full funding support for NCORS is necessary to continue to maintain NCORS and improve military justice case management.

j. Facilities. The Navy, particularly with the growth of OSTC, continues to work JAGC facilities issues. For the OSTC, four renovation projects and one design contract, all awarded in FY24 are expected to be completed in FY25. In Norfolk, Virginia, the multi-year effort to establish a newly renovated Fleet Legal Services Complex continues to progress with a completed in-depth space study and request for proposal development for an FY25 design-build contract award. These efforts will consolidate and optimize the major military justice functions in the Navy's largest fleet concentration area. A similar consolidation effort has begun in Naval Base San Diego, where an in-depth space study is ongoing to define the requirements for a Fleet Legal Services Complex in San Diego as well.

6. Conclusion. Our judge advocates, legalmen, and civilian professionals have met the challenges of this changing landscape with exceptional dedication. As our military justice practice evolves, the JAG community will continue to ensure we man, train, and equip our practitioners with the best possible tools they need for mission accomplishment. A primary objective for OJAG in the next year will be the deployment of additional assessment and oversight mechanisms to review how our processes function within the framework established by recent military justice reforms. Comprehensive assessment is fundamental to making these processes more efficient, projecting strength and confidence in our practice, and continuing to instill trust in the military justice system. I have total confidence in this community to meet this mission and achieve exceptional results.



CHRISTOPHER C. FRENCH
Vice Admiral, JAGC, U.S. Navy
Judge Advocate General

APPENDIX

Report Period: FISCAL YEAR 2024

PART 1 - NAVY PENDING COURTS-MARTIAL (As of 30 September 2024)

TYPE COURT	PREFERRED PENDING DISPOSITION DECISION	REFERRED	TOTAL
GENERAL		33	
BCD SPECIAL		27	
NON-BCD SPECIAL		0	
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))		4	
SUMMARY [C20-QCAR]		0	
TOTAL:	48	64	112

PART 2 - NAVY COURTS-MARTIAL STATISTICS (Persons)

TYPE COURT	TRIED	CONVICTED	ACQUITTALS	RATE OF INCREASE (+)/ DECREASE (-) OF CASES TRIED OVER LAST REPORT
GENERAL	62	53	9	-27.10%
BCD SPECIAL	87	77	10	+14.5%
NON-BCD SPECIAL	0	0	0	0
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))	9	6	3	+125%
SUMMARY	15	13	2	-56%
OVERALL RATE OF INCREASE (+)/DECREASE (-) OVER LAST REPORT				-13%

PART 3 - ACCUSED DEMOGRAPHIC DATA

TYPE COURT	Total	GENDER		ETHNICITY			RACE						
		M	F	Hispanic / Latino	Non-Hispanic / Latino	Unknown	American Indian / Alaska Native	Asian	Black / African American	Native Hawaiian / Pacific Islander	White	Other	Unknown
GENERAL	62	60	2	12	50	0	1	3	15	0	34	9	0
SPECIAL	87	74	13	10	73	4	1	1	32	1	32	16	4
MJ SPECIAL (Art. 16 (c)(2))	9	9	0	4	4	1	0	0	1	1	5	2	0
SUMMARY	15	12	3	3	12	0	0	0	4	0	11	0	0

APPENDIX

PART 4 – VICTIM DEMOGRAPHIC DATA [A]

TYPE COURT	Total	GENDER [B]			ETHNICITY			RACE						
		M	F	UNK	Hispanic / Latino	Non-Hispanic / Latino	UNK	American Indian / Alaska Native	Asian	Black / African American	Native Hawaiian / Pacific Islander	White	Other	UNK
GENERAL	108	30	75	3	13	60	35	1	2	15	0	51	4	35
SPECIAL	91	32	58	1	10	67	14	2	1	15	3	48	11	11
MJ SPECIAL Art. 16(c)(2)	2	0	2	0	1	1	0	0	0	0	0	2	0	0
SUMMARY	6	2	4	0	1	2	3	0	0	0	0	4	0	2

PART 5 – NAVY DISCHARGES APPROVED/ENTERED ON ENTRY OF JUDGMENT [C]

GENERAL COURTS-MARTIAL (CA LEVEL)	
NUMBER OF DISHONORABLE DISCHARGES (+ dismissals)	22
NUMBER OF BAD-CONDUCT DISCHARGES	24
SPECIAL COURTS-MARTIAL	
NUMBER OF BAD-CONDUCT DISCHARGES	24

PART 6 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG (NAVY & MARINE CORPS)

FOR REVIEW UNDER ARTICLE 66(b)(1) – APPEALS BY ACCUSED	24
FOR REVIEW UNDER ARTICLE 66(b)(2) – CASES FORWARDED FOR REVIEW BY TJAG	0
FOR REVIEW UNDER ARTICLE 66(b)(3) – AUTOMATIC REVIEW	212
FOR EXAMINATION UNDER ARTICLE 65(d)	164

PART 7 – WORKLOAD OF THE U.S. NAVY - MARINE CORPS COURT OF CRIMINAL APPEALS (NAVY & MARINE CORPS)

TOTAL ON HAND BEGINNING OF PERIOD	
TOTAL CASES REFERRED FOR REVIEW	133 [D]
TOTAL CASES REVIEWED	229 [D]
TOTAL CASES DECIDED PRIOR FISCAL YEAR	209 [E]
	187 [E]

APPENDIX

TOTAL PENDING AT CLOSE OF PERIOD	152 [D]
RATE OF INCREASE (+)/DECREASE (-) OF NUMBER OF CASES DECIDED AS COMPARED TO FY23 REPORTING PERIOD	+12%

PART 8 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF) (NAVY & MARINE CORPS)

TOTAL PETITIONS TO CAAF	38
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PART 9 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ (NAVY & MARINE CORPS)

TOTAL PENDING BEGINNING OF PERIOD	6	
RECEIVED	1	
DISPOSED OF:	6	
GRANTED		3
DENIED		3
NO JURISDICTION		0
WITHDRAWN		0
TOTAL PENDING AT END OF PERIOD	1	

PART 10 – NAVY ORGANIZATION OF COURTS [F]

TRIALS BY MILITARY JUDGE ALONE	131
GENERAL COURTS-MARTIAL	44
SPECIAL COURTS-MARTIAL	78
MILITARY JUDGE ALONE SPECIAL (ART. 16(c)(2)(A))	9
TRIALS BY MILITARY JUDGE WITH MEMBERS	27
GENERAL COURTS-MARTIAL	18
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PART 11 – NAVY STRENGTH

AVERAGE ACTIVE DUTY STRENGTH	332,671 [G]
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PART 12 – NAVY NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)

NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	
RATE PER 1,000	

APPENDIX

EXPLANATORY NOTES

[A] Total includes victims not accounted for in the gender section. These victims are either an organization or have an undisclosed gender.

[B] Some crimes reported in the database do not include persons as victims, but instead identify an organizational victim. For example, a drug offense may sometimes list "USN" or something similar as the victim. This results in a number of male and female victims not equaling the total number of victims.

[C] Based on Entry of Judgment and records of trial received in FY for appellate review.

[D] Includes only cases briefed and at issue.

[E] Includes Article 62 appeals, All Writs Act cases, and appeals withdrawn.

[F] Only includes cases that were tried to completion.

[G] This number includes only Active Component Sailors and does not include USNR, unless the Reservists were called to Active Duty during the FY.



Department of the Air Force

Report to Congressional Committees

Department of the Air Force Report on the State of Military Justice for Fiscal Year 2024

January 2025

The estimated cost of this report or study for the Department of Defense is approximately \$11,000 in DoD labor for the 2025 Fiscal Year.





**DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC 20330**

Department of the Air Force Report on the State of Military Justice for Fiscal Year 2024

This report, in accordance with Article 146a, Uniform Code of Military Justice (UCMJ) (10 U.S.C. § 946a), details the state of the Department of the Air Force's (DAF) military justice system in Fiscal Year 2024 (FY24).

The DAF's military justice system remains strong and robust, while seamlessly adapting to the most significant changes to the system in generations. Judge advocates and legal professionals across the DAF's Judge Advocate General's Corps (JAG Corps) continued to provide first-rate legal advice and representation to Airmen and Guardians across the continuum of the DAF's worldwide military justice mission. Notably, in FY24, the Office of Special Trial Counsel (OSTC), under the leadership of the first Lead Special Trial Counsel (LSTC), Brigadier General Christopher Brown, obtained full operational capability and began exercising exclusive court-martial authority over certain covered offenses in accordance with Article 24a, UCMJ (10 U.S.C. § 824a). Members of the Trial Judiciary, Trial Defense Division, Appellate Defense Division, Government Trial and Appellate Operations Division, Victims' Counsel Division, and numerous other JAG Corps organizations, delivered critical representation and legal services to their clients. In addition, the DAF continued to improve the military justice system through the implementation of amendments to the Manual for Courts-Martial and by updating and refining rules in the DAF's military-justice related policy and regulations. While the DAF JAG Corps demonstrated agility in adapting to these new requirements, we also remain steadfast in prioritizing a just, fair, and balanced military justice system for all.

Sincerely,

A handwritten signature in blue ink, which appears to read "Charles L. Plummer", is written over the typed name.

CHARLES L. PLUMMER
Lieutenant General, USAF
The Judge Advocate General



Introduction

This report is provided to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives as directed by 10 U.S.C. § 946a(b).

(b) Service Reports.-Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:

(1) Data on the number and status of pending cases.

(2) Information on the appellate review process, including-

(A) information on compliance with processing time goals;

(B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies;

(C) an analysis of each case in which a provision of this chapter was held unconstitutional; and

(D) an analysis of each case in which a Court of Criminal Appeals made a final determination that a finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case.

(3)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates-

(i) to participate competently as trial counsel and defense counsel in cases under this chapter;

(ii) to preside as military judges in cases under this chapter; and

(iii) to perform the duties of Special Victims' Counsel, when so designated under section 1044e of this title.

(B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.

(4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.

(5) Such other matters regarding the operation of this chapter as may be appropriate.

(c) Submission.-Each report under this section shall be submitted-

(1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.

Executive Summary

The Department of the Air Force (DAF) is fully committed to the fair and effective administration of military justice and ensuring a disciplined force to support national security objectives. Military justice remained a primary focus for the Judge Advocate General's Corps (JAG Corps) in Fiscal Year 2024 (FY24). The DAF prioritized the final stage in the standup of the Office of the Special Trial Counsel (OSTC), culminating in OSTC reaching full operational capability. Specifically, under the leadership of its first Lead Special Trial Counsel (LSTC), Brigadier General Christopher Brown, OSTC began exercising its exclusive court-martial authority over covered offenses under the Uniform Code of Military Justice (UCMJ), including sexual assault, domestic violence, child pornography, homicide, and other serious offenses. The JAG Corps dedicated significant effort and resources to this endeavor; all to ensure OSTC will succeed in its mission to provide expert, specialized, independent, and ethical representation of the United States in the investigation and litigation of UCMJ covered offenses.

In FY24, the DAF also implemented wide-ranging changes to the military justice system through updates to numerous DAF-wide policies. These changes include: (1) amendments to improve the process for victim notifications of hearings and decisions/orders throughout the post-trial appellate process, known as the Victim Appellate Notification Program (VANP); (2) new notification requirements for victims of domestic violence, which require notification of specific significant events in the investigation and prosecution of those offenses, as well as specific notifications regarding decisions not to refer allegations to court-martial and any further final disposition of those allegations; and (3) a renewal of the Independent Review Commission on Sexual Assault in the Military's Recommendation 1.7e, which continues a previously established DAF policy for the provision of independent civilian expert witnesses and consultant access for defense counsel.

The DAF made significant investment in the military justice system through improvements to military justice-related education and training programs. The JAG Corps' Military Justice Law and Policy Division (JAJM) partnered with OSTC to produce comprehensive trainings detailing significant changes to the military justice system. Those trainings were then delivered in person by select military justice practitioners and OSTC personnel to more than 5,100 DAF command team and JAG Corps personnel. JAJM also teamed with other DAF stakeholders to provide multiple rounds of DAF-wide trainings covering major updates to the investigation and processing of sexual harassment complaints. As a result, over 3,300 DAF personnel with a supporting role in the processing of a sexual harassment complaint, including commanders and their support staff, were equipped to effectively respond to sexual harassment reports.

The DAF also developed new courses to: (1) train future Preliminary Hearing Officers and administrative separation board Legal Advisors, to ensure DAF attorneys are equipped to provide critical legal analysis when serving in these roles; (2) provide intermediate-level advocacy training for Victims' Counsel through a 5-week Victims' Counsel Advocacy Course, which will further hone litigation, advocacy, and client representation skills; and (3) provide senior defense litigators a one week Senior Defense Counsel Qualification Course and Leadership Summit, designed to train these senior advocates on how to lead and develop their subordinate defense counsel and defense paralegals, both in and out of the courtroom.

We provide the following information to illustrate the current state of the DAF's military justice practice.

Report

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APPENDIX 28

I. DATA ON THE NUMBER AND STATUS OF PENDING CASES

The DAF collects court-martial data through the Disciplinary Case Management System-Automated Military Justice Analysis and Management System (DCMS-AMJAMS). Historically, AMJAMS, a server-based, legacy system, was the sole database for military justice case management and data collection, and it served its purpose for many

years. In October 2020, the DAF initiated the development of DCMS-AMJAMS, a new, state-of-the-art, cloud-based system. DCMS-AMJAMS received approval to operate on DoD systems in May 2023 and legacy AMJAMS was sunset in the Spring of 2024. In December 2023, the first module was added to DCMS-AMJAMS to support the case processing needs of the OSTC. Further development is expected to include modules for appellate practice, foreign criminal jurisdiction, and administrative discharges. Presently, DCMS-AMJAMS tracks cases from the point legal offices are initially notified of allegations through final disposition of those allegations, with DCMS-AMJAMS representing a more streamlined and effective tracking process than was previously available under legacy AMJAMS. The Appendix provides data on pending DAF cases.

II. INFORMATION ON THE APPELLATE REVIEW PROCESS

The United States Air Force Court of Criminal Appeals (AFCCA) issued 160 opinions and orders for cases before the court in FY24. Three opinions were published, meaning they serve as binding precedent for DAF courts-martial. *See In re Vargas*, Misc. Dkt. No. 2024-09, M.J., 2024 CCA LEXIS 337 (A.F. Ct. Crim. App. 15 Aug. 2024); *United States v. Holmes*, 84 M.J. 704 (A.F. Ct. Crim. App. 2024); *United States v. Vanzant*, 84 M.J. 671 (A.F. Ct. Crim. App. 2024). The court held oral argument in three cases as part of its oral argument outreach program, one at The George Washington University Law School, Washington, D.C.: *United States v. Arroyo*, No. ACM 40321 (f rev), 2024 CCA LEXIS 242 (A.F. Ct. Crim. App. 18 Jun. 2024) (unpub. op.), *rev. granted*, 2024 CAAF LEXIS 592 (C.A.A.F. 7 Oct. 2024); one at Chicago-Kent College of Law Conviser Law Center, Chicago, Illinois: *United States v. Davis*, No. ACM 40370, 2024 CCA LEXIS 37 (A.F. Ct. Crim. App. 26 Jan. 2024) (unpub. op.); and one at the American University Washington College of Law, Washington, D.C.: *United States v. Jennings*, No. ACM 40282, 2023 CCA LEXIS 525 (A.F. Ct. Crim. App. 13 Dec. 2023) (unpub. op.). The court held oral argument in six cases in the AFCCA courtroom. *See United States v. Holmes*, 84 M.J. 704 (A.F. Ct. Crim. App. 2024); *United States v. Braum*, No. ACM 40434, 2024 CCA LEXIS 419 (A.F. Ct. Crim. App. 10 Oct. 2024) (unpub. op.); *United States v. Taylor*, No. ACM 40371, 2024 CCA LEXIS 316 (A.F. Ct. Crim. App. 31 Jul. 2024) (unpub. op.); *United States v. Daughma*, No. ACM 40385, 2024 CCA LEXIS 287 (A.F. Ct. Crim. App. 16 Jul. 2024) (unpub. op.); *In re RW*, Misc. Dkt. No. 2023-08, 2024 CCA LEXIS 71 (A.F. Ct. Crim. App. 9 Feb. 2024) (unpub. op.). The sixth case, *United States v. Doroteo*, No. ACM 40363, is currently pending Article 66, UCMJ, review. AFCCA ended FY24 with nine active duty and five reserve appellate military judges.

a. Compliance with Processing Time Goals

- (1) In FY24, no convictions in DAF cases were set aside on speedy trial grounds.
- (2) Under pre-1 January 2019 post-trial processing rules, no case exceeded 120 days from sentencing to the convening authority's action (the "Moreno 1" standard).
- (3) Under pre-1 January 2019 post-trial processing rules, no case exceeded the 30-day window from the date of the convening authority's action to docketing at AFCCA (the "Moreno 2" standard).

- (4) Under post-1 January 2019 post-trial processing rules, five cases exceeded the 150-day standard for facially unreasonable delay from sentencing to docketing with AFCCA, articulated by AFCCA pursuant to *United States v. Livak*, 80 M.J. 631 (A.F. Ct. Crim. App. 2020). Relief was granted for one of these facially unreasonable delays addressed by AFCCA under the *Livak* standard. *See United States v. Lampkins*, No. ACM 40135 (f rev), 2023 CCA LEXIS 465 (A.F. Ct. Crim. App. 2 Nov. 2023) (unpub. op.) (353 days from sentencing to docketing). No relief was granted in the remaining four cases. *See United States v. Byrne*, No. ACM 40391, 2024 CCA LEXIS 346 (A.F. Ct. Crim. App. 22 Aug. 2024) (unpub. op.) (290 days from sentencing to docketing); *United States v. Dillon*, No. ACM 40363, 2024 CCA LEXIS 322 (A.F. Ct. Crim. App. 2 Aug. 2024) (unpub. op.) (228 days from sentencing to docketing); *United States v. Daughma*, No. ACM 40385, 2024 CCA LEXIS 287 (A.F. Ct. Crim. App. 16 Jul. 2024) (unpub. op.) (minimal number of days over the 150-day threshold); *United States v. Cook*, No. ACM 40333, 2024 CCA LEXIS 276 (A.F. Ct. Crim. App. 3 Jul. 2024) (unpub. op.) (200 days from sentencing to docketing). To avoid future delays and promote greater efficiency and accountability in the post-trial processing of courts-martial, on 6 September 2024 The Judge Advocate General (TJAG) directed the mandatory use of a SharePoint-based Dashboard to track courts-martial from the date of sentencing/acquittal until appellate review is complete. This Dashboard allows users to view the status of all courts-martial in the post-trial processing stages and quickly identify cases nearing post-trial processing milestones contained in Department of the Air Force Instruction (DAFI) 51-201, *Administration of Military Justice*, and *United States v. Livak*.
- (5) Seven cases exceeded the standard of 18 months from docketing to AFCCA rendering a decision (the “*Moreno 3*” standard). Under the facts of each case, AFCCA found no relief warranted for these cases. *See United States v. Patterson*, No. ACM 40426, 2024 CCA LEXIS 399 (A.F. Ct. Crim. App. 27 Sep. 2024) (unpub. op.); *United States v. Myers*, No. ACM S32749, 2024 CCA LEXIS 347 (A.F. Ct. Crim. App. 22 Aug. 2024) (unpub. op.); *United States v. Byrne*, No. ACM 40391, 2024 CCA LEXIS 346 (A.F. Ct. Crim. App. 22 Aug. 2024) (unpub. op.) (*see supra*, relief granted under *Livak*); *United States v. Daughma*, No. ACM 40385, 2024 CCA LEXIS 287 (A.F. Ct. Crim. App. 16 Jul. 2024) (unpub. op.); *United States v. Pittman*, No. ACM 40298, 2024 CCA LEXIS 145 (A.F. Ct. Crim. App. 22 Apr. 2024) (unpub. op.); *United States v. Jennings*, No. ACM 40282 (A.F. Ct. Crim. App. 13 Dec. 2023) (unpub. op.).

b. Other Issues

- (1) Unlawful Command Influence: The court reviewed three cases that raised an issue of unlawful command influence, but did not find unlawful command influence in any of its decisions. *See In re Vargas*, Misc. Dkt. No. 2024-09, 84 M.J. 734, 2024 CCA LEXIS 337 (A.F. Ct. Crim. App. 15 Aug. 2024); *United States v. Zier*, No. ACM 21014, 2024 CCA LEXIS 3 (A.F. Ct. Crim. App. 5 Jan. 2024) (unpub. op.); and *United States v. Maymi*, No. ACM 40332, 2023

CCA LEXIS 491 (A.F. Ct. Crim. App. 5 Oct. 2023) (unpub. op.), *rev. granted*, 84 M.J. 308 (C.A.A.F. 2024).

- (2) Denial of Right to Speedy Review: None.
- (3) Loss of Records of Trial: The court tested one case for prejudice but found none when the audio recording could not be recovered or recreated because of a malfunction. *See United States v. Reedy*, No. ACM 40358, 2024 CCA LEXIS 40 (A.F. Ct. Crim. App. 2 Feb. 2024) (unpub. op.).
- (4) Other Cases Resulting in Remand by AFCCA:
 - a. In FY24, AFCCA remanded four cases because the record of trial did not contain an audio recording of the court-martial. *See United States v. Casillas*, No. ACM 40499, 2024 CCA LEXIS 394 (A.F. Ct. Crim. App. 24 Sep. 2024) (order); *United States v. Kershaw*, No. ACM 40455, 2024 CCA LEXIS 354 (A.F. Ct. Crim. App. 26 Aug. 2024) (unpub. op.); *United States v. Moore*, No. ACM 40442, 2024 CCA LEXIS 118 (A.F. Ct. Crim. App. 21 Mar. 2024) (order); *United States v. Conway*, No. ACM 40372, 2023 CCA LEXIS 501 (A.F. Ct. Crim. App. 5 Dec. 2023) (unpub. op.).
 - b. The court remanded one case after discovering that a prosecution exhibit which was a computer disc was blank, and another case which had inoperable computer discs as an attachment to an appellate exhibit and preliminary hearing exhibits. *See United States v. Boren*, No. ACM 40296, 2024 CCA LEXIS 246 (A.F. Ct. Crim. App. 24 Jun. 2024) (order); *United States v. Smith*, No. ACM 40437, 2024 CCA LEXIS 109 (A.F. Ct. Crim. App. 11 Mar. 2024) (order).
 - c. Additionally, AFCCA remanded five cases due to incomplete records of trial. *See United States v. Williams*, No. ACM 40485, 2024 CCA LEXIS __ (A.F. Ct. Crim. App. 6 Aug. 2024) (order); *United States v. Howard*, No. ACM 40478, 2024 CCA LEXIS 137 (A.F. Ct. Crim. App. 9 Apr. 2024) (order); *United States v. Moore*, No. ACM 40442, 2024 CCA LEXIS 118 (A.F. Ct. Crim. App. 21 Mar. 2024) (order); *United States v. Harnar*, No. ACM 40559, 2024 CCA LEXIS 39 (A.F. Ct. Crim. App. 31 Jan. 2024) (order); *United States v. Conway*, No. ACM 40372, 2023 CCA LEXIS 501 (A.F. Ct. Crim. App. 5 Dec. 2023) (unpub. op.).
 - d. To prevent future remands because a record of trial is incomplete, on 20 August 2024, TJAG directed court reporters and installation-level Trial Counsel to complete an “End of Trial Documents” checklist immediately following trial in all special and general courts-martial. This requirement was later memorialized in DAFI 51-201, *Administration of Military Justice*.

(5) Other Administrative Deficiencies:

- a. Convening Authority Failure to Take Action on Sentence: In one case, the convening authority signed a Decision on Action Memorandum wherein he approved the sentence in its entirety but replaced that memorandum with a second memorandum, wherein he suspended the adjudged forfeitures and waived the automatic forfeitures, but did not approve the remainder of the sentence. AFCCA tested for prejudice but found none. *See United States v. Dillon*, No. ACM 40363, 2024 CCA LEXIS 322 (A.F. Ct. Crim. App. (2 Aug. 2024) (unpub. op.).
- b. Errors in Post-Trial Documents:
 - i. AFCCA identified errors in the Entry of Judgment in ten cases. *See United States v. Washington*, No. ACM 39761 (reh), 2024 CCA LEXIS 342 (A.F. Ct. Crim. App. 20 Aug. 2024) (unpub. op.) (involving a Court-Martial Order instead of an Entry of Judgment); *United States v. Jackson*, No. ACM S32757, 2024 CCA LEXIS 330 (A.F. Ct. Crim. App. 9 Aug. 2024) (unpub. op.); *United States v. Hinds*, No. ACM S32756, 2024 CCA LEXIS 315 (A.F. Ct. Crim. App. 31 Jul. 2024) (unpub. op.); *United States v. Schneider*, No. ACM 40403, 2024 CCA LEXIS 288 (A.F. Ct. Crim. App. 16 Jul. 2024) (unpub. op.); *United States v. Pittman*, No. ACM 40298, 2024 CCA LEXIS 145 (A.F. Ct. Crim. App. 22 Apr. 2024) (unpub. op.); *United States v. Blackburn*, No. ACM 40303 (f rev), 2024 CCA LEXIS 129 (A.F. Ct. Crim. App. 4 Apr. 2024) (unpub. op.); *United States v. Kight*, No. ACM 40337, 2024 CCA LEXIS 110 (A.F. Ct. Crim. App. 14 Mar. 2024) (unpub. op.); *United States v. Stanford*, No. ACM 40327, 2024 CCA LEXIS 77 (A.F. Ct. Crim. App. 14 Feb. 2024) (unpub. op.); *United States v. Harnar*, No. ACM 40559, 2024 CCA LEXIS 39 (A.F. Ct. Crim. App. 31 Jan. 2024) (order); *United States v. Wells*, No. ACM S32762, 2024 CCA LEXIS 15 (A.F. Ct. Crim. App. 18 Jan. 2024) (order).
 - ii. Review of one case indicated a discrepancy between the adjudged confinement in the Statement of Trial Results and the Entry of Judgment; because the discrepancy favored the Appellant the court took no corrective action. *See United States v. Manzano Tarin*, No. ACM S32734 (f rev), 2024 CCA LEXIS 450 (A.F. Ct. Crim. App. 24 Sep. 2024) (unpub. op.).
 - iii. AFCCA addressed record of trial discrepancies in the following five cases, but no relief was granted. *See United States v. Hinds*, No. ACM S32756, 2024 CCA LEXIS 315 (A.F. Ct. Crim. App. 31 Jul. 2024) (unpub. op.); *United States v. Daughma*, No. ACM 40385, 2024 CCA LEXIS 287 (A.F. Ct. Crim. App. 16 Jul.

2024) (unpub. op.); *United States v. Csiti*, No. ACM 40386, 2024 CCA LEXIS 160 (A.F. Ct. Crim. App. 29 Apr. 2024) (unpub. op.); *United States v. Reedy*, No. ACM 40358, 2024 CCA LEXIS 40 (A.F. Ct. Crim. App. 2 Feb. 2024) (unpub. op.); *United States v. Cornwell*, No. ACM 40335, 2023 CCA LEXIS 433 (A.F. Ct. Crim. App. 16 Oct. 2023) (unpub. op.).

c. The following cases involved deficiencies by a convening authority on other matters:

- i. In two cases, the convening authority purportedly waived the automatic forfeitures but did not take any action on the adjudged forfeitures. *See United States v. Kribs*, No. ACM 40383, 2023 CCA LEXIS 509 (A.F. Ct. Crim. App. (8 Dec. 2023) (unpub. op.); *United States v. Maymi*, No. ACM 40332, 2023 CCA LEXIS 491 (A.F. Ct. Crim. App. (5 Oct. 2023) (unpub. op.), *rev. granted*, 2024 CAAF LEXIS 91 (C.A.A.F. 16 Feb. 2024).
- ii. AFCCA found no prejudice when the convening authority failed to include a reason for denying Appellant's deferment request in three cases. *See United States v. Wood*, No. ACM 40429, 2024 CCA LEXIS 334 (A.F. Ct. Crim. App. 13 Aug. 2024) (unpub. op.); *United States v. Schneider*, No. ACM 40403, 2024 CCA LEXIS 288 (A.F. Ct. Crim. App. 16 Jul. 2024) (unpub. op.); *United States v. Zier*, No. ACM 21014, 2024 CCA LEXIS 3 (A.F. Ct. Crim. App. 5 Jan. 2024) (unpub. op.).
- iii. AFCCA reviewed two cases in which the convening authority improperly failed to provide the accused five days to respond to victim matters before issuing a decision on action. AFCCA remanded both cases for further post-trial processing. *See United States v. Harnar*, No. ACM 40559, 2024 CCA LEXIS 39 (A.F. Ct. Crim. App. 31 Jan. 2024) (order); *United States v. Douglas*, No. ACM 40324, 2023 CCA LEXIS 502 (A.F. Ct. Crim. App. 5 Dec. 2023) (unpub. op.).
- iv. AFCCA remanded one case for the convening authority's failure to consider the Appellant's suspension request in clemency. *See United States v. McCoy*, No. ACM 40119 (f rev), 2023 CCA LEXIS 476 (A.F. Ct. Crim. App. 9 Nov. 2023) (unpub. op.).

d. Administrative Deficiencies Addressed by The Judge Advocate General under Article 65, UCMJ:

- i. On 21 January 2024, The Judge Advocate General (TJAG) took corrective action on the sentence in the case of *United States v. Martinez*, No. ACM 40549. Review of the case's Entry of Judgment concluded the part of the sentence consisting of total forfeitures of pay and allowances for 870 days exceeded forfeiture of two-thirds pay per month for each day Appellant was not confined. Accordingly, the part of the sentence which called for total forfeitures of pay and allowances after release from confinement was set aside under Article 65(e), UCMJ. The remaining portion of the sentence consisting of a bad-conduct discharge, reprimand, confinement for 870 days, and total forfeitures of pay and allowances during confinement was affirmed.
 - ii. On 1 August 2024, TJAG took corrective action on the sentence in the case of *United States v. Thomas*, No. ACM S32748. Review of the case's Entry of Judgment concluded the portion of the sentence consisting of forfeitures of "2/3 pay per month for 5 months (\$1209 per month)" exceeded the terms of the sentence announced by the military judge, which the judge announced as forfeiture of "two[-]thirds pay for five months," omitting the term "per month." Accordingly, the part of the sentence which called for forfeitures of pay in excess of \$1209.00 pay for one month was set aside under Article 65(e), UCMJ. The remaining part of the sentence consisting of forfeiture of \$1209.00 pay for one month, confinement for five months, and a bad-conduct discharge was affirmed.
 - e. The Military Justice and Discipline Directorate provides many resources to prevent administrative deficiencies. For example, installation legal office personnel may contact the Appellate Government section of (JAJG) for advice or utilize the JAJM JAG Corps-wide Microsoft Teams page or Knowledge Management website. These resources include templates and checklists for use in creating post-trial documents, recorded and live trainings, and announcements regarding military justice policy updates. The JAJM Teams page allows for direct subject matter expert engagement for military justice practitioners in the field. Additionally, JAJM regularly highlights common errors and tips to prevent them via the Teams page and the JAG Corps Online News Service, a weekly online newsletter distributed to all members of the JAG Corps.
- (6) Cases in Which Provisions of the UCMJ Were Found to be Unconstitutional:
None.
- (7) Cases in Which AFCCA Made a Final Determination that a Finding of a Court-Martial was Clearly Against the Weight of the Evidence: AFCCA applied the new standard of review for factual sufficiency in five cases, but did not

conclude any court-martial findings were clearly against the weight of the evidence as set out in Section 542 of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for FY21 (FY21 NDAA). *See United States v. Myers*, No. ACM S32749, 2024 CCA LEXIS 347 (A.F. Ct. Crim. App. 22 Aug. 2024) (unpub. op.); *United States v. Cook*, No. ACM 40333, 2024 CCA LEXIS 276 (A.F. Ct. Crim. App. 3 Jul. 2024) (unpub. op.); *United States v. George*, No. ACM 40397, 2024 CCA LEXIS 224 (A.F. Ct. Crim. App. 7 Jun. 2024) (unpub. op.); *United States v. McLeod*, No. ACM 40374, 2024 CCA LEXIS 166 (A.F. Ct. Crim. App. 1 May 2024) (unpub. op.); *United States v. Csiti*, No. ACM 40386, 2024 CCA LEXIS 160 (A.F. Ct. Crim. App. 29 Apr. 2024) (unpub. op.). However, in two cases AFCCA set aside a finding of guilty based on a factual sufficiency review completed under the standard of review applicable to offenses committed prior to the effective date of Section 542 of the FY21 NDAA. *See United States v. Williams*, No. ACM 40410, 2024 CCA LEXIS 317 (A.F. Ct. Crim. App. 31 Jul. 2024) (unpub. op.); *United States v. Ramirez*, No. ACM 40373, 2024 CCA LEXIS 203 (A.F. Ct. Crim. App. 9 May 2024) (unpub. op.).

III. MEASURES IMPLEMENTED BY THE AIR FORCE TO ENSURE THE ABILITY OF JUDGE ADVOCATES TO PARTICIPATE COMPETENTLY IN CAPITAL CASES, NATIONAL SECURITY CASES, SEXUAL ASSAULT CASES, AND MILITARY COMMISSIONS

a. Judge Advocate Professional Development

Judge advocate and paralegal professional development is coordinated by TJAG's Professional Development Directorate (AF/JAX), which is responsible for the administration of human capital policies, standards, and processes involving JAG Corps force management, manpower and organization, deployment taskings, assignments, and officer recruiting and accessions.

In FY24, the JAG Corps continued to implement and further develop the new military justice professional development model, called the Career Litigation Development Plan (CLDP), to ably resource and manage military justice assignments and litigation opportunities to ensure judge advocates are sufficiently adept and experienced at serving in critical roles in the military justice system over the course of a career. The CLDP deliberately vectors certain judge advocates through successive military justice-focused assignments to create and maintain specialists in litigation and the administration of military justice. These assignments include positions where judge advocates represent individuals or the United States Government in trial-level litigation and appellate proceedings, develop military justice policy, serve as military justice instructors and military judges, and advise on or administer matters across the continuum of discipline.

The CLDP establishes five levels of competency, with special designations and training requirements at each level. This model incorporates achievable processes

to measure, track, and develop expertise in all aspects of litigation, including prosecution, defense, and victim representation functions. This model is designed to ensure that highly capable and experienced judge advocates are involved in every stage of the military justice process across the continuum of rank and responsibility over the course of a military career.

In addition to implementing the CLDP, the DAF, through the JAG Corps, continued to resource the OSTC, as directed by the FY22 NDAA and further implemented by E.O. 14103. The mission of the OSTC is to provide expert, specialized, independent, and ethical representation of the United States in the investigation and trial-level litigation of covered offenses as prescribed by Article 1(17), UCMJ. Although the OSTC is independently organized under the Secretary of the Air Force, the JAG Corps is responsible for organizing, training, resourcing, and equipping the requirements of the OSTC.

To ensure qualified and experienced judge advocates are assigned to roles within the OSTC, the JAG Corps has developed a robust staffing process for this office. This includes an assignment selection process which analyzes multiple data points, including prior military justice experience and duties, military justice and litigation training, criminal justice experience prior to military service, the number and types of courts-martial and other proceedings participated in, military grade and assignment history, temperament and interpersonal qualities, levels of civilian and military education, and personal interest in criminal litigation. After these factors are considered, candidates are vetted with OSTC's leadership for fitness for duty in the position based on a holistic review of each candidate's experience, expertise, and acumen for litigation. Once the most qualified candidates are identified for the OSTC, TJAG personally assesses their qualifications and assigns them to duty within the OSTC.

In addition to this selection process, judge advocates selected for OSTC positions are also required to complete a foundational STC qualification course before performing duties. OSTC leadership will continuously monitor the performance of each judge advocate assigned to the OSTC to ensure the requisite proficiency and performance is maintained. Should proficiency standards not be maintained, procedures have been established for the removal of judge advocates from these positions as necessary. Fixed terms of three-year assignments have been established for OSTC positions to ensure judge advocates develop and maintain optimal effectiveness.

In order for OSTC to meet full operational capacity by 27 December 2023, the JAG Corps assigned a cadre of 39 judge advocates dedicated to the investigation and prosecution of covered offenses. Additionally, the JAG Corps has a Secretary of the Air Force approved resourcing plan to increase OSTC staffing through FY 2027 to meet anticipated increases in reports of covered offenses, investigations, and courts-martial.

b. Trial Counsel

(1) Office of Special Trial Counsel:

FY24 was a significant year for DAF OSTC as the unit reached full operational capability on 27 December 2023. OSTC's exclusive authority over certain covered offenses under the UCMJ went into effect on 28 December 2023. Additionally, effective 28 December 2023, OSTC was empowered by statute to exercise discretionary authority over certain victim-based offenses that occurred prior to that date. Using this newly established discretionary authority, STCs worked closely with legal offices regarding cases that were already well underway to trial by court-martial. OSTC thoroughly screened pending cases and exercised authority over those cases where the unit was able to expedite and increase effectiveness of case processing and prosecution. In cases already proceeding to trial, OSTC did not assert full authority to avoid unnecessarily injecting delays, and instead provided prosecutorial support to the installation legal offices.

OSTC is organized into a Headquarters office at Joint Base Anacostia-Bolling, Washington D.C., along with six District offices throughout the world. Each District office is led by a Lieutenant Colonel (O-5) District Chief with significant military justice experience. The District Chiefs lead staffs of STC and OSTC paralegals. STCs serve in Investigation Prosecution Support Teams (IPST) and litigation roles, supporting the investigation and leading the prosecution of covered, known, and related offenses. OSTC exercises authority over these offenses from notice of an allegation until trial adjournment or deferral to command.

In FY24, TJAG, at the recommendation of the LSTC, certified 23 new STCs to reach a total of 42 active duty and reserve STCs certified to serve in six OSTC district offices worldwide. STC candidates were selected because of their skill as special victim litigators with substantial training, experience, and demonstrated proficiency in executing, overseeing, and supervising litigation duties.

The DAF also conducted its third annual STC Qualification Course in FY24. The STC Qualification Course included lectures and practical exercises, testing the candidate's knowledge and ability to manage the investigation and prosecution of covered offenses. The STC Qualification Course culminated in a final exam, through which candidates demonstrated their understanding of how to effectively prosecute offenses such as interpersonal violence, sexual assault, child abuse and exploitation; and an understanding of the Uniform Rules of Practice before the Air Force Courts-Martial, the Manual for Courts-Martial (MCM), and other applicable law and policy. In addition to the Qualification Course, all STC candidates who attended the DAF OSTC Annual Training underwent a panel interview with sitting STCs, and participated in two additional advanced litigation training courses

Within OSTC, FY24 marked the stand-up of IPST. IPST attorneys began working with both military and civilian investigative agencies as well as with local legal offices to ensure crucial investigation steps were completed in covered, known, and

related offense cases. On average from 1 January 2024 – 30 September 2024, OSTC manages an average caseload of almost 1,000 IPST cases involving covered, known, and related offenses.

(2) District Trial Counsel:

District Trial Counsel (DTC) are responsible for serving as senior litigation support for non-covered offense cases throughout the DAF. DTC assist base level prosecutors with reviewing evidence, drafting charges, consulting with investigators, and by serving as lead prosecutors in court. TJAG assigns judge advocates to serve as DTC only after significant vetting and based on recommendations from the JAG Corps Chief Prosecutor and Professional Development Division.

Under the supervision of the O-6 Chief Prosecutor, the DTC program consists of six experienced trial practitioners strategically located throughout the world. The DTC are supervised by the Director of Operations - Government Trial and Appellate Operations Division (JAJG), who is JAJG's focal point for issues related to the training and prosecution of complex non-covered offense cases.

c. Defense Counsel

The Trial Defense Division (JAJD) provides criminal defense services for eligible Airmen and Guardians within the DAF. The Division Chief, together with the Deputy Chief and Division Manager, oversee trial defense operations from Joint Base Andrews, Maryland, as provided by the Division's worldwide team of Area Defense Counsel, Defense Paralegals, Senior Defense Counsel, Chief District Defense Counsel, Defense Investigators, and Defense Paralegal Managers. Also included within the Division is the Defense Counsel Assistance Program, which consists of a civilian employee in the grade of GS-15 who provides training, resources, and assistance for defense counsel worldwide.

In addition to the Air Force Rules of Professional Responsibility and their respective state bar rules, JAJD personnel must comply with the Trial Defense Division Charter, which defines the type of defense services that may be provided by Division personnel and makes clear to whom those services may be provided. The Division's Charter also provides guidance to defense counsel and their teams as they represent clients.

Area Defense Counsel represent Airmen and Guardians who are facing adverse action ranging from administrative personnel matters to courts-martial. Area Defense Counsel begin their defense careers by defending individual clients in matters such as nonjudicial punishment, and by usually acting as second-chair defense counsel on courts-martial while being supervised by a Senior Defense Counsel. Senior Defense Counsel mentor Area Defense Counsel and are detailed as lead counsel in more complex cases or cases where an Area Defense Counsel has requested assistance. As Area Defense Counsel increase their skill and experience, their supervising Senior Defense Counsel and Chief District Defense Counsel may allow them to defend

court-martial clients alone or to act as lead defense counsel at trial along with a less experienced Area Defense Counsel serving as second chair.

During FY24, in addition to the four leadership positions previously noted, JAJD consisted of 83 Area Defense Counsel, 72 Defense Paralegals, 15 Senior Defense Counsel, three Defense Paralegal Managers, six Chief District Defense Counsel, and eight Defense Investigators. Each Chief District Defense Counsel leads Division personnel who fall within their respective districts. There are four districts in the Continental United States (Districts 1-4), one encompassing United States Air Forces Europe (USAFE) (District 5), and another consisting of Pacific Air Forces (PACAF) installations (District 6). The three Defense Paralegal Managers are assigned to Districts 1/5, Districts 2/6, and Districts 3/4.

Defense investigators are assigned to eight billets worldwide, where they assist defense counsel with development of investigative strategies, conduct witness interviews, and provide formal and informal instruction on how to best capture evidence that might be of use at court-martial or in other adverse proceedings. Joint Base Langley-Eustis, Virginia (District 1), Travis Air Force Base, California (District 2), and Joint Base San Antonio-Randolph, Texas (Districts 3 and 4), each serve as home station for two defense investigator billets responsible for investigations within their continental United States (CONUS) districts. Ramstein Air Base, Germany (District 5), and Kadena Air Base, Japan (District 6), each serve as home station for a single defense investigator who assists, respectively, on cases arising in the United States Air Forces in Europe (USAFE) and Pacific Air Forces (PACAF) Major Commands. Together, these professionals provide defense services to Airmen and Guardians around the world.

Throughout FY24, JAJD personnel continued to demonstrate excellence while serving as advocates and representatives for their clients. The continuing success of the DAF's Area Defense Counsel program is largely attributable to its independence and the effective and zealous advocacy of assigned personnel. Training remains a top priority to ensure effective, quality representation of clients and to maintain a team of defense counsel with the right skills and experience to ensure outstanding advocacy even in the most complex cases, including those involving allegations of sexual assault and domestic violence.

In FY24, all new JAJD personnel attended one of two Defense Orientation Courses (DOC) that were held at the Air Force Judge Advocate General's School (AFJAGS). DOC is designed to train new Area Defense Counsel and Defense Paralegals on client and office management as well as on defense specific advocacy concepts. DOC is taught by experienced Senior Defense Counsel and Defense Paralegal Managers. Some Area Defense Counsel also had the opportunity to attend the two-week Trial and Defense Advocacy Course (TDAC). TDAC was hosted by the AFJAGS twice in FY24. It is a more intensive advocacy course providing both Trial Counsel and Area Defense Counsel an opportunity for practical, scenario-based training and an opportunity to obtain constructive feedback from more experienced litigators. TDAC

challenges Trial and Defense Counsel by having them prepare and execute each stage of a trial, from *voir dire* to the sentencing phase.

The AFJAGS also hosted the Advanced Sexual Assault Litigation Course (ASALC)/Advance Trial Advocacy Course (ATAC) in FY24. This course was attended by some Area Defense Counsel and some Senior Defense Counsel and their Trial Counsel counterparts. ASALC/ATAC is taught by experienced litigators, an acting coach, and forensic experts from inside and outside of the Department of Defense (DoD). The goal of the course is to further hone the skills of our more seasoned practitioners by presenting them with the opportunity to practice advanced trial advocacy techniques.

In FY24, JAJD hosted its first Senior Defense Counsel Qualification Course and Leadership Summit. This new one-week course was designed by JAJD personnel and approved by TJAG as the trial defense counterpart to a similar course designed to train senior prosecutors selected for assignment within the OSTC. The course took place at the AFJAGS in May 2024. Incoming Senior Defense Counsel received training on how to lead and develop the defense counsel and defense paralegals they are expected to supervise, both in and out of the courtroom. Additionally, judge advocates who were selected for assignment as a Senior Defense Counsel were trained on and required to demonstrate knowledge of the law and a high degree of competence in trial litigation through exercises and a written examination. A passing score, as certified by the Chief, JAJD, was required before Senior Defense Counsel candidates were designated as fully trained and prepared to supervise others in the representation of Airmen and Guardians.

In FY24, JAJD also conducted 5 virtual litigation training events, referred to as District Advocacy Remote Trainings (DARTs). These DARTs provided advanced advocacy and leadership training to defense counsel and paralegals, as well as an opportunity for leadership to connect, albeit virtually, with geographically separated personnel.

As fully implemented in FY24, JAJD gained the authority to independently authorize and employ experts for trial preparation with the appointment of seven Defense Expert Authorization Officials (DEAOs). These seven DEAOs are assigned to JAJD and at a minimum hold the position of Chief District Defense Counsel. DEAOs authorize or deny expert requests submitted by defense counsel. Authorized requests are funded by the general court-martial convening authority over the relevant case.

d. Victims' Counsel

The Victims' Counsel Division (Jajs) maintained 49 operating locations worldwide with five Chief District Victims' Counsel; three District Paralegal Managers; 53 Victims' Counsel; 48 Victims' Paralegals; and a Headquarters office at Joint Base Andrews comprised of an O-6 Division Chief, an O-5 Deputy Chief, a GS-14 Chief of Appellate and Outreach, an O-4 Chief of Training and Programs, and an E-8 Senior Paralegal Manager.

JAJA represents victims of sexual assault, domestic violence, and interpersonal violence as authorized by the Secretary of the Air Force's inherent authority to direct the operations of the DAF. *See* 10 U.S.C. § 9013 and 10 U.S.C. § 1044.

Additionally, the Secretary of the Air Force has authorized exceptions to statutory eligibility requirements on a case-by case basis. Finally, in accordance with TJAG's authorities outlined in DAFI 51-101, *The Air Force Judge Advocate General's (AFJAG) Corps Operations, Accessions, and Professional Development*, para. 1.2, TJAG is responsible for recruiting, selecting, training, and assigning judge advocates and civilian attorneys within the DAF as Victims' Counsel.

All Victims' Counsel must attend the DAF Victims' Counsel Course (VCC), or another service's victims' counsel certification course, prior to representing clients. At the May 2024 VCC, hosted at the AFJAGS, 29 incoming DAF VCs and 15 incoming DAF Victims' Paralegals received 76 blocks of tailored instruction on the provision of advice and legal representation of adult and child victims of sex-related and domestic violence offenses, and adult victims of interpersonal violence. The course also included one Special Victims' Counsel from a sister service. This year's DAF VCC included tactical practitioners and subject matter experts, as well as a survivor's personal experience. In addition to certifying new Victims' Counsel and Victims' Paralegals at the DAF's VCC, one DAF Victims' Counsel attended the in-person Army Special Victims' Counsel Course in August of 2024 and one DAF Victims' Counsel attended the in-person Navy Victims' Legal Counsel Course in April.

Throughout the year, JAJA sent Victims' Counsel and Victims' Paralegals to many different training opportunities and conferences. The Division and the individual Districts also held monthly training events. Additionally, Division personnel attended monthly training on the Military Justice Appellate Process, facilitated by the Chief, Appellate and Outreach who was the DoD's first Civilian Appellate Victims' Counsel, inspiring other services to create similar positions this past year. Training topics included: DuBay hearings, automatic appeals & unanimous verdicts, clemency & parole, post-trial hearings, writ petitions under Article 6b, and caselaw updates.

In addition to training, JAJA has engaged in robust appellate litigation. Victims' Counsel petitioned the Air Force Court of Criminal Appeals (AFCCA) for a writ of mandamus under Article 6b(e) in seven cases and filed three amicus briefs. Two cases were appealed directly to the Court of Appeals for the Armed Forces (CAAF). One case was certified by The Judge Advocate General to CAAF with oral argument in December 2023. CAAF granted relief to the victim-client in that case, and AFCCA issued a writ of mandamus. VCs also argued before AFCCA on an Article 6b(e) petition and once as an amicus. The appellate practice of the program continued to forge new pathways for victims to seek redress and enforcement of their rights.

In February 2024, the Division held the first-ever Victims' Counsel Advocacy Course, which was designed to build on what Victims' Counsel and Victims' Paralegals learned at VCC and further hone their litigation, advocacy, and client

representation skills. This course was five weeks long – four weeks of virtual teaching blocks and motion writing exercises that culminated in a one-week in-person session. Overall, 26 VCs attended 43 teaching blocks, and 26 VPs attended 14 teaching blocks. Topics included Military Rule of Evidence (MRE) 412, MRE 513, Standing, Advocacy and Communication, motion writing, writ petitions, and Victim Impact Statements. Further, VCs engaged in mock motions practice to refine their courtroom advocacy skills.

In August 2024, JAJG teamed with JAJD (Trial Defense Division) and JAJG (Appellate Government) to train at a joint service Advanced Sexual Assault and Litigation Course (ASALC). At this course, hand-selected individuals from each division were brought together to further develop litigation skills necessary for success in prosecuting and defending sexual assault cases, such as effectively presenting expert testimony and evidence, developing proper victim interview techniques and methods for presenting victim testimony, and honing advanced methods, techniques and skills necessary to conduct effective direct and cross examination of an accused.

Finally, in September 2024, the Victims' Counsel Division hosted the first Pacific Joint Service Regional Training for 24 Victims' Counsel from four Services and four OCONUS locations in the Pacific to further DoD requirements of comprehensive and integrated VC training and to maintain currency on case law, common practice, and regulations within the sister-services.

e. Appellate Government Counsel

The Appellate Government section of JAJG is located at Joint Base Andrews, Maryland, and is responsible for representing the United States on all appeals before the AFCCA and the CAAF. The section is staffed by one O-6 Division Chief, who is dual-hatted as the DAF's Chief Prosecutor for non-covered offenses, one O-5 Director of Operations, seven active-duty Appellate Government counsel, nine reserve Appellate Government counsel, and one GS-15 civilian Associate Chief/Director of Appellate Operations. Additionally, Appellate Government has one active-duty paralegal and one civilian paralegal. Appellate Government counsel represent the United States in Article 66 and Article 67, UCMJ, appeals of DAF court-martial convictions, and in Article 62, UCMJ, interlocutory appeals.

TJAG, in coordination with the JAJG Division Chief, selects officers to be Appellate Government counsel based upon their experience and capability with respect to litigation and legal writing. Appellate Government counsel are generally O-3s and O-4s. Typically, Appellate Government counsel are chosen from officers currently serving as STCs, Area Defense Counsel, Victims' Counsel, or District Trial Counsel that are recognized for their ability and desire to serve as appellate counsel.

New Appellate Government counsel participate in an JAJG orientation, as well as orientations with the AFCCA and the CAAF. During FY24, Appellate Government counsel attended two main courses to enhance their appellate advocacy. Appellate

counsel attended the Annual Joint Appellate Advocacy Training, which provides valuable instruction on appellate advocacy from plenary speakers and allows for interaction with Appellate Government counsel from all services. The Appellate Government counsel also attended the annual continuing legal education program sponsored by the CAAF, allowing for specific training on appellate advocacy run by, and from, the perspective of the appellate judges of our highest military court. All Appellate Government counsel possess training and experience in litigating sexual assault cases. In addition, the JAJG Division Chief, Director of Operations, and Associate Chief hold Top Secret clearances in the event classified matters arise on appeal.

f. Appellate Defense Counsel

The Air Force Appellate Defense Division (JAJA) is located at Joint Base Andrews and is responsible for delivering superior appellate defense services to Airmen and Guardians on appeals to the AFCCA, the CAAF, and Supreme Court of the United States. JAJA counsel are selected based upon experience and capability in litigation. In FY24, JAJA was staffed by one O-6 Division Chief, one O-5 Deputy Chief, nine active-duty appellate attorneys, two active-duty paralegals, one GS-15 attorney, and eight reserve attorneys.

In FY24, JAJA provided a two-day newcomer training course for incoming appellate defense counsel and participated in an orientation with the CAAF. Counsel provided instruction at the Joint Appellate Advocacy Training course at Fort Belvoir, Virginia, which was attended by appellate advocates from each of the military services. JAJA counsel also attended the Appellate Judges Education Institute Summit in Washington, D.C., and the North Carolina Appellate Advocacy Training in Chapel Hill, North Carolina. Additionally, JAJA continued to provide formal instruction for Senior Defense Counsel and Area Defense Counsel and collaborated with JAJD on twenty-one podcasts and one District's quarterly newsletter.

g. The Air Force Judge Advocate General's School

The AFJAGS is the educational arm of the JAG Corps. Located at Maxwell Air Force Base, Alabama, AFJAGS provides education and training in all aspects of military legal practice to attorneys and paralegals from all military services, other federal agencies, and several foreign countries. Military justice instruction topics include advocacy, administration, military rules of evidence, the rules of criminal procedure, and sexual assault policy and response. AFJAGS faculty members also provide instruction on military justice for the schools and colleges across Air University, the DAF's center for professional military education. During FY24, AFJAGS faculty members instructed more than 11,000 students at these military academic institutions. AFJAGS plays a critical role educating national security leaders in the law, to include addressing congressionally mandated military justice training for wing, deputy wing, and group commanders during the Senior Officer Legal Orientation Course. Similarly, senior DAF enlisted leaders receive essential

military justice training at the Senior Enlisted Legal Orientation Course and the Chief’s Leadership Course.

The AFJAGS flagship publication, *The Military Commander and the Law*, continues to serve as a vital resource for Air and Space Force commanders, senior enlisted leaders, and leaders at every level. It provides clear and comprehensive guidance on law and policy across all legal domains. The 2024 edition is available online. Additionally, AFJAGS published 22 articles and 14 podcast transcripts through the Air Force JAG Corps e-magazine, *The JAG Reporter*, reaching more than 20,000 users. The articles published this year focused on the JAG Corps’ 75th Anniversary and captured the history of the JAG Corps over the last 25 years. AFJAGS also produced 44 webcasts on a wide-breadth of legal topics. These webcasts are available “on demand” via AFJAGS’ web-based learning management system which is accessible to all members of the JAG Corps. Additionally, the AFJAGS Podcast recorded 14 episodes discussing relevant legal topics with 40 different guests. The podcast continues to be one of AFJAGS’ best outreach tools, having reached over 24,000 listeners in 2024. Finally, starting in 2023, AFJAGS created a new video advocacy series to showcase and demonstrate trial advocacy techniques for junior judge advocates. AFJAGS has produced six videos, with five more in production.

More than 2,800 students attended AFJAGS in-residence and distance education courses in FY24. With more than 67 AFJAGS course offerings, the following courses devoted resources to military justice-related topics:

Advanced Sexual Assault Litigation Course*
Air Command and Staff College
Annual Survey of the Law
Chaplain’s College (Basic, Deputy Wing, and Wing Chaplain Courses)
Chief’s Leadership Course
Civilian Legal Orientation Course
Court Reporter Course
Defense Orientation Course (new Area Defense Counsel and Defense Paralegals)
First Sergeant’s Academy
Gateway (intermediate leadership course for Air Force JAG Corps majors)
Guardian Orientation Course
International Officers School
Judge Advocate Staff Officer Course (initial training for new judge advocates)
Law Office Management Course
Leadership Development Course for Squadron Command
Military Justice Administration Course
Noncommissioned Officer Academy & Senior Noncommissioned Officer Academy

Office of Special Trial Counsel Initial Qualification Course
Paralegal Advanced Developmental Education Course
Paralegal Apprentice Course
Paralegal Craftsman Course
Senior Enlisted Legal Orientation Course
Senior Officer Legal Orientation Course
Squadron Officer School
Staff Judge Advocate Course
Training by Reservists in Advocacy and Litigation Skills (held regionally in the United States and overseas)
Trial and Defense Advocacy Course
Victim/Witness Assistance Program Course
Victims' Counsel Course

Several of the courses listed above involve a specific focus on sexual assault litigation using practical applications that focus on sexual assault cases: Judge Advocate Staff Officer Course, Trial and Defense Advocacy Course, Advanced Sexual Assault Litigation Course, and Training by Reservists in Advocacy and Litigation Skills. In addition, other courses, such as Advanced Trial Advocacy Course, Defense Orientation Course, and Military Justice Administration Course also contain critical updates to the law as it pertains to sexual assault in the military.

*As part of AFJAGS' continual review and update to its curriculum, the Advanced Sexual Assault Litigation Course and Advanced Trial Advocacy Course were combined in the second half of FY24 to provide a more comprehensive, practical, hands-on focus on litigating sexual assault cases. Further, AFJAGS provided support to the first two live Preliminary Hearing Officer/Legal Advisor courses produced by the Military Justice Law and Policy Division, which focused on ensuring DAF attorneys are equipped to provide critical legal analysis when serving as preliminary hearing officers and expertly guide proceedings as needed in administrative discharge proceedings.

h. Military Justice Law and Policy Division

The Military Justice Law and Policy Division (JAJM) provides military justice administration and support across the JAG Corps and is the lead on issues related to the establishment of military justice law and policy. An O-6 leads JAJM and serves a dual role as the Division Chief and as the DAF voting group member for the DoD's Joint Service Committee on Military Justice (JSC).

In FY24, JAJM initiated a complete review and rewrite of the fundamental military justice policy publication, DAFI 51-201, *Administration of Military Justice*. This change contained guidance to implement the establishment and full operational capability of the OSTC, and further guidance related to various amendments to the UCMJ and MCM, including updated rules to adopt military-judge sentencing and establish expanded appellate rights for members convicted at courts-martial. In

addition to this rewrite, JAJM published a new guidance memorandum to DAFI 51-201 which clarified certain investigative and post-trial processing requirements for installation legal offices handling alleged UCMJ offenses.

JAJM also published a guidance memorandum to DAFI 51-207, *Victim and Witness Rights and Procedures*, to renew a policy for the provision of independent civilian expert witnesses and consultant access for defense counsel, consistent with Independent Review Commission on Sexual Assault in the Military (IRC) Recommendation 1.7e. The guidance memorandum also implemented clarifications to the Victim Appellate Notification Program (VANP) to improve the process for victim notifications of hearings and decisions/orders throughout the post-trial appellate process. Separately, the guidance memorandum also established new notification requirements related to victims of domestic violence, which now require notification of specific significant events in the investigation and prosecution of domestic violence offenses, as well as specific notifications regarding decisions not to refer those allegations to court-martial and any further final disposition of such allegations.

Another primary focus for JAJM in FY24 was improvements to the catalogue of military-justice related education and trainings available to military justice practitioners. JAJM participated in a JAG Corps wide summit to identify and improve the military justice education and training curriculum. In this vein, JAJM developed a new Preliminary Hearing Officer/Legal Advisor's (PHO/LA) Training Course and Member Pool, targeted to Field Grade Officers who will serve as Preliminary Hearing Officers for an Article 32, UCMJ, Preliminary Hearing or as Legal Advisors at an administrative separation board. During the course, participants are equipped to judiciously manage the hearings and taught skills to ensure they provide critical analysis of factual and legal issues when serving in these roles. The new program also contains a PHO/LA Member Pool, managed by JAJM, whereby JAG Corps attorneys are separately nominated by their supervisor to be a member of the PHO/LA Member Pool. This centralized list of trained PHO/LA members is available as a resource for legal offices across the DAF who need a PHO/LA, greatly simplifying and streamlining the process for identifying qualified potential PHOs/LAs.

JAJM also acts as the host for the Military Justice Administration Course and Victim and Witness Assistance Program (VWAP) Symposium, each held twice annually. These courses are developed for legal office personnel in the field and provide participants with an introductory level overview of military justice and VWAP requirements and processes.

In preparation for OSTC reaching full operational capability on 27 December 2023, as well as other significant military justice revisions becoming effective on that same date, JAJM partnered with OSTC to produce two comprehensive trainings detailing all changes and the resultant impact to the military justice process. From October through December 2023, 13 JAJM attorneys and other select military justice practitioners partnered with OSTC attorneys to deliver those trainings in person to

more than 5,100 DAF command team and JAG Corps personnel at 90 installations worldwide.

JAJM teamed with other DAF stakeholders, including Equal Opportunity (EO), Security Forces (SF), Air Force Office of Special Investigations (AFOSI), and Sexual Assault Prevention and Response (SAPR), to develop new policy and training related to the investigation and processing of sexual harassment complaints, culminating in the full rewrite of DAFI 36-2710, *Equal Opportunity Program* to ensure compliance with congressional updates to 10 U.S.C. § 1561. JAJM then spearheaded multiple rounds of DAF-wide trainings which covered these major updates, resulting in the training of over 3,300 DAF personnel with a role in the processing of sexual harassment complaints, including commanders and their support staff. Ultimately, JAJM's efforts will ensure the DAF is effectively equipped to respond to, and resolve, reports of sexual harassment.

Finally, JAJM provides timely notice and advice to the field about matters of military justice law and policy. JAJM built and manages a JAG Corps-wide Microsoft Teams page to facilitate streamlined access to military justice-related policy updates, while also allowing direct subject matter expert engagement, for military justice practitioners in the field. Each year, JAJM answers hundreds of questions from practitioners across the DAF on all aspects of military justice practice from legal offices at all levels. JAJM also sends out regular policy updates through the JAG Corps Online News Service, a weekly online newsletter distributed to all members of the JAG Corps.

i. Trial and Appellate Judiciary

(1) Trial Judges:

The Chief Trial Judge, located at Joint Base Andrews, manages the Air Force Trial Judiciary (AF/JAT), which includes judges assigned to six judicial districts as well as all court reporter functions around the world. Chief District Military Judges supervise the various judges within each district. Sixteen active-duty trial judges and three reserve trial judges are stationed stateside. Four trial judges are stationed in the two overseas districts: two in Europe and two in the Pacific. The Military Justice Act of 2016, which became effective on 1 January 2019, and E.O. 14103, which in relevant part became effective on 28 July 2023, provides trial judges the authority to execute new processes including pre-referral requests for warrants, orders, or subpoenas, the use of the Judge Alone Special Court-Martial forum, various new trial procedures, and new post-trial processes requiring Statements of Trial Results and Entries of Judgment.

During FY24, to improve the accuracy and timeliness of DAF court-martial post-trial processing, AF/JAT collaborated with AF/JAJM to design and implement a SharePoint-based Dashboard to track courts-martial from the date of sentencing/acquittal until appellate review is complete. This Dashboard allows users to view the status of all courts-martial in the post-trial processing stages and quickly

identify cases nearing post-trial processing milestones contained in DAFI 51-201, *Administration of Military Justice* and *United States v. Livak*. AF/JAT also developed an End of Trial Documents checklist for use by court-reporters and installation level Trial Counsel immediately following trial to ensure accountability for all documents required for inclusion in records of trial. TJAG directed use of both the Dashboard and End of Trial Documents checklist in DAFI 51-201.

AF/JAT also works closely with judges in the other services to ensure a standardized application of military law and procedure across criminal trials conducted throughout the DoD. To that end, members of the trial judiciary attend the Military Judges' Course at the U.S. Army Judge Advocate General's Legal Center and School in Charlottesville, Virginia. The three-week course prepares judge advocates from all services for their roles as trial and appellate military judges. The course provides detailed instruction on substantive and procedural criminal law, and judicial ethics and responsibilities. The curriculum focuses on sexual assault offenses, rules of evidence applicable thereto, and victims' rights. It also covers national security concerns and instances where closed hearings are required by law.

Each year, the DAF's trial judiciary trains alongside all trial judges in the DoD. In 2024, the Air Force Trial Judiciary hosted the Joint Military Judges Annual Training in-person at Maxwell Air Force Base, Alabama. Instruction included courses on victim's rights under Article 6b of the UCMJ, sentencing evidence and methodology, updates to the rules of evidence and rules for courts martial, ethics issues involving social media, and recent appellate cases. The Military Commissions Trial Judiciary provides additional training applicable to their work.

(2) Appellate Military Judges:

During FY24, the number of active-duty appellate military judges assigned to AFCCA varied between eight and nine, and the number of reserve appellate military judges varied between four and five.

One AFCCA judge served on the United States Court of Military Commissions Review (USCMCR) in FY24. The USCMCR hears appeals in cases convened under the Military Commissions Act of 2009. The USCMCR not only hears cases with a finding of guilty from military tribunals at Guantanamo Bay, but also hears appeals on issues taken prior to and during trial.

Tenure for appellate military judges assigned to a service court of criminal appeals is for a minimum of three years, except under certain circumstances. *See* Article 66(a), UCMJ, 10 U.S.C. § 866(a); R.C.M. 1203(a); JT. CT. CRIM. APP. R. 1(c).

Judge advocates designated for assignment as military appellate judges are required to attend the three-week Military Judges' Course at The Army Judge Advocate General's Legal Center and School in Charlottesville, Virginia. AFCCA also conducts in-house initial training for newly assigned appellate judges. Seven court personnel attended the Appellate Judges Education Institute Annual Training in

Washington, D.C., from 2–5 November 2023. Several court personnel also attended the annual CAAF Continuing Legal Education and Training Program, held on 15–16 May 2024, at the Antonin Scalia Law School at George Mason University. AFCCA hosted the annual William S. Fulton Jr. Appellate Military Judges’ Conference on 18–19 September 2024 at the Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, Washington, D.C. This is a joint training event for all appellate military judges and their staff attorneys. Each of the Courts of Criminal Appeals take turns hosting this training event.

Additionally, the court support staff consists of a Clerk of the Court, two active-duty commissioners, one reserve commissioner, and one civilian paralegal during FY24. The military paralegal position has been reallocated to the Office of Special Trial Counsel. The court also hosted two Summer 2024 law students (one intern, one extern) and one Fall 2024 law student extern assigned under the AF/JAX Intern/Extern Program. The court also hosted one volunteer law student from Louisiana.

IV. INDEPENDENT VIEWS OF THE JUDGE ADVOCATE GENERAL AS TO THE SUFFICIENCY OF RESOURCES, INCLUDING TOTAL WORKFORCE, FUNDING, TRAINING, AND OFFICER AND ENLISTED GRADE STRUCTURE, TO CAPABLY PERFORM MILITARY JUSTICE FUNCTIONS

a. Total Workforce

The JAG Corps has approximately 1,225 judge advocates and 920 paralegals on active duty, who are assigned to various roles in support of military justice functions, on an annual basis. Company grade officers (O-1 to O-3) make up approximately 43% (526) of the JAG Corps’ officers. Approximately 30% (367) are majors (O-4) and approximately 18% (220) are lieutenant colonels (O-5). Colonels (O-6) and above, including one lieutenant general (O-9), one major general (O-8), and three brigadier generals (O-7) comprise approximately 10% (120) of the JAG Corps’ judge advocates. All judge advocates and paralegals begin their careers as trial counsel and military justice technicians in support of military justice functions and the prosecution of courts-martial. Currently, the JAG Corps has more than 500 personnel dedicated to specialized military justice positions including those referenced throughout this report. Opportunities in civil litigation across the JAG Corps also contribute to a robust cadre of experienced litigators. Additionally, as described above, JAG Corps personnel may now, more than ever, specialize in military justice and litigation positions at levels of increasing responsibility and expertise as they continue in their careers with the addition of the CLDP.

b. Funding

The JAG Corps, through its headquarters function AF/JA, has been highly successful in covering expenses, especially those related to military justice. In FY24, AF/JA

was successful in securing sufficient funding to cover all relevant expenses. A few highlights include the OSTC and the emerging technology requirements.

Although the OSTC is independently organized under the Secretary of the Air Force, AF/JA is responsible for organizing, training, resourcing, and equipping the requirements of the OSTC. In FY23, the OSTC stand-up cost approximately \$4M, which was resourced organically by AF/JA. In FY24, the OSTC cost approximately \$6M and it is estimated that once it achieves its projected end state, it will cost about \$8M annually. AF/JA was able to achieve an increase in its TOA to account for the OSTC requirements and assuming the amount is not reduced due to budgetary constraints, AF/JA will receive \$8M per year to cover the OSTC costs.

To address the emerging military justice technology requirements, the DAF contracted for DCMS in FY20. DCMS is the replacement program for AMJAMS, the JAG Corps' legacy military justice management system. The contract for DCMS was awarded in FY21 to begin the implementation and covers the cost of licensing, cloud hosting, and sustainment of the system. The DAF has begun the rollout of DCMS through a phased plan. The JAG Corps secured funding in FY22 through FY24 to cover the cost of the initial iterations of the DCMS program and has been approved for funding for the next five years to cover the sustainment costs.

c. Training

Judge advocates and paralegals are well and deliberately trained and developed throughout their careers, both at the local and enterprise level. AF/JAX, in coordination with subject matter experts and the AFJAGS, continuously reviews, updates, and develops curriculum to meet the needs of the JAG Corps, thus ensuring currency and relevance in continuing education needs.

AF/JAX participated in an AF/JA Military Justice Training Review Summit, which gathered to review military justice courses offered by the JAG Corps. The Summit was designed to ensure the JAG Corps' military justice training continues to hone and preserve expertise at the tactical, operational, and strategic levels of military justice.

AF/JAX centrally managed JAG Corps attendance at military justice courses within the JAG Corps and at Sister Service schools. In FY24, AF/JAX selected 770 students to attend courses with military justice training topics—many students attend multiple courses during the year. AF/JA also approved the creation of the Preliminary Hearing Officer-Legal Advisor Training Course, a course aimed at providing Field Grade Officers certified under Article 27(b), UCMJ, with vital advanced training on the rules and procedures governing their participation as Preliminary Hearing Officers during preliminary hearings conducted in accordance with Article 32, UCMJ and Legal Advisors in administrative discharge boards, the first iteration of which was conducted in FY24. Additionally, AF/JAX selected judge advocates and paralegals to attend a pilot, interactive course aimed at preparing military litigators and litigation support professionals to navigate the intricate landscape of digital evidence.

d. Officer and Enlisted Grade Structure

Area Defense Counsel and Victims' Counsel generally serve in the grade of O-3. They are supported by Defense Paralegals and Victims' Paralegals, respectively, who serve in the grades of E-4 through E-7. Paralegals are not eligible to become Defense Paralegals and Victims' Paralegals until they meet certain professional requirements called "skill levels." Paralegals enter their first assignment at a skill level of three, and they must gain the next skill level, five, through on-the-job training and by satisfying academic requirements. Once paralegals meet the five-level requirements, they are eligible for selection as Defense Paralegals and Victims' Paralegals. The final level, seven, is achieved by qualifying for, attending, and completing an eight-week in-residence course held at the AFJAGS.

Area Defense Counsel and Victims' Counsel are capable of advocating fully and zealously without regard to rank differences between counsel, their clients, and decision makers. Both have independent reporting chains from the installations they support, free of undue command influence. Area Defense Counsel report to Senior Defense Counsel, who generally serve in the grade of O-4 and are responsible for a geographic region, as noted above. Senior Defense Counsel, in turn, report to Chief District Defense Counsel, who serve in the grades of O-4 and O-5, depending on the size of the district to which they are assigned. Victims' Counsel report to Chief District Victims' Counsel, who serve in the grades of O-4 or O-5, depending on the size of the district to which they are assigned, and have a broader scope of responsibility in terms of personnel.

Judge advocates assigned to the Office of Military Commissions, to include the Judiciary, Convening Authority, Prosecutor, or Military Commissions Defense Organization, are generally in the grades of O-3 to O-5.

The new OSTC exercises authority over investigation and trial-level litigation of covered offenses independent of both DAF command structures and the JAG Corps. The LSTC, a general officer, reports directly to the Secretary of the Air Force, without intervening authority. Assigned STC are experienced, trained judge advocates who are generally in the grades of O-3 to O-4 and report to Chief Special Trial Counsel at each district location generally in the grade of O-5, who in turn report to the LSTC.

Conclusion

The demonstrated excellence of attorneys and legal professionals across the DAF JAG Corps during FY24 is apparent throughout the notable accomplishments detailed in this report. Chief among them is the smooth, seamless transition to a military justice system that now includes OSTC acting under their exclusive court-martial authority for certain covered offenses. JAG Corps practitioners have demonstrated flexibility in navigating these new processes and requirements, while continuing to ensure commanders across the DAF are

provided the tools to promote good order and discipline in their units, and thereby ensure accomplishment of the DAF's critical mission set.

The JAG Corps also implemented numerous enterprise-wide process improvements, including the continued implementation of IRC recommendations, such as updates to the processing and investigation of sexual harassment complaints. The DAF's military justice system remains strong and appropriately balances the competing interests of all its stakeholders.

Appendix

DEPARTMENT OF THE AIR FORCE MILITARY JUSTICE STATISTICS

Report Period: FY 2024

PART 1 – PENDING COURTS-MARTIAL [A]			
TYPE COURT	PREFERRED AND PENDING DISPOSITION DECISION	REFERRED	TOTAL
GENERAL		168	
BCD SPECIAL		133	
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))		8	
SUMMARY		48	
TOTAL:	104	357	461

PART 2 – BASIC COURTS-MARTIAL STATISTICS				
TYPE COURT	TRIED	CONVICTED	ACQUITTALS	INCREASE (+)/ DECREASE (-) OVER FY23 IN CASES
GENERAL [B]	169	93	42	+9.7%
BCD SPECIAL[C]	101	76	18	+17.4%
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))	12	9	3	+20%
SUMMARY	49	47	2	-44.9%
OVERALL CASES RATE OF INCREASE (+)/DECREASE (-) FROM FY 23				-2.4%

PART 3 – ACCUSED DEMOGRAPHIC DATA												
	Total	Gender		Ethnicity [D]		Race						
		Male	Female	Hispanic / Latino	Non-Hispanic	American Indian / Alaska	Asian	Black / African	Native Hawaiian / Pacific	White	Other	Unknown
General	169	162	7	21	148	0	0	33	0	116	17	3
BCD Special	101	88	13	9	92	0	0	37	3	50	11	0
Military Judge Alone Special	12	10	2	1	11	1	0	3	0	6	2	0
Summary	49	43	6	9	40	0	0	15	2	26	6	0

PART 4 – VICTIM DEMOGRAPHIC DATA [E]												
	Total	Gender		Ethnicity [F]		Race						
		Male	Female	Hispanic / Latino	Non-Hispanic	American Indian / Alaska	Asian	Black / African	Native Hawaiian / Pacific	White	Other	Unknown
General	195	18	177	22	173	0	5	10	1	86	6	87
BCD Special	80	28	52	7	73	1	0	3	0	36	2	38
Military Judge Alone Special	4	1	3	0	4	0	0	0	0	2	0	2
Summary	16	8	8	4	12	0	0	3	0	4	1	8

PART 5 – DISCHARGES APPROVED/ENTERED ON ENTRY OF JUDGMENT		
GENERAL COURTS-MARTIAL (CA LEVEL) NUMBER OF DISHONORABLE DISCHARGES/DISMISSALS	41/8	
NUMBER OF BAD-CONDUCT DISCHARGES	24	
SPECIAL COURTS-MARTIAL (CA LEVEL) NUMBER OF BAD-CONDUCT DISCHARGES	31	

PART 6 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY TJAG		
ARTICLE 66(b)(1) – APPEALS BY ACCUSED	40	
ARTICLE 66(b)(2) – FORWARDED BY TJAG	0	
ARTICLE 66(b)(3)/ARTICLE 66(b) (Pre-MJA16) – AUTOMATIC REVIEW	103	
FOR EXAMINATION UNDER ARTICLE 69(a) (Pre-MJA16 Cases) [G]	0	
FOR EXAMINATION UNDER ARTICLE 69 (Post-MJA16 Cases) [H]	0	

PART 7 – WORKLOAD OF THE AIR FORCE COURT OF CRIMINAL APPEALS		
TOTAL CASES ON-HAND BEGINNING OF PERIOD	148	
TOTAL CASES REFERRED FOR REVIEW [I]	183	
TOTAL CASES REVIEWED [J]	160	
TOTAL CASES PENDING AT CLOSE OF PERIOD	161	
RATE OF INCREASE (+)/DECREASE (-) OVER NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD	-4	

PART 8 – ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES	
PERCENTAGE OF CCA-REVIEWED CASES FORWARDED TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES (63/160)	39.3%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	-16.2%
PERCENTAGE OF TOTAL PETITIONS GRANTED (15/63)	23.8%
PERCENTAGE OF INCREASE (+)/DECREASE (-) OVER PREVIOUS REPORTING PERIOD	+128%
PERCENTAGE OF PETITIONS GRANTED OF TOTAL CASES REVIEWED BY CCA (15/160)	9.3%
RATE OF INCREASE (+)/DECREASE (-) OVER THE NUMBER OF CASES REVIEWED DURING LAST REPORTING PERIOD	+89.7%

PART 9 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ [G]		
TOTAL PENDING BEGINNING OF PERIOD		1
RECEIVED		0
DISPOSED OF		1
RELIEF GRANTED	0	
RELIEF DENIED	0	
NO JURISDICTION	1	
WITHDRAWN	0	
TOTAL PENDING AT END OF PERIOD		0

PART 10 – ORGANIZATION OF COURTS [K]		
TRIALS BY MILITARY JUDGE ALONE		
GENERAL COURTS-MARTIAL	80	
SPECIAL COURTS-MARTIAL	75	
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))	12	
TRIALS BY MILITARY JUDGE WITH MEMBERS		
GENERAL COURTS-MARTIAL	49	
SPECIAL COURTS-MARTIAL	19	

PART 11 – STRENGTH [L]		
AVERAGE ACTIVE DUTY STRENGTH	320,947	

PART 12 – NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ)		
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	3,909	
RATE PER 1,000	12.17	
RATE OF INCREASE (+)/DECREASE (-) IN NJPs OVER FY23	+6.34%	

Explanatory Notes

[A] Data for cases pending as of 30 September 2024.

[B] The remaining 34 cases were dismissed.

[C] The remaining 7 cases were dismissed.

[D] Gender, racial and ethnic demographic data is self-reported by servicemembers and pulled from AFPC databases by DCMS. Any unaccounted for numbers in ethnic demographic data reflects either “unknown,” “none,” or “declined to respond,” answers from servicemembers. The results of DCMS data pulls for ethnicity yield only Hispanic and non-Hispanic categories such that the specific numbers for each of the other categories is unknown.

[E] The victim demographic data contained with this table refers only to victims named in a specification. Figures may not equate to number of courts-martial, as some courts-martial may involve no or multiple victims. Victim data includes tried and pending cases.

[F] Gender, racial and ethnic demographic data is self-reported by servicemembers and pulled from AFPC databases by DCMS. Any unaccounted for numbers in ethnic demographic data reflects either “unknown,” “none,” or “declined to respond,” answers from servicemembers. The results of DCMSS data pulls for ethnicity yield only Hispanic and non-Hispanic categories such that the specific numbers for each of the other categories is unknown.

[G] Refers to Article 69(a), UCMJ, in effect before the Military Justice Act of 2016, whereby TJAG reviewed any general court-martial case that did not qualify for Article 66 review.

[H] Refers to the current Article 69, UCMJ, whereby the accused may petition TJAG for relief after completion of an initial review under Article 64 or Article 65.

[I] Includes opinions and orders terminating cases and withdrawals from appellate review.

[J] Figure includes applications for relief under both the pre-Military Justice Act of 2016 Article 69(b) and the current Article 69.

[K] Figure includes cases tried to completion where the Court-Martial Order or the Entry of Judgment was completed within FY24.

[L] Figure includes only active component Airmen and Guardians and does not include the Air Force Reserves or the Air National Guard.

Distribution

The Honorable Roger Wicker
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DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
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WASHINGTON, DC 20380-1775

Report to Congress

U.S. Marine Corps Report on Military Justice for Fiscal Year 2024

31 December 2024

Prepared by:

HEADQUARTERS UNITED STATES MARINE CORPS
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The estimated cost of this report or study for the Department of Defense is approximately \$3,970 in Fiscal Years 2024 - 2025. This includes \$5 in expenses and \$3,970 in DoD labor.

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**REPORT OF THE
STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE MARINE CORPS
ARTICLE 146a, UNIFORM CODE OF MILITARY JUSTICE
1 OCTOBER 2022 TO 30 SEPTEMBER 2023**

1. Introduction. The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) submits this report in accordance with Article 146a, Uniform Code of Military Justice (UCMJ).¹ This report illustrates the state of military justice practice in the Marine Corps and highlights significant initiatives undertaken during Fiscal Year 2024 (FY24). Most notably, in accordance with the military justice reform measures in the National Defense Authorization Act (NDAA) for Fiscal Year 2022, the Marine Corps Office of Special Trial Counsel (OSTC) attained full operational capability by 28 December 2023. Special Trial Counsel (STC) and civilian and enlisted support personnel are in place across the Headquarters element, four regional offices, and nine installations. The OSTC stands ready to execute its mission to provide expert, specialized, independent, and ethical representation of the United States in the investigation and trial-level litigation for offenses over which the OSTC exercises authority, including those covered offenses defined in Article 1(17), UCMJ. Additionally, in FY24 the Marine Corps continued implementation of the recommendations of the Independent Review Commission on Sexual Assault in the Military (IRC) approved by the Secretary of Defense and began efforts to respond to the recommendations of the Internal Review Team on Racial Disparities in the Investigative and Military Justice Systems.

2. Data on Numbers and Status of Pending Cases. At the end of FY24, the Marine Corps had 83 pending cases. Of those, 40 were referred to trial by court-martial and the remaining 43 cases were preferred and pending a disposition decision. The Appendix includes data pertaining to these pending cases as well as cases tried to completion in FY24.

3. Information on the Appellate Review Process

a. Compliance with Processing Time Goals. The Military Justice Act of 2016 (MJA 16) modified the post-trial process, superseding the *Moreno I* and *Moreno II* clocks while leaving *Moreno III* untouched.² JAG Instruction 5814.1E establishes new post-trial processing deadlines to ensure that cases are docketed with the Navy Marine Corps Court of Criminal Appeals (NMCCA) within 150 days of the announcement of sentence. In FY24, three Marine Corps cases exceeded this combined Post-Trial I/II deadline. No Marine Corps cases exceeded the Post-Trial III/*Moreno III* deadline. *United States v. Smiley* was docketed with NMCCA on day 235 (exceeded by 85 days). (Although this case exceeded the deadline significantly, the delay was at the request of the accused, in order to execute and perform on a post-trial agreement with the Convening Authority.) *United States v. Morales* was docketed with NMCCA on day 159 (exceeded by 9 days). *United States v. Murphy* was docketed with the NMCCA on day 154 (exceeded by 4 days).

¹ The Marine Corps provides information within this report on Marine Corps cases, meaning those cases in which a Marine Corps convening authority refers charges to a court-martial. However, within the Department of the Navy, certain procedures within the military justice system, such as appellate practice, are under the cognizance of the Navy JAG.

² *United States v. Rivera*, 81 M.J. 741, 745 (N-M Ct. Crim. App. 2021).

b. Descriptions of the circumstances surrounding cases in which general or special court-martial convictions were reversed by the NMCCA because of command influence or denial of the right to speedy review or otherwise remitted because of the loss of a record of trial or other administrative deficiency: None.

c. Analysis of each case in which a provision of the UCMJ was held unconstitutional: None.

d. Analysis of each case in which the NMCCA made a final determination that a finding of a court-martial was clearly against the weight of the evidence, including an explanation of the standard of appellate review applied in such case. In *United States v. Aguilar*, 2024 CCA LEXIS 398, the NMCCA set aside Appellant's conviction for extramarital sexual conduct because the evidence admitted at trial was factually insufficient to sustain the conviction. At trial, Appellant's ex-wife testified that though she had moved away from Appellant, the two intended to reconcile. However, in a state court proceeding prior to the court-martial, a civilian judge ruled that Appellant's ex-wife moved away and "intended to remain separate and apart permanently." This conflict was left unresolved at trial, calling into question Appellant's actual relationship status and thus whether his conduct was of a nature to bring discredit upon the armed forces. Applying the factual sufficiency standard for offenses that occurred prior to 2021, the Court held that Appellant's conviction for extramarital sexual conduct was factually insufficient. The Court affirmed the remaining findings. In *United States v. Hirst*, 2024 CCA LEXIS 372, applying the standard of review for offenses that occurred on or after 1 January 2021 pursuant to section 542(e)(2) of the NDAA for Fiscal Year 2021, Pub. L. 116-283, 134 Stat. 3612-3613, the NMCCA set aside Appellant's conviction for wrongful use of a controlled substance. The Court identified a number of issues with the handling of Appellant's urine sample, to include a six-week delay in shipping, issues relating to the chain of custody documentation, and other bottles leaking in the package containing Appellant's sample. The Court also recognized historic issues with this particular urinalysis program, such as numerous error codes documented by the Navy Drug Screening Lab (i.e. missing signatures, missing documents, leaking bottle, etc.), the failure to test observers, and the delay in processing other samples. The Court also noted that one of the secondary observers from the Navy Drug Screening Lab made a previously documented mistake in processing a different sample one month prior to the testing of Appellant's sample. The Court and compared those issues to the "impressive" character witnesses that testified in Appellant's defense. One witness in particular testified to specific acts of heroism that Appellant displayed while in combat.

4. Measures Implemented by the Marine Corps to Ensure the Ability of Judge Advocates to Serve in Certain Billets and be Detailed to Certain Types of Cases. The Marine Corps military justice community is comprised of trial counsel, defense counsel, victims' legal counsel (VLC), appellate trial and defense counsel, trial and appellate military judges, staff judge advocates, enlisted legal services specialists, legal administrative officers, civilian paralegals, and Litigation Attorney Advisors (LAA). To accomplish the military justice mission, this professional community relies on the experience of its practitioners, close supervision, and robust training. The measures specific to trial counsel, defense counsel, VLC, and military judges are detailed below, in addition to more general measures to build upon the qualifications of our military justice practitioners. One significant cross-cutting item of interest is the Marine Corps' efforts to

retain skilled and experienced litigators with backgrounds across the various military justice functional areas.

a. Trial Counsel

(1) Marine Corps trial counsel serve within the Trial Services Organization (TSO).³ The Chief Trial Counsel of the Marine Corps (CTC), a colonel (O-6), leads the TSO and is the senior supervisory counsel of the TSO and all its regions. A major (O-4) assists the CTC and serves as the Deputy CTC for the TSO and the Director of the Trial Counsel Assistance Program (TCAP). A captain (O-3) serves as the TCAP Deputy Director. TCAP is responsible for providing ongoing assistance to trial counsel in the field and coordinating training opportunities, both internal and external to the TSO.⁴

(2) The TSO is comprised of Regional Trial Offices (RTO) in the National Capital, Eastern, Western, and Pacific Regions. Each of the four RTOs is led by a Regional Trial Counsel (RTC), who is typically a lieutenant colonel (O-5) with extensive litigation experience and is the senior supervisory counsel in each respective region. The regions are divided by installation, with each major installation within the region supported by an Installation Trial Office (ITO) led by a Military Justice Officer (MOJO), who is typically a major (O-4) with prior litigation experience. Trial counsel are assigned to ITOs and are supervised by MOJOs. The RTC are supervised by the CTC. In addition to trial counsel and supervisory counsel, the RTOs and ITOs are composed of enlisted legal services specialists who assist trial counsel with routine functions such as processing discovery material for disclosure, assisting with witness interviews, maintaining court-martial data, and similar activities. Finally, some RTOs employ a complex trial team (CTT) composed of experienced trial counsel to handle particularly complex cases within the region. Trial counsel assigned to the CTT are supervised by the RTC.

(3) The entry-level training for all Marine Corps judge advocates includes completion of the Basic Lawyer Course (BLC) and the Military Justice Orientation Course (MJOC). These courses are taught consecutively at the Naval Justice School (NJS) aboard Naval Station Newport, Rhode Island. Successful completion of the BLC and the trial counsel-track of MJOC⁵ qualifies a Marine Corps judge advocate to represent the United States as a trial counsel in special courts-martial under the close supervision of the cognizant MOJO and RTC.⁶ After

³ The TSO has an enduring mission after 27 December 2023 to prosecute offenses over which an STC does not exercise authority. Given the altered role of the TSO after 27 December 2023, some of the measures discussed in the following paragraphs, such as Special Victim Investigation and Prosecution qualification procedures, will not endure.

⁴ The primary training event attended annually by all members of the TSO is the weeklong TSO Annual Training. This event focuses on reinforcing the skills and knowledge necessary for the competent prosecution of complex cases and special victim cases. TCAP coordinates a variety of additional training opportunities for the TSO and publishes a military justice training calendar every fiscal year. The O-3 deputy TCAP billet has been vacant since April, 2024.

⁵ The MJOC is a two-week course divided into two separate tracks—one for trial counsel and another for defense counsel. The first week of MJOC consists largely of separate lectures and discussions for the trial counsel and defense counsel tracks. The second week of MJOC brings the two tracks together in a contested mock trial, including all trial phases (voir dire, opening statement, direct and cross-examinations, etc.).

⁶ U.S. MARINE CORPS, ORDER 5800.16 – Volume 16, LEGAL SUPPORT AND ADMINISTRATION MANUAL, MILITARY JUSTICE para. 022201 (14 July 21) [hereinafter LSAM – V16].

demonstrating competency at litigating special courts-martial, a trial counsel may be qualified to represent the United States as a lead trial counsel in general courts-martial.⁷

(4) Once a trial counsel acquires sufficient experience prosecuting general courts-martial and the trial counsel's supervisory counsel are confident in the individual's litigation capabilities, the RTC may qualify the trial counsel to represent the United States as lead trial counsel in special victim cases.⁸ In the Marine Corps, all special victim cases that occurred prior to Dec 28, 2023 must have a Special Victim Investigation and Prosecution (SVIP)-qualified trial counsel detailed as lead counsel.⁹ Obtaining the SVIP qualification requires the satisfaction of particular experience and training criteria in addition to successful screening by an SVIP qualification board.¹⁰ SVIP qualification boards are typically chaired by the RTC and include at least two additional supervisory counsel.

(5) To supplement the professional development of trial counsel, the TSO employs two civilian LAAs, who are civilian GS-15 employees with significant experience in criminal litigation. These civilian advisors help trial counsel prepare their individual cases. They also play a significant role in training trial counsel, with a focus on complex litigation. Trial counsel also receive assistance from the Appellate Government Division (Code 46), Office of the Judge Advocate General of the Navy (Navy OJAG). Code 46 is composed of Navy and Marine Corps judge advocates who are responsible for representing the United States on appellate matters before the Navy Marine Corps Court of Criminal Appeals and the Court of Appeals for the Armed Forces. Accordingly, judge advocates at Code 46 assist trial counsel with interlocutory appeals and other appellate matters.

(6) National security cases are uncommon and involve additional complexities associated with classified information, security, evidence handling, and clearance levels. For efficiency, trial counsel assigned to the RTO for the National Capital Region (NCR) are responsible for all national security cases in the Marine Corps.¹¹ Consolidating these cases for prosecution by a single region facilitates uniform coordination with other federal agencies in the area and enables access to courtrooms capable of handling classified information. As a result, trial counsel assigned to the NCR receive advanced training on national security litigation. Trial counsel detailed to these cases also receive assistance from Code 30, Navy OJAG's National Security Litigation Division.

(7) In FY24, no capital offenses were referred to court-martial. Although the Marine Corps infrequently litigates capital cases, procedures are in place to ensure that the trial counsel who may be called upon to prosecute a capital case possess the necessary training, experience, and support to competently do so. Any trial counsel detailed to a capital case must be SVIP-

⁷ *Id.* at para. 022202.

⁸ The Marine Corps defines a special victim case as any case involving violations of Articles 117a, 118, 119, 119a, 120, 120a, 120b, 120c, 125, 128 (for domestic violence involving aggravated assault or child abuse), 128b, 132 (when the retaliation was for reporting a sex-related offense), 134 (child pornography), and 80 (for any attempts to commit the previously identified offenses) of the UCMJ. *Id.* at para. 050101.

⁹ *Id.*

¹⁰ *See id.* at para. 022303; *see also* CTC Policy Memorandum 3-21B (Personnel Qualifications).

¹¹ LSAM – V16, *supra* note 9 at para. 061003.

qualified.¹² Additionally, the authority to detail a trial counsel to represent the government on a capital case is withheld to the cognizant RTC.¹³ Moreover, the civilian LAAs within each region are responsible for providing support on such cases.¹⁴

b. Special Trial Counsel.

(1) The second annual STC Certification Course was held in May 2024. The first week of the course took place aboard Naval Air Station North Island, Coronado, CA, where Navy and Marine Corps judge advocates trained in-person alongside their U.S. Coast Guard colleagues on substantive law, policy, practical skills, and service-specific processes and procedures. The judge advocates then attended a second week of training held aboard The Judge Advocate General's Legal Center and School in Charlottesville, VA, where judge advocates across the services received traditional classroom training focused on black letter law. All Marine Corps judge advocates in attendance had been favorably screened by a board and approved by the SJA to CMC as possessing the professional and personal qualifications to serve as STC. Successful completion of the now two-week STC Certification Course was required for Marine Corps judge advocates prior to being formally certified as Special Trial Counsel by the SJA to CMC pursuant to Article 24a, UCMJ. Marine Corps STC serve under the supervision of the Lead STC (O-7), Regional STC (O-5), and STC Team Leads (O-4).

(2) Additionally, on 15 December 2023, the Staff Judge Advocate to the Commandant modified the previously-issued criteria for Marine Corps judge advocates to qualify to become STCs, by incorporating newly-established Additional Military Occupational Specialty (AMOS) designators as the experiential baseline to become an STC. Please see paragraph 4.h, below, for further discussion of these AMOS designators.

(3) On 22 December 2023, the Lead Special Trial Counsel, BGen K. S. Woodard, issued revisions of the Marine Corps OSTC Standard Operating Procedures to comply with Executive Order 14103 of 28 July 2023 and updates to JAGINST 5800.7G CH-2 Chapter 1. Additional revisions are expected to be issued by the LSTC in the beginning of Calendar Year 2025 following the addition of sexual harassment as a covered offense.

(4) Due to promotion timelines, some of the original Marine Corps STCs were, with the approval of the Lead Special Trial Counsel, rotated out of the OSTC, or are pending orders to rotate out of the OSTC, and into other non-STC judge advocate billets across the fleet. In October 2023, April 2024, and again in October 2024, additional STC screening boards were held in order to identify qualified judge advocate replacements to backfill those STCs who left the organization or who are leaving in FY25. Among those favorably screened, two (2) reservist judge advocates were screened and certified in FY24 and placed on Active Duty Operational Support (ADOS) orders to support and reinforce OSTC operations in the Western Region. An additional six (6) reservist judge advocates were favorably screened in FY25 and are working towards attending the third annual STC certification course in April-May 2025 to become STC-certified.

¹² *Id.* at para. 050101 (defining SVIP cases to include Article 118, UCMJ).

¹³ *Id.* at para 0306.

¹⁴ *Id.* at para 0208.

(5) In June 2024, NCIS and OSTC leadership signed a Memorandum of Understanding, which memorialized the terms and conditions surrounding the embedding of NCIS Liaison Officers (LNOs) at the four OSTC regional offices (MCB Quantico, Camp Lejeune, Camp Pendleton, and Camp Butler, Okinawa), as well as at the OSTC field office aboard MCB Hawaii, to support OSTC operations. NCIS placed investigators with an 1801 designator into these LNO positions. Discussions are ongoing to have NCIS LNOs embedded at the remainder of USMC OSTC field offices as conditions permit.

(6) Since reaching FOC on 31 August 2023, and assuming its statutory duties over covered offenses on 28 December 2023, the OSTC has made significant strides in addressing identified staffing and resourcing shortfalls. First, the Marine Corps has filled all 33 special trial counsel billets, and three (3) OSTC auxiliary counsel billets, across the fleet. Additionally, the number of enlisted legal support personnel has been increased from 16 Marines at the beginning of 2024 to 28 Marines at present. On 4 November 2024, the OSTC's GS-15 Senior Policy and Training Advisor onboarded at OSTC HQ. In coordination with the Chief Trial Counsel of the Marine Corps, 11 trial counsel from the Trial Services Organization are also now on detail to OSTC field offices across the fleet on 12-month rotations. And, as previously noted, in the summer of 2024, the OSTC welcomed four NCIS investigators into its Regional offices, as well as one special agent to the MCB Hawaii OSTC field office. Finally, the OSTC has received approval to hire a total of five (5) additional GS-9 and 11 Program Management Analysts and will be receiving an additional five (5) OSTC auxiliary counsel billets to supplement its structure. It is anticipated that this additional structure and personnel will come on line in 2025.

c. Defense Counsel

(1) The Defense Services Organization (DSO) is a global law firm with the primary objectives of: 1) provide zealous, ethical, and effective legal representation in administrative and criminal matters; 2) provide highly competent policy and individual legal advice; and 3) the efficient and effective management of the organization. All defense counsel fall under the functional supervision of the Chief Defense Counsel of the Marine Corps (CDC). The CDC is an experienced judge advocate serving in the grade of O-6/Colonel.¹⁵ The CDC maintains a headquarters in Arlington, Virginia. He is assisted in his duties by a Deputy CDC in the grade of O-6/Colonel, an Operations Officer in the grade of O-5/Lieutenant Colonel,¹⁶ a Defense Counsel Assistance Program Officer in the grade of O-4/Major,¹⁷ a Legal Administration Officer in the grade of W-3/Chief Warrant Officer 3, an Enlisted Advisor in the grade of E6/Staff Sergeant, and one GS-12 Civilian Office Administrator.

(2) The DSO has four regional subcomponents: DSO East at Camp Lejeune, N.C.; DSO National Capital Region at Marine Corps Base Quantico, V.A.; DSO West at Camp Pendleton, California; and, DSO Pacific at Camp Foster, Okinawa, Japan. These regions are led by a

¹⁵ U.S. MARINE CORPS, ORDER 5800.16 – Volume 3, LEGAL SUPPORT AND ADMINISTRATION MANUAL, MARINE CORPS DEFENSE SERVICES ORGANIZATION para. 010601 (20 Feb. 18) [hereinafter LSAM – V3].

¹⁶ These billets were Deputy CDC billet was established in late Fiscal Year 2022; a pending update to the LSAM will account for this new billet.

¹⁷ LSAM – V3 at para. 010606, 010607.

Regional Defense Counsel (RDC) in the grade of O-5/Lieutenant Colonel.¹⁸ The RDC is supported by a GS13 Civilian Investigator, GS11 Paralegal, GS15 Attorney Advisor,¹⁹ and 2-3 Special Defense Counsel in the grade of O-4/Major. Special Defense Counsels are experienced trial litigators who focus primarily on covered offense and complex courts-martial cases. Each RDC is responsible for 1-3 subordinate DSO Offices led by a Senior Defense Counsel in the grade of O-4/Major. The SDC is responsible for day-to-day supervision of “line defense counsel” in the grades of O-2/First Lieutenant and O-3/Captain. Approximately 71% of judge advocates assigned to the DSO are serving in these line defense counsel billets and have 0-24 months of litigation experience.

(3) The DSO is staffed at approximately 108% of active component authorized strength; however, it has a significant shortage at critical uniformed military occupational specialty billets—specifically, Special Defense Counsel and Senior Defense Counsel (only 77%). Meanwhile, it is staffed at over 94% for civilian attorney-advisors, investigators, paralegals, and administrators, and at over 470% of reserve component authorized strength. The impact of the shortage in senior litigators is not appreciably impacting client defense services and is mitigated by a recent overstaff of junior judge advocates serving in their first tour as litigators (162% of authorized 4402 billets in the Marine DSO are currently filled). The pending assignments process for Fiscal Year 2025 will address the critical shortfall and result in over 95% of Special Defense Counsel and Senior Defense Counsel billets being filled by the summer of 2025.

(4) New Marine defense counsel receive two weeks of specialized trial advocacy focused on defense services (the Military Justice Orientation Course (MJOC)) to train them on how to effectively prepare, manage, and litigate cases from investigation through the post-trial and appellate stage. Marine defense counsel receive continuing defense training both in-person and virtually. There are quarterly Marine DSO-led trainings by supervisory counsel and DSO reserve component personnel in addition to an annual week-long worldwide DSO training event and periodic outside training opportunities at schools and other venues. In Fiscal Year 2025, there are six military trainings events offered and nine civilian training events that DSO counsel may be nominated to attend, subject to seat availability and funding. The current level of training within the DSO is sufficient; however, it takes time, both at the individual and organizational levels, to reap the benefit of any training in conjunction with practical application of knowledge and skills learned in defense services during relatively short periods of duty assignment (24-36 months).²⁰ The DSO is also challenged to conduct or facilitate meaningful training opportunities, and evaluation of such, while concurrently providing uninterrupted client defense services.

d. Victims’ Legal Counsel

(1) Marine Corps Victims’ Legal Counsel (VLC) provide legal representation to eligible victims of sexual assault, domestic violence, and other crimes throughout the military justice process. Each VLC is supervised by a Regional Victims’ Legal Counsel (RVLC) in the grade of

¹⁸ Id. at para. 010608, 010609.

¹⁹ CDC POLICY MEMORANDUM 4.2A, ATTORNEY ADVISOR MISSION AND CORRESPONDING POLICIES (16 Jan. 19).

²⁰ CDC POLICY MEMORANDUM 2.1B, NEW DSO MEMBER ORIENTATION (11 Jun. 19); CDC POLICY MEMORANDUM 4.1C, DEFENSE SERVICES ORGANIZATION ANNUAL TRAINING PROGRAM (14 Oct 22)

major (O-4) and the Chief Victims' Legal Counsel of the Marine Corps (CVLC), who is a senior Marine Corps judge advocate.

(2) To serve as a VLC, Marine Corps judge advocates are subject to a rigorous nomination, screening, interview, and vetting process.²¹ The nominee must undergo a sensitive screening process, which includes a thorough review of the nominee's Official Military Personnel File.²² The CVLC and responsible RVLC also interview the nominee. The nominee must successfully complete an approved Special Victims' Counsel (SVC)/VLC certification course. Only after successfully undergoing this complete process, will the SJA to CMC certify the nominee to serve as a VLC.

(3) Marine Corps VLC participate in several training events throughout the year. The Marine Corps Victims' Legal Counsel Organization (VLCO) hosts an all-hands annual weeklong training symposium, and individual VLC also participate in regional quarterly training events. These training efforts ensure that the VLC remain current in law and practice and remain capable of performing their duties with a high degree of proficiency. Victims' Legal Counsel also participate in a variety of civilian training events to ensure best practices from outside the military are captured, as well as appellate training provided by DoD Joint Appellate Advocacy Training (JAAT). Finally, VLCO cooperates with the Navy Victims' Legal Counsel Program (VLCP) to organize and teach a VLC certification course held at the Naval Justice School, Newport, RI.

(4) In fiscal year 2024 (FY 24), the VLCO carried out several initiatives to raise the standard of practice and provide better service and assistance to victims. Victims' Legal Counsel continue to represent small numbers of sexual harassment victims through the exception to policy (ETP) process. In most cases, representation has proven helpful, particularly when there are allegations of retaliation made in conjunction with the sexual harassment claim. The VLCO has worked closely with Marine Corps OSTC to prepare for OSTC's assumption of jurisdiction over sexual harassment cases. In addition, along with the Navy Victims' Legal Counsel Program and Naval Justice School partners, the VLCO planned and executed the third Navy-Marine Corps VLC Certification Course at Naval Justice School (NJS) in Newport, Rhode Island. The VLCO collaborated closely with Navy and NJS partners to design and implement the course, which 42 Navy, Marine Corps, Army, Air Force, and Coast Guard students attended. Among these students were 16 Marine Corps VLC and one Marine Corps paralegal.

(5) The VLCO currently has 22 active-duty VLC assigned to ten military installations in the United States and three VLC assigned overseas. Additional staff includes nine civilian paralegals, and one civilian attorney-advisor. The average number of cases per VLC was 29.4.

²¹ U.S. MARINE CORPS, ORDER 5800.16 – Volume 4, LEGAL SUPPORT AND ADMINISTRATION MANUAL, MARINE CORPS VICTIMS' LEGAL COUNSEL ORGANIZATION para. 010202, 0103 (26 Aug. 21) [hereinafter LSAM – V4]

²² *Id.* at para. 010309.

e. Trial and Appellate Military Judges

(1) All Marine Corps military judges are screened for judicial service via a competitive board process established by the Judge Advocate General of the Navy.²³ The screening process includes careful evaluation of the education, experience, accomplishments, temperament, and leadership capabilities of the candidates. Trial and appellate military judges must possess a suitable background in military justice, sound judgement, even temperament, unquestioned maturity of character, and exemplary writing skills. Each candidate seeking future assignment to the judiciary must submit an application to the Judicial Screening Board. A candidate's application must include appraisals from judges before whom they have litigated and a detailed summary of their qualifications and experience.

(2) Marine Corps judge advocates selected by the Judicial Screening Board become eligible for assignment to the judiciary. However, selection does not guarantee assignment to a judicial billet. Prior to assignment to a judicial billet, military judges must pass the three-week military judge course at TJAGLCS. The course includes detailed instruction on the court-martial process, evidence, procedure, constitutional law, judicial problem solving, and judicial methodology. It also incorporates demonstrations and practical exercises.

(3) In February 2024, the NMCTJ judges attended the Joint Military Judges Annual Training at Maxwell Air Force Base in Montgomery, Alabama with instructors from the NMCTJ, the Honorable Judge M. Tia Johnson from the Court of Appeals for the Armed Forces (CAAF), and Professor Erwin Chemerinsky, Dean and Jesse H. Choper Distinguished Professor of Law, University of California, Berkeley School of Law. U.S. Marshals also trained the judges on courtroom and personal safety. Twenty-seven active duty and reserve judges assigned to the NMCTJ participated in this three-day course, as did over 100 additional judges across all services.

(4) In October 2024, all NMCTJ judges participated in annual training provided by outside organizations and NMCTJ instructors. Training topics included evidentiary issues associated with Military Rules of Evidence 412, 413, 414, and 513, and 514, judicial ethics, and voir dire and members selection in sexual assault cases, among others.

(5) The NMCCA judges also attended the annual Fulton Conference hosted by the Air Force Court of Criminal Appeals. The Court heard from the CAAF and learned about developments in military justice, advancements in forensic technology and artificial intelligence, and judicial ethics. Members also discussed emerging trends in appellate litigation from their sister service courts of criminal appeals.

f. Military Commissions

(1) Two Marine Corps judge advocates and four legal services specialists served at the Office of the Commissions-Prosecution (OCP). The OCP uses a robust orientation program to train new counsel. All new counsel were trained in the role of the commissions, the rules and

²³ U.S. DEP'T OF NAVY, JAGINST 5817.1K CH-1, JUDICIAL SCREENING BOARD (1 Sep. 2022).

procedures of the Military Commissions Act of 2009, and litigating classified information cases under the Military Commissions Act corollary to the Classified Information Procedures Act. All counsel worked under the supervision of experienced attorneys to gain practical experience and training.

(2) Four Marine Corps judge advocates and two legal services specialists served at the Military Commissions Defense Office. Prior to assignment to one of the defense teams, each counsel receives training on the rules and procedures of the Military Commissions Act of 2019. These Marines work under the day-to-day supervision and mentorship of a managing military defense counsel and an experienced civilian attorney.

g. Master of Laws—Criminal Law. Each year, the Marine Corps board-selects approximately eight highly-qualified judge advocates to obtain a Master of Laws degree (LL.M.) in military law with a specialty in criminal law. Upon selection, these judge advocates attend the yearlong criminal law LL.M. program at TJAGLCS. Upon receipt of the criminal law LL.M., these judge advocates receive Additional Military Occupational Specialty (AMOS) 4409 (Master of Criminal Law) that identifies them as possessing specialized understanding in technical and constitutional areas of criminal law and the UCMJ. As these officers progress through their careers, they are more competitive for assignment to supervisory counsel billets within the litigation organizations and for assignment as military judges. Additionally, a Marine Corps judge advocate who obtains this LL.M. is eligible to return to TJAGLCS for assignment as a professor of law.

h. Litigation Additional Military Occupational Specialties. In Fiscal Year 2023, Judge Advocate Division developed a series of litigation-focused Additional Military Occupational Specialty (AMOS) designators intended to identify those officers with demonstrated litigation experience and expertise. Efforts to integrate these AMOS designators continued in FY24. On 15 December 2023, the Staff Judge Advocate to the Commandant modified the previously-issued criteria for Marine Corps judge advocates to qualify as Special Trial Counsel, by incorporating these newly-established litigation AMOS designators as the experiential baseline to become a Special Trial Counsel. Additionally, several OSTC and non-OSTC litigation supervisory counsel billets were coded to a corresponding AMOS appropriate expertise in the Authorized Strength Report. This coding creates an assignment preference, whereby an officer not possessing the appropriate AMOS would only be assigned to that billet by exception. An additional AMOS screening board will be held prior to the next assignments cycle to identify those with the requisite education and experience.

5. Independent Views of the Staff Judge Advocate to the Commandant of the Marine Corps on the Sufficiency of Resources to Capably Perform Military Justice Functions. As discussed in the Article 146a reports for Fiscal Years 2022 and 2023, the Marine Corps has recently grown the legal community's structure by 133 military and civilian positions through planning efforts to implement the military justice reforms of the Fiscal Year 2022 NDAA and the Secretary of Defense-approved recommendations of the IRC. The priority of effort for addressing resourcing concerns is now focused on filling those additional positions as well as ensuring that both new and existing positions are filled with personnel with the right education and experience to execute the military justice reform mission. Continued, sustainable resourcing is essential for the

Marine Corps to fully execute recent military justice reforms and perform its enduring military justice function. This includes not only the sustained operation of the OSTC, estimated to require approximately \$5 million annually, but also other initiatives to raise the bar of military justice practice in other organizations. Major components of these efforts are Defense Litigation Resource Funds (to fulfill IRC Recommendation 1.7e) and recruitment and retention incentives. The ability of the Marine Corps to retain mid-career litigators, high-performing and experienced counsel who are suited to serve as supervisory counsel, is vital to the military justice mission. As a group, these attorneys are facing the prospect of starting families while still burdened with significant student loan debt after dedicating their professional lives to public service. At the end of Fiscal Year 2023 and in the beginning of FY24, the Marine Corps began paying Judge Advocate Continuation Pay (JACP), a bonus that can be paid in three phases throughout a judge advocate's career; as of the end of FY24, the Marine Corps has paid approximately \$2.2 million in continuation pay to Marine Corps judge advocates. Continued funding of these initiatives is vital to address resourcing constraints imposed by military justice reform.

6. Conclusion. The Marine Corps has crossed the line of departure of the Fiscal Year 2022 NDAA military justice reform. As the OSTC continues to grow and develop its policies, procedures, and best practices in the exercise of its new statutory authority, it will do so with the benefit of comprehensive planning and execution to ensure it is appropriately staffed, resourced, and comprised of highly qualified counsel and support personnel. But this year's efforts have not been focused on the OSTC alone. Military justice practitioners in other organizations remain steadfast in their commitment and preparedness in executing their vital roles in a fair and impartial justice system.



D. J. BLIGH
Major General, U.S. Marine Corps
Staff Judge Advocate to the Commandant
of the Marine Corps

APPENDIX

Report Period: FISCAL YEAR 2024

PART 1 – PENDING COURTS-MARTIAL [A]			
TYPE COURT	PREFERRED PENDING DISPOSITION DECISION	REFERRED	TOTAL
GENERAL		18	
SPECIAL		18	
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))		4	
SUMMARY		0	
TOTAL:	43	40	83

PART 2 – BASIC COURTS-MARTIAL STATISTICS [B]				
TYPE COURT	TRIED	CONVICTIONS	ACQUITTALS	INCREASE (+)/ DECREASE (-) OF TOTAL CASES TRIED OVER LAST REPORT
GENERAL	75	69	6	-9.6%
SPECIAL	95	88	7	+11.8%
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))	15	7	8	+7.1%
SUMMARY	44	44	0	-30.2%
OVERALL INCREASE (+)/DECREASE (-) OF CASES TRIED OVER LAST REPORT				-6.5%

PART 3 – ACCUSED DEMOGRAPHIC DATA [B]													
TYPE COURT	Total	GENDER		ETHNICITY			RACE						
		Male	Female	Hispanic / Latino	Non-Hispanic / Latino	Unknown	American Indian / Alaska Native	Asian	Black / African American	Native Hawaiian / Pacific Islander	White	Other	Unknown
GENERAL	75	73	2	20	54	1	0	2	19	1	43	9	1
SPECIAL	95	87	8	15	80	0	0	4	24	0	57	10	0
MJ SPECIAL (Art. 16 (c)(2)(A))	15	13	2	5	10	0	0	0	5	0	8	2	0
SUMMARY	44	39	5	6	32	0	1	0	4	1	32	0	0

PART 4 – VICTIM DEMOGRAPHIC DATA [C]														
TYPE COURT	Total	GENDER			ETHNICITY			RACE						
		Male	Female	Unk	Hispanic Latino	Non-Hispanic Latino	Unk	American Indian Alaska Native	Asian	Black African American	Native Hawaiian Pacific Islander	White	Other	Unk
GENERAL	67	23	44	0	14	9	44	0	0	3	0	19	0	45
SPECIAL	85	26	57	3	1	28	56	1	3	4	1	19	1	56
MJ SPECIAL (Art. 16 (c)(2)(A))	11	1	10	0	0	0	11	0	0	0	0	0	0	11
SUMMARY	17	8	9	0	1	0	16	0	1	0	0	3	0	13

PART 5 – MARINE CORPS DISCHARGES [D]	
GENERAL COURTS-MARTIAL	
NUMBER OF DISHONORABLE DISCHARGES (+ dismissals)	41
NUMBER OF BAD-CONDUCT DISCHARGES	19
SPECIAL COURTS-MARTIAL	
NUMBER OF BAD-CONDUCT DISCHARGES	54

PART 6 – RECORDS OF TRIAL RECEIVED FOR REVIEW BY JAG (NAVY & MARINE CORPS)	
FOR REVIEW UNDER ARTICLE 66(b)(1) – APPEALS BY ACCUSED	17
FOR REVIEW UNDER ARTICLE 66(b)(2) – CASES FORWARDED FOR REVIEW BY TJAG	0
FOR REVIEW UNDER ARTICLE 66(b)(3) – AUTOMATIC REVIEW	212
FOR EXAMINATION UNDER ARTICLE 65(d)	164

PART 7 – WORKLOAD OF THE U.S. NAVY - MARINE CORPS COURT OF CRIMINAL APPEALS (NAVY & MARINE CORPS)	
TOTAL ON HAND BEGINNING OF PERIOD	133 [E]
TOTAL CASES REFERRED FOR REVIEW	229 [E]
TOTAL CASES REVIEWED	209 [F]
TOTAL CASES DECIDED PRIOR FISCAL YEAR	187 [F]
TOTAL PENDING AT CLOSE OF PERIOD	152 [E]
RATE OF INCREASE (+)/DECREASE (-) OF NUMBER OF CASES DECIDED AS COMPARED TO FY23 REPORTING PERIOD	+12%

PART 8 - ACTIONS OF THE U.S. COURT OF APPEALS FOR THE ARMED FORCES (CAAF) (NAVY & MARINE CORPS)	
TOTAL PETITIONS TO CAAF	38

PART 9 – APPLICATIONS FOR RELIEF UNDER ARTICLE 69, UCMJ (NAVY & MARINE CORPS)	
TOTAL PENDING BEGINNING OF PERIOD	6
RECEIVED	1
DISPOSED OF:	6
GRANTED	3
DENIED	3
NO JURISDICTION	0
WITHDRAWN	0
TOTAL PENDING AT END OF PERIOD	1

PART 10 – MARINE CORPS ORGANIZATION OF COURTS BY FORUM [B]	
TRIALS BY MILITARY JUDGE ALONE	164
GENERAL COURTS-MARTIAL	59
SPECIAL COURTS-MARTIAL	91
MILITARY JUDGE ALONE SPECIAL (Art. 16(c)(2)(A))	14
TRIALS BY MILITARY JUDGE WITH MEMBERS	22
GENERAL COURTS-MARTIAL	16
SPECIAL COURTS-MARTIAL	6

PART 11 – STRENGTH	
AVERAGE ACTIVE COMPONENT STRENGTH	172,300

PART 12 – NONJUDICIAL PUNISHMENT (Art. 15, UCMJ) [G]	
NUMBER OF CASES WHERE NONJUDICIAL PUNISHMENT IMPOSED	5,066
RATE PER 1,000	29.40

EXPLANATORY NOTES

[A] Pending cases as of 30 September 2023.

[B] Based on the number of individuals against whom charges were referred to court-martial by a Marine Corps convening authority and those charges were tried to verdict.

[C] Based on the number of individuals named as a victim in a specification referred to court-martial by a Marine Corps convening authority or are otherwise identified as victims by the Government with respect to such referred specification as reflected in the Military Justice Electronic Case Management System and the Naval Court-Martial Reporting System.

[D] Based on the Statements of Trial Results.

[E] Includes only cases briefed and at issue.

[F] Includes Article 62 appeals, All Writs Act cases, and appeals withdrawn.

[G] Includes only active component Marines.



Military Justice in the Coast Guard (FY 2024)

Report to Congress
December 10, 2024



U. S. Coast Guard

Foreword

December 10, 2024

I am pleased to present the following report, *Military Justice in the Coast Guard (FY 2024)*.

The National Defense Authorization Act for Fiscal Year 2017, codified in Section 946a of Title 10, United States Code (U.S.C.), directs the submission of an annual report on the number and status of pending cases; information on the appellate review process; an explanation of measures implemented to increase proficiency of judge advocates; and independent views regarding the sufficiency of available resources.

Pursuant to Congressional requirements, this report is being provided to the following members of Congress:

The Honorable Jack Reed
Chairman, Senate Armed Services Committee

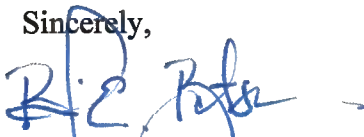
The Honorable Roger Wicker
Ranking Member, Senate Armed Services Committee

The Honorable Mike Rogers
Chairman, House Armed Services Committee

The Honorable Adam Smith
Ranking Member, House Armed Services Committee.

I am happy to answer any further questions you may have, or your staff may contact the Coast Guard Senate Liaison Office at (202) 224-2913 or House Liaison Office at (202) 225-4775.

Sincerely,



RICHARD E. BATSON
Judge Advocate General
U.S. Coast Guard





Military Justice in the Coast Guard (FY 2024)

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I. Legislative Language

The *National Defense Authorization Act for Fiscal Year 2017* (Public Law 114-328 codified in 10 U.S.C. §946a) includes the following requirement:

ART. 146a. ANNUAL REPORTS

- (a) COURT OF APPEALS FOR THE ARMED FORCES.—Not later than December 31 each year, the Court of Appeals for the Armed Forces shall submit a report that, with respect to the previous fiscal year, provides information on the number and status of completed and pending cases before the Court, and such other matters as the Court considers appropriate regarding the operation of this chapter.
- (b) SERVICE REPORTS.—Not later than December 31 each year, the Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall each submit a report, with respect to the preceding fiscal year, containing the following:
- (1) Data on the number and status of pending cases.
 - (2) Information on the appellate review process, including—
 - (A) information on compliance with processing time goals;
 - (B) descriptions of the circumstances surrounding cases in which general or special court-martial convictions were (i) reversed because of command influence or denial of the right to speedy review or (ii) otherwise remitted because of loss of records of trial or other administrative deficiencies; and
 - (C) an analysis of each case in which a provision of this chapter was held unconstitutional.
 - (3)(A) An explanation of measures implemented by the armed force concerned to ensure the ability of judge advocates—
 - (i) to participate competently as trial counsel and defense counsel in cases under this chapter;
 - (ii) to preside as military judges in cases under this chapter; and
 - (iii) to perform the duties of Special Victims' Counsel, when so designated under section 1044e of this title.
 - (B) The explanation under subparagraph (A) shall specifically identify the measures that focus on capital cases, national security cases, sexual assault cases, and proceedings of military commissions.
 - (4) The independent views of each Judge Advocate General and of the Staff Judge Advocate to the Commandant of the Marine Corps as to the sufficiency of resources available within the respective armed forces, including total workforce, funding, training, and officer and enlisted grade structure, to capably perform military justice functions.
 - (5) Such other matters regarding the operation of this chapter as may be appropriate.
- (c) SUBMISSION.—Each report under this section shall be submitted—
- (1) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and
 - (2) to the Secretary of Defense, the Secretaries of the military departments, and the Secretary of the department in which the Coast Guard is operating when it is not operating as a service in the Navy.

II. Report

A. Number and Status of Pending Cases during Fiscal Year (FY) 2024

Pending Courts-Martial (Persons)¹

Type Court	Preferred	Referred
General	N/A ²	3
Special	N/A ²	2
Total	0	5

¹ As of 30 Sep 24

² Type of Court-Martial not determined at preferral stage

General and Special Courts-Martial Statistics (Persons)

Forum	Tried	Convicted ³	Acquittal
General	5	4	1
Bad Conduct Discharge Special	2	2	0
Non-Bad Conduct Discharge Special	1	0	1
Total	8	6	2

³ Includes all trials where at least one specification resulted in a guilty finding

Summary Court-Martial: There was one (1) summary court-martial conviction. A summary court-martial is a disciplinary hearing for minor offenses. It is not a criminal forum (see Rule for Courts-Martial 1301). A summary-court martial is often the result of a plea for a case referred to a general or special court-martial.

B. Appellate Review Process Data

Compliance with Appellate Time Goals⁴

Decisions by Coast Guard Court of Criminal Appeals (CGCCA) in FY 2024	7
Cases Referred to CGCCA within 150 days of trial completion	2
CCA Decision within 18 Months of Referral ⁵	3

^{4 5} Only referring to automatic appeal cases under Article 66(b)(3), UCMJ for which the 150-day and 18-month limits apply. See *U.S. v. Tucker*, 82 M.J. 553, 570 (C.G. Ct. Crim. App. 2022). Delays in non-automatic appeals are assessed on a case-by-case basis (i.e., no reference to specific day/month limits). See *U.S. v. Chock*, 84 M.J. 578 (C.G. Ct. Crim. App. 2024). In FY24, 80% (4 of 5) such cases provided no relief for unreasonable delay. Those issues were resolved by Spring 2022. See generally *U.S. v. Woods*, No. 1481, 2023 WL 7555387, at *4 (C.G. Ct. Crim. App. Nov. 15, 2023).

Circumstances in which general/special court martial convictions were (i) reversed because of command influence or the denial of the right to speedy review or (ii) otherwise remitted because of loss of records or other administrative deficiencies.

There were no such cases.

Analysis of each case in which a provision of the UCMJ was held unconstitutional.

There were no such cases.

C. Measures Implemented to Increase Proficiency of Judge Advocates

Measures	Notes/Details:
Participate As Trial And Defense Counsel	<p><u>Training for both Trial and Defense Counsel:</u> To obtain initial Article 27(b), UCMJ, certification as a trial and defense counsel, Coast Guard judge advocates are required to attend the Basic Lawyer Course at Naval Justice School (U.S. Navy). In addition, Coast Guard trial counsel and defense counsel attend advanced trial advocacy training offered at Naval Justice School (U.S. Navy), the Judge Advocate General’s School and Legal Center (U.S. Army), and the Air Force Judge Advocate General School.</p> <p><u>Organization of Special Trial Counsel & Trial Counsel:</u> Effective December 28, 2023, the Coast Guard is exercising the new military justice authorities outlined in the FY22, FY23, & FY24 NDAA’s. To improve the Service’s delivery of military justice provisions and execute military justice reforms, the Coast Guard established the Office of the Chief Prosecutor (OCP). OCP contains all the Coast Guard’s Special Trial Counsel and full-time trial counsel and is headquartered in Charleston, South Carolina. It advises all Coast Guard criminal investigations and conducts or oversees all trial litigation arising under the UCMJ.</p> <p>Additionally, Section 531 of FY22 NDAA directed the creation of criminal prosecutor positions called “Special Trial Counsel” (STC). Accordingly, the Coast Guard certified ten (10) STCs, who are required to meet education, experience, training, and temperament criteria. They must be individually certified by the Judge Advocate General. STCs must also undergo advanced litigation training.</p> <p><u>Organization of Defense Counsel:</u> Pursuant to a Memorandum of Understanding with the Navy Judge Advocate General (JAG) Corps, the Coast Guard has eight full-time judge advocates assigned to Navy Defense Service Offices for two-year assignments where they defend both Coast Guard and Navy members at courts-martial. In exchange, the Navy JAG Corps may provide defense counsel for Coast Guard members at Coast Guard courts-martial. The Coast Guard also has three judge advocates and a paralegal collocated with the Navy-Marine Corps Appellate Defense division who represent members on appeal at the Coast Guard Court of Criminal Appeals and the Court of Appeals for the Armed Forces.</p>
To Serve as Appellate Counsel	<p>During this period, appellate attorneys participated in multiple joint/external training programs, including the Court of Appeals for the Armed Forces Conference, the Joint Appellate Advocacy Training; the Sea Service Appellate Advocacy Course; and the National Judicial College’s Appellate Judges Education Institute Annual Summit (Boston, MA). Moreover, appellate counsel enjoy a strong partnership with the joint community, conducting vigorous joint moot-court sessions to prepare counsel for oral arguments before service courts and the United States Court of Appeals for the Armed Forces.</p>

Measures	Notes/Details:
To Preside as A Military Judge	<p>The Coast Guard currently has three general court-martial judges and seven special court-martial judges.</p> <p>All military judges attend the Military Judges Course at the Judge Advocate General’s School and Legal Center (U.S. Army) in order to receive initial certification as a military judge under Article 26(b), UCMJ. Military judges also attend the Joint Military Judges Annual Training and Navy-Marine Corps Judiciary Sexual Assault Training on an annual basis to maintain their Article 26(b), UCMJ, certification.</p> <p>In addition, military judges have the opportunity to attend courses and continuing legal education offered by The National Judicial College.</p>
To Perform Duties of SVC	<p>In addition to initial Article 27(b) training at Naval Justice School (U.S. Navy), all Special Victims’ Counsel (SVC) judge advocates must complete one of the DOD Certification Courses offered by the Navy, Army, or Air Force.</p> <p>SVC judge advocates also attend a week-long annual symposium that covers in-depth trauma informed approaches to victim behavior and practice tips for operating as an SVC in the Coast Guard. This year, parts of the symposium were taught in conjunction with the OCP to enhance relationships and promote a clear understanding of each counsel’s role.</p> <p>SVCs also have the opportunity to attend trainings specific to victim advocacy, such as the Crimes Victim Law Conference; End Violence Against Women International Conference; Crimes Against Women Conference; and Crimes Against Children Conference.</p> <p>Of note, in 2024, the Center of Naval Analyses completed an independent assessment of the Coast Guard’s SVC program, finding that 98% of clients reported overall satisfaction with their SVCs. The study found that Coast Guard SVCs effectively operate without undue influence. The Coast Guard is looking to bolster the program by converting some SVC billets to civilian attorneys positions. See also Part II.D.</p>

Special Focus of Military Training

Focus	Notice
Capital Cases	The Coast Guard has not tried a capital case. If a capital case were to be referred, the Coast Guard would coordinate support from another service for trial counsel and defense counsel with capital litigation experience.
Military Commissions	The Coast Guard does not have counsel or judges assigned to the military commissions.
National Security	The Coast Guard has not tried a national security case, but is in the process of developing more comprehensive procedures for handling a national security case. However, until those measures are finalized, if a national security case were to be referred, the Coast Guard would coordinate support from another service for trial counsel and defense counsel with national security case experience.
Sexual Assault	<p><u>Organization</u>: All sexual assault case prosecutions are led by Special Trial Counsel assigned to the OCP. Coast Guard judge advocates assigned to the Navy Defense Service Office, along with Navy counsel, represent members accused of sexual assault.</p> <p><u>Training</u>: Trial counsel attend the Special Victims Capability Course taught at the Judge Advocate General's School and Legal Center (U.S. Army). Coast Guard judge advocates can also attend training about sexual assault cases and general trial advocacy at the Naval Justice School (U.S. Navy), the Judge Advocate General's School and Legal Center (U.S. Army), and the Air Force Judge Advocate General School.</p>

D. Independent Views of the Sufficiency of Resources Available

The Coast Guard is actively working towards achieving an adequate number of judge advocates and support personnel to better carry out its military justice duties. Additional resources are needed to implement and execute reforms enacted in the NDAA FY2022, FY2023, and FY2024 which, among other matters, mandate that special trial counsel have exclusive authority for prosecutorial decisions for defined covered offenses and expanded appellate rights.

As discussed in its report required by Section 549A of NDAA FY2023, the Coast Guard received 24 billets in FY24 to implement the reforms. This report includes further discussion on the number of anticipated additional personnel and personnel authorization required to execute the provisions of Subtitle D of the FY2022 NDAA. Anticipated needs include additional:

- Litigation support personnel at the Office of the Chief Prosecutor (e.g. court-reporters, paralegals). Such additions would address the Coast Guard's historically report lack of paralegal-type enlisted ranking which makes it difficult to maintain adequate numbers of competent litigation support.
- Defense services and special victims counsel who represent servicemembers in their respective roles.
- Personnel at the Office of Military Justice to handle additional caseloads from newly expanded appellant rights, generate/manage new policies required by reforms; expand/update training for judge advocates; and facilitate expanded mandates for greater transparency.

E. Other Matters

The Coast Guard is firmly committed to ensuring its military justice system remains comprised of competent legal professionals. Highly trained and committed legal practitioners are required if we are to ensure all accused are afforded their Constitutional rights, as well as ensure crime victims are cared for and are afforded their rights under the Uniform Code of Military Justice and other applicable Coast Guard policies. When comprised of highly trained, competent judge advocates, the military justice system fulfills its mandated national security purpose: to promote justice, assist in maintaining good order and discipline in the armed forces, and promote efficiency and effectiveness in the military establishment.