

THE JUDGE ADVOCATE GENERAL'S CORPS



*2013 Annual Report*

FROM  
THE JUDGE ADVOCATE GENERAL  
OF THE UNITED STATES AIR FORCE  
TO THE  
AMERICAN BAR ASSOCIATION

WISDOM · VALOR · JUSTICE



## Introduction



The Air Force Judge Advocate General's Corps (AFJAG Corps) mission is to deliver professional, candid, independent counsel and full spectrum legal capabilities to command and the warfighter. Today's AFJAG Corps members are involved at every level of military operations. Whether supporting Airmen flying combat sorties, soldiers on the battlefield, or on the home front, AFJAG Corps members provide world-class legal support and advice – anywhere, any time.

Today's dynamic national security, budgetary and legal environment requires a balance-driven approach. We must serve our clients' needs today, while developing a leaner force ready to tackle tomorrow's most demanding challenges.

## AFJAG Corps Priorities

This year, the AFJAG Corps has continued its focus on Foundational Leadership -- targeting military justice, legal assistance, training, and attorney-paralegal teaming initiatives within a framework of the Air Force meritocracy. As the Air Force is committed to combating sexual assault, the AFJAG Corps has taken a leading role in this endeavor against the Air Force's current sexual assault challenge that is dominating the news. The AFJAG Corps has been engaged with Air Force Senior Leaders and members of congress in partnering to develop smart structural changes to the military justice system, all the while taking a lead in educating the service, to produce positive results. The AFJAG Corps instituted the Special Victims' Counsel program, the first of its kind in the federal government, where victims of sexual assault can now have an active duty judge advocate general represent them. This program is defined below.

The AFJAG Corps plays a crucial role in the military justice system as it advises, prosecutes and defends all uniform code of military justice cases. With the public eye on the entire system, the AFJAG Corps' role in the process has never been as important as it is now. With the potential of significant changes to the military justice system on the horizon, the AFJAG Corps has energized its efforts in educating the public as well as commanders on the importance of the military having its own internal disciplinary system.

Discipline is essential to command and control which is key in maintaining a combat effective force. The entire point of military discipline is to transform a collective group of individuals into combat ready and effective units. JAGs across the globe are out front in articulating the importance of the commander in the military justice system and how the system has always been tailored to the military's unique role in protecting the national security of the United States. The AFJAG Corps is intent on maintaining the current system but also working to strengthen it to better prevent sexual assault and all crimes that undermine good order and discipline.

Our legal assistance program is all about taking care of our fellow Airmen. We have improved our legal assistance program significantly this year by requiring annual new training requirements for all military and civilian attorneys that provide legal assistance. Further, the legal assistance program has continued its partnership with the ABA's Legal Assistance for Military Personnel (LAMP) Committee to help provide clients with pro bono legal representation in civilian courts.

We continued the AFJAG Corps focus on teaming attorneys and paralegals. While we have trained and engaged paralegals in will production, we are also formally training paralegals in interviewing skills and techniques. Discovery management, factual and legal research, and witness location and interviews are paralegal training initiatives.

This past year also saw the development of formalized and individualized JAG-specific training plans, known as Portfolio. Additionally, we have upgraded many of our JAG School training programs to ensure the concepts of Foundational Leadership are being emphasized.

Mentorship of junior personnel is at the heart of Foundational Leadership. The AFJAG Corps embraces the value of an integrated workforce whose individual members are singularly bound in a common cause lending their diverse backgrounds, creativity, energy, and perspectives to the betterment of the Air Force mission and our Nation's security. TJAG recently directed an AFJAG Corps-wide mentorship survey to determine how well we mentor our up and coming leaders. The results are being evaluated and will form the basis for developing and formalizing our mentorship programs in the future.

By preparing tomorrow's leaders today to succeed in the Air Force meritocracy, AFJAG Corps members will have the professional skills, confidence and leadership capabilities to face any challenge they may face.

## **Special Victim's Counsel Program**

Through the legal assistance framework, sexual assault victims, through the new Special Victims' Counsel (SVC) program, are now eligible for legal assistance and have the choice to retain a JAG to represent their interests throughout the military justice proceedings. The SVC program was implemented on 28 January 2013 as an important step forward in AF efforts to provide world class victim care for sexual assault victims. Today, 24 judge advocates serve as SVCs worldwide, supported by 10 paralegals. Representing victim-clients is their full time duty. All were personally selected by The Air Force Judge Advocate General, are certified to practice as trial and defense counsel, and have experience in litigating courts-martial. The SVC Program is now an independent division under the Air Force Legal Operations Agency (like the Area Defense Counsel Program) so that victims are assured no one in their chain of command or the alleged perpetrator's chain of command will influence, or appear to influence, the SVC. The SVC's sole obligation is to zealously represent the victim.

The purpose of the SVC Program is to provide legal representation for sexual assault victims during the investigatory and military justice processes and to protect the rights of victims (especially their privacy rights) throughout the criminal justice process. Further, the Air Force

designed the SVC program to carefully avoid interfering with the rights of Airmen accused of sexual assault.

SVCs represent victims regarding any allegation that falls under the Department of Defense definition of “sexual assault,” which includes the following offenses under the Uniform Code of Military Justice (UCMJ): rape, sexual assault, aggravated or abusive sexual contact, forcible sodomy, and attempts to commit these offenses, (UCMJ Articles 120, 125, and 80 respectively). SVCs attend Air Force Investigator, prosecution, and defense counsel interviews with the victim. SVCs can assert the victim’s privacy interests during these interviews and can limit the number of times the victim must recount the event, which may help victims from being re-victimized by the interview process. Without an SVC, the victim will often feel unnecessarily compelled to answer these questions, adding to his or her feeling of being re-victimized.

SVCs also attend courts-martial with their victim clients. The SVCs sit in the gallery and are prepared to argue on behalf of the victim when issues involving rape shield privilege, psychotherapist privilege, and victim advocate communication privilege are raised (Military Rules of Evidence 412, 513 and 514, respectively). The Court of Criminal Appeals for the Armed Forces’ recent decision in *LRM v. Kastenberg* determined that not only does a victim have a right to be heard regarding her privacy interests, but may do so through her SVC.

The SVCs were trained during a five-day course at the AF JAG School featuring civilian subject matter experts, including Ms. Meg Garvin, Executive Director of the National Crime Victim Law Institute, and Ms. Jessica Mindlin, National Director of Training and Technical Assistance from the Victim Rights Law Center. Representatives from Protect Our Defenders and Service Women’s Action Network also spoke at the course. SVCs have also attended other training opportunities funded by the Department of Justice. Collaboration and outreach with our civilian counterparts in the victims’ counsel field of practice have been crucial to our success.

In the six months since program’s implementation, SVCs have represented over 400 victims of sexual assault. Not surprisingly, the initial feedback from victims has validated the SVC Program is meeting its objectives:

- 94% of victims are "extremely satisfied" with the advice and support the SVC provided during the Article 32 hearing and court-martial
- 96% of victims would recommend other victims request an SVC
- 58% of victims, who filed restricted report of sexual assault (meaning they do not wish to cooperate with a prosecution of the offender) changed their mind and converted their report to an unrestricted complaint (meaning they wish to cooperate with the prosecution of their offender) after receiving an SVC to represent their interests, compared to 13% who converted from restricted to unrestricted status before the SVC Program in FY11

The SVC Program improves victim care which inspires trust and confidence in our military justice system. This results in increased reporting, prosecutions, and holding offenders accountable for their crimes, in fact we are currently seeing increased rates of reporting and



prosecutions for sexual assault (300% higher than in CY11). The SVC Program is working and is critical to the Air Force's efforts to eliminate sexual assault in its ranks.

## The AFJAG Corps



The AFJAG Corps provides legal advice and counsel. It also advocates, mediates, negotiates, and litigates in support of Air Force mission requirements. The AFJAG Corps is led by The Judge Advocate General (TJAG), a position held by a lieutenant general. By statute, TJAG is the legal advisor to the Secretary of the Air Force and to all officers and agencies of the Department of the Air Force. He directs all judge advocates in the performance of their duties and is responsible for their professional development.

## AFJAG Corps Organization

The majority of our work is performed at legal offices located at Air Force installations and deployed locations around the world. These offices work for commanders and provide legal advice and support to them and their staffs; administer military justice and other legal programs; and provide a wide variety of personal and civil law-related legal services to the base population.

Legal offices generally operate at two levels – wing/base-level and higher headquarters. About 90 offices are at the wing level, their sizes range from 10 or fewer to 60 or more people. Higher headquarters offices are located at Numbered Air Forces (NAFs) and Major Commands (MAJCOMs). In addition to supporting their commanders, these higher headquarters offices also exercise professional supervision over the geographically separated wing legal offices within their NAF or MAJCOM.

There are also several legal offices assigned to Headquarters Air Force in Washington D.C. Headquarters for the AFJAG Corps (HQ USAF/JA) is located at the Pentagon, with some staff members assigned to Joint Base Andrews Naval Air Facility Washington, Maryland. These offices support the Secretary and the Chief of Staff of the Air Force. Another component of the AFJAG Corps is our “field operating agency:” the Air Force Legal Operations Agency (AFLOA), consisting of a worldwide network of legal offices engaged in specialty legal practice. AFLOA is the parent command for approximately 24% of our worldwide AFJAG Corps personnel and is responsible for supervising the administration of military justice, senior trial counsel (prosecutors), defense counsel, and appellate counsel; 11 field support centers; civil litigation counsel; the Air Force JAG School; and the Air Force Legal Information Services Directorate. Our headquarters staff, along with the members of AFLOA, provide strategic planning and resource management, litigation expertise in military justice and civil law, and offer extensive education and training to the field. These offices also collect the macro-level data used in the strategic planning process. Their diverse missions are featured throughout this report, as they provide a top-level view of the AFJAG Corps.

## AFJAG Corps Force Structure

The Total Force AFJAG Corps is made up of over 4,500 judge advocates, civilian attorneys, enlisted and civilian paralegals, and civilian support personnel. Of this total, over 1,200 are judge advocates on active duty and over 500 are civilian attorneys. Additionally, over 850 are paralegals on active duty and 550 are civilian paralegals, court reporters, and other administrative staff. Over 1,250 are judge advocate and paralegal members of the Air Force Reserve and Air National Guard. Most of our Corps (85%) is based in the United States, while the remainder is stationed throughout the European and Pacific commands. AFJAG Corps personnel are consistently deployed to Southwest Asia and other locations around the globe.



## Professional Development Directorate

During this past year, the team at the Professional Development Directorate (HQ AF/JAX or JAX) managed all phases of more than 1,200 judge advocates' professional development, including recruiting, accessions, professional education, force management, deployments, and assignments, developing the Corps for the present and future. In addition to managing over 400 JAG assignments in 2012, the team also oversaw TJAG promotions and overall force strengths. One of the great strengths of the Corps is its ability to recruit from all corners of this nation – a strength that comes from the aggregation of assets, perspectives, and capabilities that is greater than the sum of our individual contributions. To preserve and build upon this strength, AFJAG Corps aggressively takes part in all manner of outreach and recruiting at conventions nationwide.

### **Recruiting:**

In calendar year 2012, AFJAG Corps secured extra recruiting funds from Headquarters Air Force Headquarters Air Force specifically for recruiting at national-level affinity group events such as those sponsored by the National Asian Pacific American Bar Association, the Hispanic National Bar Association, and the National Bar Association, as well as others. To demonstrate our senior leader commitment, AFJAG Corps sent one of its general officers to meet with senior leaders at each of these national events. Recruiting efforts include career fairs, panel discussions, briefings in seminars, and interviews.

These recruiting efforts have garnered successful results. While the percentage of total minority applications at each of the last three accessions board have hovered around 25%, the percentage of minority selectees have increased (11% in December 2011; 26% in April 2012; 27% in October 2012). This trend indicates that the AFJAG Corps' efforts are attracting highly qualified minority applicants, which is important considering the ultra-competitive applicant pools our boards see. We are also seeing an escalation in highly competitive women applicants, which has

led to a steady rise in women selectees (42% in December 2011; 44% in April 2012; 50% in October 2012).

Further, in 2012, these phenomenal recruiting efforts yielded over 1400 applications for approximately 95 available positions. We continued to garner hundreds of applications in spite of the military's publicized reduction in force and budgets. JAX conducted selection boards and then worked with selectees to ensure a smooth transition from lawyer or law student to Air Force officer and judge advocate.

### **Education and Training:**

JAX takes an active role in the mentoring and continued professional development of judge advocates by overseeing all phases of education and training, including continuing legal education (CLE) at the service judge advocate schools and the competitively selected Master of Laws (LL.M.) and developmental education programs. In 2012, over 2,100 selections were made for judge advocates to attend CLE courses. Forty-five percent of those selections were centrally funded. Additionally, 55 applications were submitted for a historically high number of LL.M. positions. The 38 LL.M. positions include six environmental law, seven international law, three labor law, two cyber law, and three air and space law positions, as well as seventeen government procurement positions. Furthermore, in 2012, military tuition assistance for LL.M.s was approved for the first time ever by the Air Force Education Division. Judge advocates can now receive \$250 per credit hour, up to a maximum of \$4,500 per year, towards earning an LL.M. in an approved specialty. JAX assists in the continued professional military education of judge advocates by overseeing the selection of students for Squadron Officer School, Air Command and Staff College, Air War College, The Dwight D. Eisenhower School for National Security and Resource Strategy, formally the Industrial College of the Armed Forces, National War College, and internships. Approximately 96 applications were submitted for the 8 intermediate developmental education and 4 senior developmental education positions.

### **Deployment:**

JAX also develops members by managing all AFJAG Corps deployment requirements and developing sourcing solutions within the AEF construct. In 2012, we deployed over 220 total force judge advocates and paralegals to fifteen countries and every area of responsibility in support of contingency and humanitarian operations working with joint and coalition partners. Afghanistan remains the United States' most significant commitment in terms of deployed personnel, and 70 members of AFJAG Corps remain in country developing Afghan legal institutions, overseeing detention operations, and supporting combat missions.

Our judge advocates and paralegals also build relationships with our partners and develop legal capabilities in Liberia, Colombia, the Philippines, and other locations around the globe. In terms of accomplishments, our deployed members reviewed over \$800 billion in contingency contracting actions, analyzed thousands of detainee review issues, and ensured compliance with the Law of Armed Conflict by overseeing hundreds of air strikes. Additionally, deployed legal offices fulfilled the fundamental AF JAGC role of providing commanders disciplined forces through robust military justice programs including non-judicial punishment actions and courts-

martial, performing a variety of civil and international legal reviews, and giving legal assistance to fellow deployers in all services. Our deployed defense teams also fulfilled a fundamental role, zealously defending clients throughout the Central Command theater. AFJAGC members epitomized leadership downrange. Brig Gen Dixie Morrow served as the Deputy Coordinating Director, Rule of Law and Law Enforcement in Afghanistan on a one-year assignment, and she volunteered to extend beyond that year to cover a gap for another general officer. Gen Morrow inspired Afghan women by speaking at multiple conferences, and she also supported personnel by hosting several events for JAGs and paralegals in the Kabul area. On the enlisted side, staff judge advocates lauded AF paralegals as the very best and continually asked for more. CMSgt Larry Tolliver took a rare deployment for our Chiefs and became the Corps' first senior enlisted advisor to the Commander of Rule of Law Field Forces – Afghanistan.



Despite working eighteen-hour days, seven days a week, our members took extra time to work with children, teach English to school teachers, and foster better relationships with our partners. They honored us all through their selfless service.

### **Force Management:**

JAX was also actively engaged in managing the AFJAG Corps force structure, a challenging task in the current fiscal environment. JAX worked closely with the A1 force management division to develop the five-year promotion plan and policy, as well as structuring the AFJAG Corps 30-year force model to ensure the healthy sustainment of the career field. In calendar year 2012, the promotion opportunity for JAG officers was 95% to Major, 85% to Lieutenant Colonel, and 60% to Colonel. While the AFJAG Corps was not subject to any involuntary force shaping measures in 2012, there was nonetheless a significant development in the future approach to force shaping: for the first time, JAX and A1 will consistently examine our force by captain year group rather than accession year group, adding greater fidelity to the health of the career field force model.

Finally, recognizing that the future of AFJAG Corps hinges on its ability to attract and retain high-quality attorneys, JAX's Financial Incentives Branch continued the Student Loan Repayment Program, the Judge Advocate Continuation Pay Program and the Attorney Bar Licensing Reimbursement Program (ABLRS) with great success. The Student Loan Repayment Program closed out its third year with over 3.4 million dollars spent on 198 applicants, averaging over 17,000 dollars per payment. This program is making great strides in helping our judge advocates lower their student loan debt. The Judge Advocate Continuation Pay program was also a great success with over 3.07 million dollars spent on retention. While the take rates were slightly lower this year than in the past two years, with an overall 55% take rate, including 67% take rate at the 4-year mark and 47% take rate at the 6-year mark. We also closed out another



successful season of bar dues reimbursements. ABLRS was open for 7 months in fiscal year 2012. During that period, over 1,300 active attorneys (judge advocate and civilian attorneys) and Air Reserve Component (ARC) judge advocates applied, for a total disbursement of over 340,000 dollars. While overall participation was slightly lower than in the past two years, ARC participation due to all of our ARC deployment support last year was at its highest. In addition to overseeing the programs, JAX also promoted and defended these incentive programs throughout the Air Force and Department of Defense.

## **Plans and Programs Directorate**

The Civilian Professional Development, Plans, and Programs Directorate is responsible for the professional development of 1,100 AFJAG Corps civilian employees worldwide. JAZ is also responsible for planning, programming, and budgeting for the Office of The Judge Advocate General (AF/JA) and the Air Force Legal Operations Agency (AFLOA). Additionally, JAZ serves as The Judge Advocate General's (TJAG's) representative to the Air Force Group, Air Force Board, and the Headquarters Air Force (HAF) Program Budget Review Group and Board. Furthermore, JAZ analyzes programming decisions and develops AF/JA and AFLOA requirements for inclusion in the Air Force submission to the Department of Defense (DoD) Program Objective Memorandum (POM), which supports the President's annual budget submission to Congress. Finally, JAZ builds the annual financial plan, administers a budget of more than \$50 million for AF/JA and AFLOA, manages more than 3,000 AFJAG Corps manpower slots, provides civilian personnel support for AF/JA and AFLOA, and works joint basing issues.

### **Civilian Professional Development:**

The JAZ Director serves as the Career Field Manager (CFM) for civilian employees of The Judge Advocate General's Corps. In the CFM role, the directorate devised a communications strategy emphasizing the importance of civilian development and informing the civilian workforce of available opportunities. JAZ also modified the charter for the Air Force Civilian Legal Personnel Council and Development Team, establishing a senior-level body of SAF/GC and AF/JA attorneys. The team then met to evaluate applications for career development opportunities, review employee career briefs, and vector potential future leaders into career development paths. Additionally, JAZ conducted surveys of AFJAG Corps civilians and their supervisors on mentorship. With excellent response rates from both groups, the surveys provided a clear picture of the state of mentorship of civilians in the Corps and the actions needed to strengthen civilian professional development.

### **Planning, Programming, and Budgeting:**

JAZ developed a strategy to segregate JA portfolio funds into different program codes in order to track funds more effectively from programming through execution. This will enable TJAG to better oversee the allocation of resources relating to specific requirements, such as litigation and training. Additionally, JAZ successfully worked through the Air Force Corporate Process to obtain an additional \$3.8 million to defend Fair Labor Standard Act cases and 18 authorizations to enhance the Disability Evaluation Board process, adding 9 attorneys and 9 paralegals to the

Office of Airman's Counsel. JAZ also audited AF/JA and AFLOA travel and established TDY review procedures to decrease travel spending to meet future budgetary reductions. Furthermore, JAZ taught planning, programming, and budgeting at various Air Force JAG School courses during the reporting period.

### **Manpower Management:**

Major manpower drills in the past year included the Civilian Workforce Review (or "3/5/7 Review") and Prioritized Resource Allocation Planning (PRAP). The 3/5/7 Review, driven by DoD, imposed contingency planning by the Services for potential future civilian reductions of 3%, 5%, and 7%. PRAP involved the prioritization of all manpower and contract resources in the Headquarters Air Force (HAF) portfolio. JAZ assembled AF/JA's responses to both and convened the PRAP Legal Functional Team to prioritize all legal resources in the HAF and AFLOA. After a two-year respite, efforts resumed to enact Air Force Common Output Level Standards (AF COLS) to standardize installation support across the Air Force and tie funding to tiered performance levels. JAZ, involved since the very beginning, continued



representing AF/JA in AF COLS development and is managing the ongoing release to the field of AF COLS standards for legal support and the reporting tool. In preparation for the Air Force Manpower Agency's upcoming manpower study of wing-level JA offices, JAZ developed a formulaic template linking base-level manpower to countable workload drivers. MAJCOM legal staffs then applied the template to "level" base office manpower within the commands and, with AF/JA and command concurrence, realigned some military positions. JAZ was also instrumental in defining how legal support will be provided following major reorganizations occurring across the Air Force by assisting in the drafting of program action directives (PADs) and memoranda of understanding (MOAs). Day to day, JAZ managed the unit manning document for AF/JA and AFLOA, submitting all necessary manpower changes to support internal realignments and personnel actions.

### **Personnel Management:**

In the aftermath of the Management Structure Review, JAZ implemented the final manpower cuts in a manner to minimize mission impact and the loss of AFJAG Corps personnel and successfully navigated three Service wide rounds of separation incentives. JAZ then worked with SAF/AAR to secure release from the associated hiring freeze for AF/JA and AFLOA. JAZ also obtained permission to continue the JA/GC Summer Law Clerk Internship Program and managed the employment of 30 first- and second-year law students for summer internships at the Pentagon and at bases across the Air Force. Day to day, JAZ acted as civilian liaison for personnel matters pertaining to AF/JA and AFLOA employees, processed all related civilian personnel actions, and managed the reimbursement of bar dues for civilian attorneys. JAZ also provided all administrative support for the Air Force Civilian Attorney Qualifying Committee

(AFCAQC) in hiring, reassigning, and promoting civilian attorneys. In addition, JAZ obtained Secretarial expansion of the AFCAQC to include two AF/JA and two SAF/GC members.

### **Joint Basing:**

JAZ continued serving as DoD Lead for the Command Authorities Sub-Working Group and Air Force representative to the Legal Support Sub-Working Group. In these roles, JAZ taught at the Joint Base Commander's Orientation Course, reviewed scores of changes to joint base MOAs, and advised OSDATL, AF/A7C, and joint base staff judge advocates on a variety of joint basing issues.

## **TJAG Action Group**

The TJAG Action Group (HQ AF/JAG or TAG) is responsible for policy, special projects, strategic communication, executive services, and the administration of Office of The Judge Advocate General (OTJAG) taskings. It includes five active duty judge advocates, two reserve judge advocates, two civilian attorneys, one paralegal, and one civilian administrator.

### **Policy and Special Projects Branch:**

Branch personnel serve as the principal policy advisors to The Judge Advocate General (TJAG). They are responsible for a wide range of AFJAG Corps materials including policy documents, TJAG Intent statements, mission statement and vision publications, and mission directives. The Branch examines and makes recommendations concerning a variety of AFJAG Corps issues and initiatives, and leads, facilitates, and serves on special project teams. Projects in 2012 included the design and development of the Training and Readiness Directorate (AF/JAI), and the development and implementation of the new Air Staff travel budget policy. They also collaborated closely with the TJAG Special Counsel on a broad spectrum of TJAG-directed projects.

This year included a continued focus on the key TJAG initiative of improving AFJAG Corps training. This was done primarily by working closely with The Judge Advocate General's School on developing and releasing the Portfolio learning management system. Portfolio is an interactive computer system that enables all AFJAG Corps members to easily see what training they've completed, what they need, and what is available. Supervisors can monitor staff training progress plus identify and assign whatever each person needs. And, strategic-level leaders can gauge their commands' training programs and help guide AFJAG Corps education and training.

Portfolio's Training Library contains five "books." The four-volume Roadmap Set shows what individuals need to know in their fields of practice and provides associated learning resources. Other components include each person's Individual Training Plan and History; the first ever, comprehensive AFJAG Corps Training Catalog; the Management Dashboards Array, through which SJAs can manage staff training; the Interactive Checklist for Office Self-Inspections; and the Legal Office Training Schedule.

Additionally, the Policy Branch led the redesign of several key AFJAG Corps courses, including the Gateway intermediate leaders (majors) course, The Colonels Course (formerly the TJAG Colonels Orientation), and the new KEYSTONE Installation Leaders Course for wing-level staff judge advocates.

A recurring task for Branch personnel is the development of the substantive agendas for major AFJAGC events. In 2012, that included a senior leader Executive Conference and Board of Directors meeting.

### **Communications and Media Relations Branch:**

The Communications and Media Relations Branch identifies, develops, and implements communication strategies, policies, plans, standards, and procedures for TJAG. It is the liaison to Air Force public affairs offices and facilitates AFJAG Corps involvement with media outlets and the general public. The Communications and Media Relations Branch also collects, consolidates, drafts, and transmits information, briefings, and speeches for internal and external audiences. The Branch is responsible for the AFJAG Corps weekly Online News Service, the AFJAG Corps Family News, and Senior Leader Quarterly Talking Points—all of which provide direct communication between senior JAG leaders and other members of our Corps. During 2012, the Communications and Media Relations Branch provided guidance to various agencies in several high-profile, national-level media interest cases. Working closely with Public Affairs, the branch assisted in the development of Public Affairs guidance for a variety of issues, which were distributed Air Force-wide.

### **Executive Services Branch:**

The Executive Services Branch serves as the focal point for the planning and execution of AFJAG Corps events, including Keystone leadership courses, executive conferences, and ceremonies hosted by TJAG or the Deputy Judge Advocate General. This branch also provides administrative, logistical, and protocol support to OTJAG. During 2012, the Executive Services Branch managed numerous promotion, retirement, investiture, and award presentation ceremonies. In addition, the branch led the planning committees for several annual AFJAG Corps social events, including the Dining Out, Family Picnic, and Holiday Party.



Executive Services also provided protocol support to OTJAG as it welcomed visiting foreign delegations from Australia, Chad, Egypt, India, Liberia, and Turkey. In 2012, the National Capitol Region welcomed over 125 students attending the Judge Advocate General Staff Officer Course (JASOC), Air Force Judge Advocate General's School. To support the three JASOC visits, Executive Services organized a reception at TJAG's private quarters, informative briefings, a luncheon, and a tour of the Pentagon. As another highlight of the year, the branch coordinated a swearing in ceremony at the United States Supreme Court for 40 Air Force judge advocates and civilian attorneys.



### **Special Counsel to The Judge Advocate General:**

Attorneys designated as special counsel to TJAG act as key legal advisors to TJAG and DJAG and serve as action officers for high-profile legal projects. Assigned projects are often for Air Force senior leadership and are generally sensitive in nature. The special counsel also act as liaisons to other HAF agencies, AFLOA, major command legal offices and outside agencies to gather data and provide actionable legal recommendations to TJAG. During 2012, the Special Counsel Branch worked on a variety of special projects for senior AFJAG Corps leadership to include Congressional engagement regarding Air Force efforts to combat sexual assault; development of the Special Victims' Counsel Program; creation, distribution, and review of a Corps-wide mentorship survey; implementation of an annual legal assistance continuing legal education requirement; served as Air Staff lead for two CORONA-Top taskers (developing manpower solutions to counter potential loss of DDRPMs and assisting in Air Force efforts to improve the deterrent value of its urinalysis testing program); leading an internal JA review of sexual assault prosecutions, and working with senior Air Force leadership to implement the first ever Air Force-wide health and welfare inspection. One special counsel was chosen to work on the CSAF transition team assisting the outgoing CSAF with required out-processing actions.

### **Senior Paralegal Manager to TJAG**

Air Force enlisted paralegals are an integral part of AFJAG Corps. Today, approximately 1,00 active duty, guard, and reserve paralegals team with attorneys to provide Airmen and their families the best legal support available. Their ability to provide that support is a direct reflection of the premium the AFJAG Corps places on paralegal education and training.

In the recent past, the AFJAG Corps restricted the paralegal CFE&TP to eliminate the two separate 5-level enlisted training tracks. Previously, paralegals could get upgraded to their 5-levels in *either* Military Justice or General Law. That resulted in a mix match of skill sets that limited paralegal effectiveness in both the home and deployed environments. With the recent changes all 5-levels are now exposed to the entire range of paralegal duties and are trained to the same standards. Those changes triggered a series of additional changes in the paralegal career field including Air Force JAG School curriculum changes, a complete re-write of the 5-level career development course and, in turn, changes in the weighted airman promotion system (WAPS) skills knowledge test (SKT). The next big focus area for paralegal training is *paralegal professional development*.

### **University of Great Falls:**

The first trip the new AFJAG Corps Senior Paralegal Manager (SPM), Chief Master Sergeant Steve Wallace, took was to visit the faculty of the University of Great Falls (UGF) in Montana. Once again, building on the foundations laid by past SPMs, the meeting was the last step before formal discussions could take place between UGF and the Community College of the Air Force (CCAF). Those discussions have resulted in a new educational opportunity for paralegals. Enlisted paralegals that receive their Associate's Degree in Paralegal Studies from CCAF can

now seamlessly transition 100% of those credits to UGF's ABA-approved 4-year baccalaureate program. Initial interest in the program is high with fifteen paralegals already enrolled with classes set to begin in January 2013.

### **Enlisted Development Teams:**

The AFAFJAG Corps Chief Master Sergeants and the SPM have undertaken a new project



named The Enlisted Development Team (EDT). Once fully developed, the EDT program will consist of an annual review of paralegal NCO (E-5 thru E-7) records for the purpose of giving them constructive feedback and assignment recommendations. At the same time, officers up and down the NCO's chain of command will become involved in the deliberate development of their paralegals like never before. Lastly, the program offers the ability, for the first time ever, to influence enlisted assignment actions by ensuring our most critical leadership positions are filled with NCOs that have the

requisite experience to be successful.

### **Enlisted Paralegal Professional Development AFI:**

To tie all of these initiatives together, the AFJAG Chief Master Sergeants and the SPM are also collaborating on a first-ever AFI for paralegals. Once complete, the AFI will be a one stop resource containing everything an active duty paralegal NCO could ever want to know about how to be successful in the Air Force and the AFJAG Corps. Perhaps more importantly, the AFI will be an unprecedented resource for the officers that supervise, rate, and mentor paralegals. As you can see, we really do have a lot to accomplish in 2013. These truly ground breaking programs are working towards professionalizing the enlisted members of the AFJAG Corps.

## **The Judge Advocate General's Corps Reserve (AFJAG CORPSR)**

The Air Reserve Component (ARC) Advisor to The Judge Advocate General is responsible for providing counsel to TJAG on all matters pertaining to the ARC's 891 judge advocates and 408 paralegals. The ARC Advisor develops policy and training requirements, oversees the Corps' AF Reserve and Air National Guard (ANG) judge advocate recruiting program, handles judge advocate assignments and attachments, oversees the allocation of Military Personnel Appropriation man-days among ARC judge advocates and paralegals in support of active duty missions, and serves as the AFJAG Corps' liaison to the Chief of the Air Force Reserve and his staff.

### **Home Station Support:**

With the continuing decline in the availability of Military Personnel Appropriation Man-Days, the Corps' Home Station Support program has become more important than ever. We carefully screen requests for MPA support, ensuring that resources are directed where they're most needed, with an emphasis on support to installation-level offices. One other significant source of assistance for needy bases is the Corps' Quadrennial Tour program. Most headquarters-level judge advocates and paralegals, as well as those assigned in the unit reserve program and the ANG, are required to perform two weeks of duty every four years in designated active duty legal offices. These tours are intended for training, but are centrally managed to ensure that the training occurs at bases that are in the greatest need of ARC support. Lt Col Lorraine Mink, an Individual Mobilization Augmentee at AF/JAR, is the Home Station Support Director; supported by a team of five, she arranges Quadrennial Tours across the Corps. Quad Tours provided needed training for ARC members, and saved the Corps more than 2,500 man-days in FY 2012 by providing support to short-handed active duty offices.

### **Recruiting:**

The ARC's "gold standard" for recruitment is active duty judge advocates and paralegals, because they are already trained, experienced, and knowledgeable about AFJAG Corps practice. In the past few years, however, the ARC has also increased its recruiting among experienced attorneys who are new to military service. These new judge advocates, which now make up just under a quarter of the ARC's judge advocate accessions, bring significant practical legal experience. Our office attends and participates actively at gatherings of experienced practitioners, in



order to draw the most qualified attorneys to our part-time program. And in 2012, thanks to a change in the law, our office was able for the first time to recruit candidates at the "Lavender Law" career fair, sponsored by the National LGBT Bar Association. The AFJAG Corps, both active duty and ARC, received a warm welcome and inquiries from many interested candidates. While seeking practitioners with significant legal experience, the ARC also continues to strive for increased diversity in its judge advocate and paralegal ranks. In addition to drawing as many talented judge advocates as possible once they leave active duty, our office recruits heavily at minority and specialty bar association meetings. The ARC is now a familiar presence at meetings of the National Black Prosecutors Association, the Hispanic National Bar Association, the National Asian Pacific Bar Association, the Federal Bar Association's Indian Law Section, and the National Bar Association, among others.

### **Training:**

Once commissioned, new ARC judge advocates receive the same foundational instruction as their active duty counterparts, at Commissioned Officer Training and at The Judge Advocate General's School. After the completion of JASOC, judge advocates in the AF Reserve are now

able to receive additional training. The Seasoning Training program allows officers to receive up to 90 additional days of training in an active duty status, to put their formal education into practice before settling into the ARC's part-time program. Judge advocates and active duty supervisors use a specially developed checklist to ensure the completion of judge advocate "rites of passage," with the goal of producing well-rounded judge advocates. Seasoning training has been a fixture in the AF Reserve and ANG paralegal communities for several years. We desire to enhance the program in the coming years by seeking funding for participation by ANG judge advocates.

## Operations and International Law Directorate

During 2012, the Air Force Operations and International Law Directorate (HQ AF/JAO or JAO) provided advice to TJAG, the Air Force Chief of Staff (CSAF) and senior leaders on operations, international, air, and space law issues across the full spectrum of Air Force operations. In addition, JAO reviewed multiple joint actions from across DoD departments and commands as well as from the interagency process and continued to serve as TJAG's designated joint reader with the responsibility of drafting comments, positions and memoranda for senior leaders responding to taskings from the Joint Staff. A few highlights follow:

### **Law of Armed Conflict (LOAC) and Weapons Reviews:**

JAO served as TJAG's office of primary responsibility for all areas related to LOAC. JAO provided advice to commanders of the potential LOAC implications concerning the use of civilians in certain aspects of contingency operations. During the year, JAO reviewed both lethal and non-lethal weapons systems, as well as cyber capabilities to ensure compliance with U.S. treaty obligations, domestic law, and customary international law. JAO met with representatives of the other Services to ensure that the new Department of Defense Instruction on Non-Lethal Weapon (NLW) Human Effects Characterization did not adversely impact the accomplishment of Service legal reviews of non-lethal weapons. JA provided input that was incorporated into a new DoD Directive on autonomous weapon systems. JAO reviewed all laser systems before the Air Force's Laser System Review Board. Such reviews included the MAXPOWER counter-improvised explosive device (C-IED) system, various Oleoresin Capsicum (OC) sprays for use in Mk4 and Mk46 spray canisters; and the GAU-21 .50 caliber machine gun for the CV-22, Osprey.

### **Air and Space Law:**

JAO provided inputs to assist DoD with the updating of US strategy, doctrine and policy concerning military operations in the space domain. In coordination with SAF/ GCI, JAO advised OSD Space Policy, the Joint Staff and Air Staff on draft DoD and US space norms of state behavior. JAO continued to review agreements proposed by USSTRATCOM for sharing space situational awareness (SSA) data with commercial and foreign entities. JAO participated and provided Space Law expertise to the annual multi-national Schriever war-games in Colorado. Through its participation in the OSD Interdiction Working Group, JAO advised on a range of strategic and operational legal matters relating to countering the proliferation of WMD and related cargo in the air domain. JAO also worked with OSD, the Air Staff and COCOM's to



develop scenarios for Proliferation Security Initiative (PSI) multinational exercises. JAO partnered with SAF/GCI to advise on the international legal requirements for the marking of State aircraft under the Chicago Convention. JAO also participated in an informal working group with representatives from Air Combat Command, the Air Staff, and the Air Force General Counsel's Office to establish a matrix of approval authorities concerning the use of remotely piloted aircraft for training or domestic support to civilian authorities. JAO also continued to work with SAF/GCI to advise the DoD Policy Board on Federal Aviation on a range of issues relating to the FAA's long-term transition to Global Positioning Based (GPS)-based air traffic management in the National Airspace.

### **Exchange Officer Program:**

JAO was fortunate to continue to have two exchange officers, one from the United Kingdom and one from Australia, as part of its legal staff. These officers provide in-depth expertise and perspective from their respective services on critical international law issues. Some of their other activities included serving as a JA representative to the DoD Law of War Working Group, providing substantial support on the impending draft of the Law of War Manual, and managing the Air Force Foreign Criminal Jurisdiction program as well as JAO's reviews of Air Force, DoD, and joint publications.

### **Foreign Civil Litigation and Foreign Criminal Jurisdiction:**

JAO provided legal advice on several foreign civil and criminal jurisdiction matters that involved many different countries. As part of its world-wide responsibilities, JAO advised and coordinated on over 140 new foreign criminal jurisdiction cases while monitoring dozens of foreign civil actions. JAO fulfilled its responsibility to act as the approval authority for the release of Air Force witnesses and Air Force records to foreign criminal tribunals. JAO partnered with our Army counterparts in the Army Office of the Judge Advocate General to explore the possibility of updating the existing joint instruction on Foreign Criminal Jurisdiction. JAO continued to serve as the JA lead for discussions related to the appeal to the Italian Court of Cassation of a criminal conviction of an Air Force colonel.

### **International Agreements:**

JAO provided support on a number of complex international agreement issues including review of Air Force issues related to a Defense Cooperation Agreement with New Zealand, and the draft Southeast Asia Nuclear Weapon Free Zone (SEANWFZ) treaty. JAO provided guidance to the US delegation to a conference considering a proposed Arms Trade Treaty. While partnering with SAF/GCI, JAO assisted authorities in USFK reach agreement with Korean representatives on the civil use of the Kunsan AB runway. Further, JAO provided advice concerning a



proposed international agreement between the US and UK related to training standards for MQ-9 Reaper operations. JAO continues to maintain the Air Force database for all international agreements and provides the AF's annual report to DoD/GC. JAO revised, coordinated and published AFI 51-701, Negotiating, Concluding, Reporting, and Maintaining International Agreements.

### **Cyberspace Operations:**

JAO provided legal expertise concerning several significant cyber related issues. JAO reviewed and provided recurring input on a draft Presidential Directive on Cyber Operations, a joint doctrine publication on Cyberspace Operations, and the continuing effort to complete a new cyber enclosure in the U.S. Standing Rules of Engagement. JAO participated in a cyber-legal workshop hosted by the USCYBERCOM legal office.

### **Operations Law Issues and Joint Actions:**

JAO provided legal support to a wide range of joint actions for 2012 that covered a broad spectrum of international and operational issues including review of Theatre Support Plans for CENTCOM and PACOM, the State of the Union EXORD, Air Force War and Mobilization Plan, the Air Force Campaign Support Plan, the Defense Support to Civilian Authorities EXORD, Air Counterproliferation Interdiction EXORD, Maritime Counterproliferation EXORD, and NORTHCOM requests for DoD approval of proposed counterdrug missions. JAO coordinated on over 30 mobility packages and a wide variety of intra and interagency matters. At the request of AF/JA, JAO provided general guidance to assist MAJCOM legal offices spot potential fiscal law issues in pending mobilization packages. JAO intervention successfully redirected a Chairman of Joint Chief's of Staff instruction's revision to avoid an intrusion upon Service responsibilities which effectively imposed collateral damage training standards upon the Services. Likewise, JAO preserved Air Force training authorities and equities by inserting Service specific language in a Secretary of Defense designation of USSTRATCOM as the lead for joint ballistic missile defense training. JAO input was also incorporated into a Secretary of Defense guidance memorandum on leveraging military training for incidental support to law enforcement agencies. JAO participated in the quarterly AF Intelligence Oversight Panel. JAO captured and published the 2012 Top Lessons Learned for JAG and paralegal deployments to Afghanistan. JAO is in the process of drafting a new 51-series Air Force Instruction to provide guidance on the provision of Judge Advocate Support to Operations.



### **Working Groups:**

This year JAO represented TJAG in several Air Staff level working groups that include interagency participants. JAO represented the Air Force on the DoD Law of War Working Group and regularly participated in meetings regarding the long term development of the DoD Law of War Manual. JAO participation in other forums including the Air Force Doctrine Working Group, the Continuity of Operations (COOP) Working Group, Arms Control Attorneys Working Group, Nuclear Working Group, Expeditionary Skills Senior Working Group, Force Protection Committee Steering Group, the Air Force Pakistan-Afghanistan Coordination Cell, and the OSD Interdiction Working Group (Counterproliferation of WMD).

### **Training, Conferences, and Outreach:**

JAO served as the Air Force lead for any inquiries related to LOAC training under the expeditionary training program. JAO representatives frequently participated in conferences regarding international and operations law. Among these were the American Society of International Law (ASIL) sponsored conference, Intelligence Community Legal Conference, ICRC sponsored workshop on Humanitarian Law, ABA sponsored conference on National Security Law, Galloway Symposium on Critical Issues in Space Law, ABA sponsored workshop for Space Law Practitioners, HQ USEUCOM International Legal Conference, the PACOM MILOPS conference, 24 AF Cyber Workshop, Human Intelligence/Counterintelligence Workshop, US Naval War College's International Law Department's Conference on Cyber Warfare, and National Security Law Conference at Duke University. JAO delivered presentations on the Legal Principles of Air Interdiction during the 2012 Air Force Combating Weapons of Mass Destruction Conference, the USSTRATCOM Global Synchronization Counterproliferation Conference and the Air Force Intelligence Agency Civil Aviation Intelligence Conference. JAO provided substantial instruction on legal deployed lessons learned and ground ROE to the Judge Advocate's Advanced Contingency Skills Training Course (ACST) for deploying JAGs and paralegals at the JA portion of Contingency Airmen Skills training at Fort Dix, NJ. JAO led a seminar at AF JAG School's GATEWAY course on a variety of operational law leadership issues. JAO personnel served as a guest lecturer for the Army JAG School Law of Sea, Air and Space course and the Catholic University Law School Space Law course. JAO personnel volunteered in support of the annual Manfred Lachs Space Law Moot Court Competition, serving as oral argument judge and conducting outreach to recruit new law schools to participate in the competition.

## **Administrative Law Directorate**

The Administrative Law Directorate (HQ AF/JAA or JAA) provides legal advice and assistance to the Air Staff; elements of the Secretariat including the Personnel Council, the Board for Correction of Military Records, and the Discharge Review Board; The Inspector General; and command and staff judge advocates on matters relating to the organization, administration, operation, personnel, and functions of the Air Force. In 2012, JAA has 26 active duty and civilian attorneys, three paralegals, and two administrative staff. The Directorate is also supported by 7 reserve attorneys.

The Directorate oversees the review of adverse personnel actions on officer personnel, including officer administrative discharges, promotion propriety actions, and senior officer unfavorable information files. Three JAA judge advocates provide direct legal and investigative support to the Air Force Inspector General (IG) and his staff on every IG investigation involving a subject in the grade of brigadier general-select and above, as well as civilian employee equivalents. Two JAA judge advocates provide legal advice to the IG Complaints Resolution Division on all investigations of reprisal, restriction, and improper mental health referrals, as well as requests for IG records. One civilian attorney serves as legal advisor to the Air Force Surgeon General. Other divisions handle Information and Privacy, Communication/Computer, Services, and professional responsibility issues. JAA further provides direct support to AF/SG through a legal advisor position. Finally, the directorate reviews and takes final Secretarial action on complaints under Article 138, Uniform Code of Military Justice, and provides legal reviews for actions pending before the Board for Correction of Military Records. During 2012, JAA was involved in a number of significant efforts, including:

### **Constitutional and Personnel Issues:**

At the Chief of Staff's direction, JAA authored, coordinated and published AFPD 1, Air Force Culture, and AFI 1-1, Air Force Standards, which provides specific guidance to Airman on required standards of conduct, performance and discipline, safeguarding the Air Force's culture for years to come. JAA reviewed a variety of constitutional and personnel matters to ensure compliance with legal and policy requirements. The Directorate provided advice and assistance in implementing Air Force policy regarding religious accommodation as it applies to the wear of the uniform and grooming standards. JAA was instrumental in developing force management policy to implement necessary Air Force-wide personnel reductions as well as fitness policy. JAA reviews all Air Force officer promotion list removal/delay actions for the Secretary's final determination.

### **Total Force Integration (TFI):**

The continuing need to streamline efforts and find the most economical mix of active and Reserve forces have provided JAA with further opportunities to work with NGB/JA and SAF/GC to find efficiencies through Total Force Integration. The Directorate played an active role in supporting AF/A8X in their efforts to expand the integration of active and air reserve component activities, within the bounds of existing fiscal legal constraints, including evaluating proposed associations for legal sufficiency and drafting potential legislative proposals that would expand the opportunities for Air National Guard personnel to provide training for active duty members.

### **Department of Defense/Air Force Publications:**

JAA's legal reviews of publications covered the gamut of subjects and functional areas. One surprisingly common misperception which had to be addressed was that guidance and policy can be disseminated other than by means of official Air Force publications and that individuals other than SecAF can determine and approve Air Force policy. Increasing emphasis has been given to converting prior policy documents into official publications. JAA serves as a key advisor on the



Air Force's 3-to-1 initiative designed to achieve maximum integration of Air Force governing directives across all three Air Force components—Air National Guard, Air Force Reserve, and the Active Force. This activity compliments the significant role JAA plays in the TFI activities.

### **Air Force Civil Liberties Program:**

In accordance with a federal law passed in 2008, JAA teamed with SAF/A6 CIO to create the Air Force Civil Liberties Program, establishing guidelines and products for training personnel on civil liberties issues; investigating and then reporting Air Force civil liberty complaints to the Department of Defense Privacy and Civil Liberties Office and Congress; revising AFI 33-332 to incorporate the Air Force's civil liberties program; and establishing civil liberties guidance on the Air Force Privacy Officer and JAA websites.



### **Legislation:**

JAA reviewed hundreds of legislative proposals to identify potential adverse impacts and to improve the benefit to the Air Force and DoD. Legislation concerning the processing of sexual assault cases in the military continues to be in the forefront. Proposals seeking to greatly restrict commander discretion, and in some instances, remove sexual assault cases from the chain of command entirely remain front page news. Such proposed legislation raised significant concerns with JAA and JAJM. While the final outcome of competing proposals remains to be seen, our input provided a compelling and articulate defense of the military justice system. JAA drafted significant legislative proposals designed to gain more flexibility in the use of the Air National Guard and Air Force Reserves as Congress examines the proper force mix for the 21<sup>st</sup> Century.

### **Ethics and Travel Issues:**

The past year saw new Deputy Secretary of Defense guidance on fiscal austerity and participation in conferences as well as new Under Secretary of Defense (Personnel and Readiness) restrictions on senior officer and enlisted leaders sitting on the boards of directors of outside organizations. For much of the year, the approval authority to sponsor or attend any conference was at the Secretariat which heightened the legal scrutiny given to such requests. Notable issues in the past year included gifts to the Air Force and individuals, including gifts from foreign governments, spouse travel on military aircraft, fundraising in the workplace, permissible political activities associated with the Presidential election campaign, and acceptable levels of logistical support for non-federal entities. Several high-visibility instances of General Officer misconduct led to a comprehensive review of DoD and Air Force ethics regulations.

## **U.S. Air Force Academy:**

Congress adopted 10 U.S.C. 9362 to authorize the Secretary to establish a non-profit corporation, under Colorado law, to manage the Academy's athletic programs. The corporation's board of directors has met several times and is in the process of selecting their executive team. The Directorate produced ethics and conflict of interest guidance for the board of directors and participated in a working group that has helped the Academy navigate the myriad of fiscal law, corporation law and ethics issues associated with the stand-up of the athletic corporation. The JAA Director plays a key advisory role as a member of the Academy's General Officer Steering Group.

## **Services Law:**

JAA-S serves as the Services Law reach back resource for all Air Force legal offices world-wide regarding Morale, Welfare, and Recreation (MWR), non-appropriated funds (NAFs), child development center, and the use of appropriated funds (APFs) and NAFs to support various category MWR programs, events and installations.

JAA-S initiated a legal protest to SVF, AFSVA/CC, and AF/A1S on critical fallacies of SAF/FM's demand that all AF NAFIs 'pay-in-advance' (e.g. one year) payments for all services (primarily utilities) provided at installations. This demand was based on a draft DoD FMR implementing an OMB policy decision that FM could no longer establish receivables from non-appropriated fund instrumentalities (NAFIs), equating them as a public entity. Such advance payments would place many NAFIs in a negative cash flow position, forcing some NAFIs to close. After obtaining AF/A1S' support of JAA-S position, AF/A1S spearheaded a blocking action; and then we proposed a "way ahead" to ensure the changes to the FMRs complied with other FMR provisions to minimally impacted the cash flow and operations of NAFIs. This proposal was for a uniform (AF wide) Public Receivables MOA (initially drafted by JAA-S) with concurrence of representatives from SAF/FMB, SAF/FMP, AF/A4, AF/A7, AFAFO, AF/A1S, and AFPC/SV. A week-long Pentagon meeting culminated almost a year of negotiations. The primary issues resolved were a standard method of billing for water, gas, electricity and communications; determine an appropriate number of days NAFIs were required to make an advance payment (90-day advance as long as a waiver process was available for NAFIs with insufficient funds); provide for a method to reconcile actual invoices (charges) with advance payments; provide for a waiver process for NAFIs with insufficient funds to make an advance; determine an appeal process to resolve disagreements between the installation FM and the NAFI; provide for the installation of utility meters on all NAFI facilities at CONUS installations (meters are currently being installed on NAFI buildings where it is cost efficient throughout all CONUS installations); and create a partnership with AF/A7 to develop energy efficient facilities. Overall, this was a most successful resolution for uniform implementation requiring limited and rationale advance payments from NAFIs.

JAA-S continued to provide legal support to the pilot AF Food Transformation Initiative (FTI and/or Food T) that is transforming the essential food delivery services to airman at six AF installations. This year, Food T operations were expanded to an additional six installations; however, a GAO bid protest against this expansion at Dyess and Barksdale required extensive

support to AFLOA/JAQ for the AF unsuccessful defense of a NAFI/MOA that underpins FTI for the subject bases. JAA-S continues to engage with SAF/GC and AF/A1S to obtain additional approvals necessary to move FTI forward.

JAA-S continued its cradle-to-grave administration of all AF NAF workers' compensation claims, making the AF the only service to administer NAF workers' compensation claims in house. In 2012, 15 cases were closed. Three cases were complete dismissals with no compensation awarded. Potential liability for the 15 cases was \$5.6M; but, total paid was \$476.7K; thereby saving the AF NAFIs \$5.1M.

JAA-S coordinated and advised the AFSVA on 18 new NAFI/Memorandums of Agreement (MOAs) and 54 amendments to previously signed MOAs. MOAs provide a significant amount of funds the AFSVA uses to construct and make improvements to Air Force Category A, B and C MWR activities worldwide. For 2012 FY, JAA-S advised the AFSVA/CC (& AFPC/SV) on \$77M in funds received for programs such as the Exceptional Family Member Program, Child Development Centers, fitness centers, programs designed to assist wounded warriors and FTI. Except for FTI, the majority of the funding was provided directly to the AFSVA by OSD.

JAA-S provided direct litigation support to the Department of Justice (DoJ) in both the SUFI \$159 million and multi-million dollar NAF contract claim before the Court of Federal Claims; and, continues to provide support in the anticipated appeal process. Additionally, a JAA-S attorney provided extensive litigation support to DoJ in a Federal District Court antitrust litigation against American Express.

JAA-S provided guidance to AF Child and Youth Programs AF/A1SP regarding the process to be followed in providing needed services for children with special needs. Children requiring 1-1 care remains an on-going an issue because funding is not available at most installations to support this level of care. JAA-S also worked to help address the process to be followed AF-wide regarding immunization waivers based on religious beliefs for children who seek to participate in AF Child and Youth Programs.

JAA-S reviewed, edited, and helped to make possible the final license, offer and acceptance of a proposal from the City of Glendale so that the AF Sports as host, could use the City of Glendale facility for the 2012 DoD Rugby Tournament. JAA-S made extensive revisions to the license and other documents to help diminish liability exposure to the AFMWRF (NAFI).

## **The Office of Professional Responsibility**

JAA-PR provides oversight ethics program for The Judge Advocate General's Corps (JAGC). In that role, JAA-PR facilitated attorney licensing reviews and verifications and ensured accountability of 4500+ JAGC members. Additionally, JAA-PR created training on the expected unique PR issues to the newly created TJAG practice area of Special Victims' Counsel (SVC). JAA-PR's training program provided in advance of SVC program stand-up--ensured resolution of ethics concerns prior to program launch for SVC course. The JAA-PR processed 14 attorney ethics cases. The review/advice enabled the Ethics Advisory Committee & TJAG to ensure just results were achieved in every case and the high ethics standards expected of all members of the

JAGC were upheld and preserved. JAA-PR also teamed with his Army and Navy PR counterparts to provide consistent guidance to the 435 CJIAF attorneys on the ethics rules to be followed in detainee operations. JAA-PR authored the Air Forces' first ever attorney ethics AFI; a seminal document modernizing the code of expected professional conduct and providing the basis for maintaining highest ethical standards across JAGC.

## Training and Readiness Directorate

The Training and Readiness Directorate (AF/JAI), was stood up in 2011 and has been a great success. JAI is responsible for conducting Article 6 Part I Inspections to properly evaluate and standardize JA fields of practice, improve the services the legal community provides to commanders and clients, and institute continuity of legal programs across the Air Force. AF/JAI is the product of TJAG's vision for increasing the scope and enhancing the purpose of the Article 6 inspection process and the efforts of The Inspector General in reducing the footprint of base inspections Air Force-wide.

Article 6 Inspections are conducted in two parts. Part I of the Inspection is synchronized with the Inspector General's Compliance Inspections (CI). The inspected office prepares for the inspection using a single, consolidated inspection checklist, which is comprised of both regulatory compliance items and Article 6 compliance items. The Article 6 Part I Inspection team consists of representatives from AF/JAI and representatives from the MAJCOM being inspected. After the inspection, the team drafts an inspection report, which includes a numeric grade on a 100-point scale and a 5-tier grade. This report is used by TJAG or the Deputy Judge Advocate General (DJAG) to prepare for the Part II Inspection. Article 6 Part II Inspections are typically scheduled six to eight months following a Part I Inspection. The Part II inspection is really a continuation of the Part I Inspection, and allows TJAG and DJAG to fully examine all of the legal office's programs and their impact on the wing, as well as the leadership within the office.

AF/JAI launched a CAPSIL collaborative learning center which contains completed Article 6 Inspection reports, inspection scores, an interactive forum section for posting of hot issues, and the current Article 6 Inspection Checklist. The CAPSIL Portfolio interactive checklists continue to be a success allowing bases to the capability to complete their semi-annual self-inspection in CAPSIL. In June of 2013, the capability to import MICT data into CAPSIL was also introduced, allowing greater visibility to the wing commander's self-inspection program.

Since starting graded inspections on 1 January 2012, AF/JAI has conducted 45 graded Article 6 Part I Inspections. The inspections conducted to date have been extremely valuable in providing TJAG and DJAG an unprecedented look into the operations and effectiveness of a base legal office. Furthermore, the process has also dramatically improved trend analysis for both deficiencies, as well as recognizing office strengths. AF/JAI continues to refine the Part I Inspection process in order to garner the greatest return for both the AFJAG Corps and the Air Force.

## The Air Force Court of Criminal Appeals

The Air Force Court of Criminal Appeals has jurisdiction over: (a) all trials by court-martial in which the sentence includes confinement for 12 months or longer, a punitive discharge, dismissal of a commissioned officer or cadet, or death; (b) all cases forwarded to the Court for review by The Judge Advocate General of the Air Force under Article 69(d), UCMJ; (c) certain Government appeals of orders or rulings of military trial judges that terminate proceedings, exclude evidence, or concern the disclosure of classified information, pursuant to Article 62(a), UCMJ; (d) petitions for new trial referred to the Court by The Judge Advocate General, pursuant to Article 73, UCMJ; and (e) petitions for extraordinary relief under the All Writs Act, 28 U.S.C. § 1651.

In 2012, the Court rendered over 240 decisions. Notably, the Court received a significant number of cases remanded by our superior court in light of recent changes to established precedent regarding the scope of the accused's constitutional rights to notice pleading and confrontation of witnesses. This resulted in a rise in the number of cases returned to the Court for further review under Article 66(c), UCMJ, 10 U.S.C. § 866(c), after subordinate courts or officials took appropriate action based on the Court's post-trial order.



Oral argument may be heard in a case when either the appellant or appellee requests it or when the Court orders it sua sponte. Arguments typically take place in the appellate courtroom; however, the Court periodically moves the location of an argument to law schools and military installations across the country in furtherance of “Project Outreach”—a program designed to educate civilian and military audiences about the military justice system. In 2012, the Court heard argument before a law school audience at Willamette School of Law, as well as an audience of judge advocates at the continental United States Trial Advocacy Course at Lackland Air Force Base, Texas. The arguments were very well received at all locations, sparking questions and conversation with the various students, faculty, and judge advocates.

Members of the Court went beyond their statutory responsibilities and used their judicial experience to assist the Air Force and Department of Defense in other areas. The appellate judges traveled inside and out of the continental United States to conduct approximately 40 environmental impact hearings in accordance with the National Environmental Policy Act. The judges served as presiding officers over the environmental hearings that allowed for federal receipt of public comment on how potential changes in Air Force missions could impact the environment. The hearings spanned far and wide into states and territories including Alaska, Arizona, California, Florida, Georgia, Idaho, Nevada, New Hampshire, New Mexico, New York, South Carolina, Utah, Vermont and the Commonwealth of the Northern Mariana Islands.



Additionally, two judges were invested to the United States Court of Military Commission Review (USCMCR), bringing the Air Force representation on that Court up to three appellate judges. The USCMCR hears appeals of cases convened under the Military Commissions Act of 2009. The USCMCR not only hears cases with a finding of guilty from tribunals at Guantanamo, but also hears appeals on issues taken prior to and during trial.

The judges and attorney law clerks also performed community service by serving as judges at several local moot court competitions hosted by various organizations, such as the American Bar Association, National Bar Association, Federal Bar Association, Black Law Students Association, Phi Alpha Delta Law Fraternity and the Catholic University of America Columbus School of Law.

Finally, the Court experienced significant changes in its composition as the total number of judges on the Court increased to six. Former Chief Judge Orr and Judge Weiss retired, each after 30 years of service. Thus, the Court welcomed three new appellate judges this year, representing 50% of the Court's current composition.

## **The Judge Advocate General's School**

The Judge Advocate General's School (JAG School), located at Maxwell Air Force Base, Alabama, is the educational hub of the AFJAG Corps. In addition to directing and teaching 49 JAG School courses and conferences over the last year, the faculty instructed at numerous Air University schools and colleges, and other schools and courses throughout the Department of Defense. The JAG School's outside teaching activities involve in excess of 1,000 faculty hours and reach more than 18,000 students each year. The JAG School has been at the forefront of developing and updating curriculum for JASOC, Gateway and other JAG School resident courses.

### **Civil Law:**

The Civil Law Division has taken the lead on key AFJAG Corps teaming efforts. The Civil Law attorneys and paralegals integrated seven Will Preparation for Paralegals Courses and directed this year's Paralegal Contracts Law Course. The Civil Law Division also presented the second annual Environmental Law Update Course entirely via webcast. This was the Civil Law Division's most highly attended course, with a total of 165 students from all branches of the DoD. Moreover, the Civil Law Division offered 20 webinars covering general civil law topics (including legal assistance topics) to well over 2000 students from 478 legal offices worldwide. Finally, the Civil Law Division continues to team with the JAG School's Operational and International Law Division to provide "in-person" contract and fiscal law training to financial management professionals at various Air Force bases and Army posts in the continental United States.

### **Military Justice:**

The Military Justice Division organized and executed three Trial Advocacy Conferences in the United States, one in the Pacific, and one in Europe. These conferences updated approximately

300 practicing trial counsel, defense



counsel, justice paralegals and defense paralegals on evolving aspects of military justice trial practice. The conferences focused on the Military Rules of Evidence and working with experts in courts-martial. Students completed practical exercises with expert forensic psychologists on the issues of alcohol induced black-outs and pass-outs as well as dealing with child victims. Subject matter experts updated the students on a variety of issues including: Article 120, Uniform Code of Military Justice; designer drugs such as spice and salvia; and important appellate cases. Additionally, the Military Justice Division participated in the Training by

Reservists in Advocacy and Litigation Skills (TRIALS) program. The TRIALS program provided advocacy training to more than 140 JAGs at 13 different locations both stateside and overseas.

### **Operations and International Law (OIL):**

The OIL Division continued to work toward an updated *Air Force Operations and the Law: A Guide for Air, Space & Cyber Forces* publication. This comprehensive deskbook is a valuable resource to judge advocates and paralegals supporting Air Force and joint military operations worldwide. The division is in the midst of preparing release of the 2013 update. The electronic After Action Reporting (AAR) system enabled collection of more than a hundred AAR's from re-deploying AFJAG Corps members, over half of which were gathered using the new database. The new system simplifies the process of getting standardized information while increasing the ways the data can be arranged and searched. In the teaching arena, in addition to executing eight field training exercises and teaching JASOC, PAC, PCC, and other AFJAGS local courses, OIL conducted training at more than 50 courses outside of AFJAGS to various audiences in the USAF and DoD to include SES and senior flag officers.

### **Professional Outreach:**

The Professional Outreach Division continues to capitalize on the unique capabilities of CAPSIL to improve the ways to educate the Corps. CAPSIL provides the ability to access and share information and eLearning resources. In 2012, the JAG School began planning a new distance education initiative. Modeling a civilian institution approach to distance education, the School began designing the first ever online course, the Ethics Counselors' Course (ECC). This online course has curriculum that is both effective for the student and meets the needs of the



AFAFJAG Corps and its Air Force clients for years to come. Using Defense Connect Online, the school hosted 41 webcasts that were attended by more than 16,000 participants. Links to 150 recorded webcasts, on a wide variety of legal and leadership topics are posted on CAPSIL for

training use by offices worldwide. The JAG School distributed more than 35,000 copies of its publications this year. To include the *Air Force Law Review*, *The Reporter*, the *AFJAGS Bulletin* and *The Afghanistan Rule of Law*. Furthermore, at this year's Keystone Leadership Summit, the Professional Outreach Division designed and created graphics displayed at the conference.

### **Standards and Evaluation Division:**

The Standards and Evaluation Division became a new division in 2012. Three experienced AFJAGS attorney instructors are designated as "Stan/Eval" instructors with responsibilities, under the supervision of the Academic Director, to ensure academic rigor in AFJAGS curriculum and teaching excellence by AFJAGS attorney instructors. In addition to normal instructional duties, Stan/Eval instructors work with division chiefs and individual instructors to develop curriculum, evaluation instruments, and assessment tools. They are principal advisors to the Academic Director on academic policy, and assist the Academic Director in evaluating the effectiveness of AFJAGS attorney instructors.

## **Trial Judiciary Division**

The Air Force Trial Judiciary has 18 active duty trial judges, four reserve trial judges, one noncommissioned officer, and one civilian employee assigned worldwide. The Trial Judiciary is divided into five geographic regions: Atlantic, Central, Western, European and Pacific. An O-6 Chief Regional Military Judge (CRMJ) oversees operations in each region. 13 different installations host military judges worldwide.

The Trial Judiciary bid a fond farewell to Colonel Amy Bechtold and Colonel Tom Cumbie in 2012 as both retired after long and distinguished careers. Notably, Colonel Cumbie completed twelve years of service as a Military Judge at three different locations before his retirement.

In early May 2012, the judiciary welcomed back three former military judges: Colonel Rodger Drew as the CRMJ for the Atlantic Region, Colonel Greg Friedland as the Pacific Region's CRMJ, and Lt Col Grant Kratz as the Military Judge at the US Air Force Academy. All three alumni completed the joint 55th Annual Military Judges Course at the United States Army Judge Advocate General Legal Center and School in Charlottesville, Virginia. They were joined by two new active duty military judges and one new reserve military judge. All five trial judges joined the Chief Trial Judge and two Air Force Court of Criminal Appeals judges for an end of class photo.

In September 2012, the active duty judges attended the recently renamed Joint Military Judges Annual Training (JMJAT) at the National Judicial College (NJC) in Reno, Nevada. More than 100 judges from all five services attended this 37th iteration of annual DoD trial judges training. The judges received outstanding presentations on the 4th amendment from



NJC faculty and followed with a military symposium of current topics. The 18 military judges at JMJAT posed for a photo outside the NJC. The Trial Judiciary's flagship outreach program "View From the Bench" continued to provide guidance to the field from sitting military judges. Managed by Judge Shane Cohen, trial judges produced three articles and led three webcasts. Judge Matt van Dalen shared his views on Opening Statements. Judge Mike Coco provided insights into effective Motion Practice. Outgoing Judge Scott Harding finished up his tour on the bench by publishing an article titled "Potpourri" with miscellaneous trial tips. Judge Cohen followed up his 2011 article on Voir Dire with a webcast in early 2012. Finally, the William & Mary Law Review published Judge Joshua Kastenberg's article *Hugo Black's Vision of the Lawyer, the First Amendment, and the Duty of the Judiciary: The Bar Applicant Cases in a National Security State*.

## USAF Judiciary Directorate

The United States Air Force Judiciary (JAJ) is responsible for the administration of military justice across the Air Force. JAJ advises The Judge Advocate General (TJAG), Chief of Staff of the Air Force and the Secretary of the Air Force on military justice matters, works with the other uniformed services to propose legislation and modifications to executive orders pertaining to military justice, assists convening authorities and staff judge advocates in the field, oversees defense services to Airmen worldwide and supervises the conduct of government and appellate operations before the Air Force Court of Criminal Appeals, U.S. Court of Appeals for the Armed Forces and the U.S. Supreme Court as applicable. JAJ manages 280 Total Force personnel assigned to some 80 locations throughout the world.

JAJ performs its mission through the work of its five divisions: Military Justice, Government Trial and Appellate Counsel, Trial Defense, Appellate Defense and Clemency, Corrections and Officer Review.

### **The Appellate Defense Division (JAJA):**

JAJA advances the Air Force mission by promoting justice and strengthening confidence in discipline by representing Airmen and former Airmen at all stages of the appellate process. Key duties include submission of written briefs and conducting oral arguments before the Air Force Court of Criminal Appeals (AFCCA), the United States Court of Appeals for the Armed Forces (USCAAF), and the United States Supreme Court. In addition, appellate counsel work closely with trial defense counsel in the preparation of strategy and the development of tactics in cases tried throughout the Air Force.

Training remains a top priority for JAJA. This training includes military law courses at George Mason University and Duke University and appellate advocacy seminars sponsored by the Federal Office of Defender Services, the NAACP Legal Defense and Education Fund, and USCAAF; in addition JAJA conducts a robust in-house training program. JAJA also conducted joint training with its counterparts in the Navy-Marine and Army appellate offices.

The Division considerably reduced the backlog of cases awaiting briefing before the Air Force Court of Criminal Appeals. Between 1 January 2012 and 1 November 2012, the Appellate

Defense Division reduced by more than 20% the number of cases pending initial briefing before the Air Force Court, and reduced by half the number of cases in which the appellate defense counsel sought enlargements of time. JAJA managed its docket with seven personnel deployed, the most in Division history.

On 11 October 2012, AFCCA held oral argument in the capital case, *United States v. Witt*, ACM 36785. While Major Dan Schoeni was deployed to Bogota, Columbia, at the time of argument,

with the full support of his deployed command, he returned to Joint Base Andrews to argue on SrA Witt's behalf.



JAJA advocacy contributed to four rulings favorable to appellants for erroneous admission of testimonial hearsay of laboratory officials and others in light of *United States v. Blazier*, 69 M.J. 218 (C.A.A.F. 2010). Several other notable rulings clarified the rights of the accused and impacted the practice of military justice at the trial level.

In *United States v. Dease*, 71 M.J. 116 (C.A.A.F. 2012), in an Article 62 appeal, USCAAF held that the military judge did not abuse his discretion in ruling that Appellant had a privacy interest in his urine sample and could withdraw consent prior to testing.

In *United States v. Hayes*, 71 M.J. 112 (C.A.A.F. 2012), USCAAF held that the conviction for a violation of Article 92(3), UCMJ, dereliction of duty, was legally insufficient, as the Government failed to establish through competent evidence that there was a specific military duty, under Article 92(3), UCMJ, to either obey state laws in general, or, more specifically, the Nevada state law concerning consumption of alcohol by persons under the age of twenty-one. The Article 92 charge and specification was dismissed.

In *United States v. Rose*, 71 M.J. 138 (C.A.A.F. 2012), USCAAF held that Appellant received ineffective assistance of counsel where the Appellant's reasonable request for information regarding sex offender registration "went unanswered" by his trial defense counsel, and had it been correctly answered, he would have pled not guilty.

In a significant post-*Fosler* ruling, USCAAF held that it was plain error to omit the terminal element of Article 134, UCMJ, in a contested adultery specification in *United States v. Humphries*, 71 M.J. 209 (C.A.A.F. 2012). USCAAF stated that the Government did not plead the terminal element of Article 134, UCMJ, and, after a close reading of the trial record, there was nothing during its case-in-chief that reasonably placed the accused on notice of the Government's theory as to which clause(s) of the terminal element of Article 134, UCMJ, he had violated.



Appellate defense counsel participate in Project Outreach, sponsored by USCAAF and AFCCA, by conducting oral arguments before external audiences with ties to the military and legal professions. The Project serves a dual-purpose as a recruiting tool while highlighting the fairness and professionalism of the military justice system. In 2012, Outreach arguments were presented at Gonzaga University College of Law, Willamette University College of Law, University of Oklahoma School of Law, and Lackland Air Force Base, Texas.

### **The Government Trial and Appellate Counsel Division (JAJG):**

JAJG stood up the Air Force's first Special Victims Unit (SVU), staffed by a cadre of specifically trained senior prosecutors whose primary responsibility is to try courts-martial involving sex offenses, serious domestic violence, and crimes against children. The SVU leverages existing resources within the Senior Trial Counsel (STC) program, a program that has been in existence for more than 40 years and is currently staffed by 18 of the Air Force's best and most experienced litigators, trying approximately 85% of all general courts-martial in the Air Force.



Those seasoned STCs who meet certain qualifications (*e.g.* demonstrated litigation excellence, advanced subject-matter training, mastery of the legal issues common to these special victim cases) earn the designation SVU-STC. The Chief STC details these SVU-STC against worldwide requests for this special capability, making them available to advise base level trial counsel on interviewing victims and drafting charges, attend Article 32 hearings, and prosecute those cases referred to trial by courts martial. Because the available number of SVU-STC is finite and the number of cases they could be detailed against at times seems infinite, continuity of a particular SVU-STC through the life of a special-victim court-martial can be difficult to maintain, but JAJG continues to work with requesting legal offices to find ways to make this happen.

The stand-up of the SVU is not merely a designation of personnel; it is a dedicated focus, supported by dedicated resources, within JAJG. These SVU-STCs are supported by a deep bench of criminal appellate counsel. One member of that deep bench is an SVU-STC collocated with the Defense Computer Forensic Laboratory whose primary responsibility is to serve as a conduit between forensic experts and legal office personnel. Another deep-bench asset is a new SVU-STC intake counsel at Andrews AFB whose primary responsibility is to liaise with OSI's special victim personnel and provide reach-back support to legal offices as they grapple with the myriad of legal and factual issues these cases present. All told, this combined effort will ensure that the Air Force responds appropriately to cases involving special victims and will ensure justice is done in each case.

The primary role of appellate government counsel is to zealously represent the United States in appeals of the Air Force's most serious court-martial convictions. These counsel defend the military justice system and the actions of those involved in properly administering it at the trial court level. In this capacity, appellate government counsel function as the ultimate defenders of

the military justice process, seeking to uphold actions by investigators, trial counsel, trial defense counsel, military judges, staff judge advocates, convening authorities, appellate courts, and nearly every other party involved in the military justice process. Appellate counsel also provide expertise to our STCs and to the field concerning military justice, trial practice, and common pitfalls at every stage of the court-martial process.

Appellate government counsel research and write persuasive and thorough legal briefs and present oral arguments at the Air Force Court of Criminal Appeals (AFCCA) and the United States Court of Appeals for the Armed Forces (USCAAF). In conjunction with the Solicitor General, appellate government counsel may also appear before the United States Supreme Court.

In 2012, appellate government counsel wrote and filed 222 briefs with AFCCA and USCAAF. Additionally, counsel presented 24 oral arguments, 14 before USCAAF and 10 before AFCCA. Government counsel participated in Project Outreach with USCAAF and AFCCA by conducting oral arguments at various locations including Gonzaga University, Willamette University, and the University of Oklahoma. Counsel defended the United States on the full range of issues, including the application of search and seizure laws to the military, the constitutionality of the new Article 120 of the UCMJ enacted by Congress to address sexual misconduct in the military, the evolving doctrine of lesser included offenses, claims of ineffective assistance of counsel, speedy trial issues, due process concerns in military charging, and many other matters. In addition, appellate counsel continued to defend the government against claims of post-trial processing errors and untimely post-trial processing.

Appellate government counsel also serve a *de facto* role as the “solicitor general” of the Air Force, taking interlocutory appeals from the rulings of military judges in courts-martial to AFCCA and then to USCAAF as necessary. In 2012, the government filed notice of three interlocutory appeals of military judges’ rulings and successfully requested that The Judge Advocate General certify two USCAAF decisions for review by the Solicitor General to determine whether an appeal to the United States Supreme Court should be made.

The division continued to fulfill its obligation to support warfighting commanders by deploying its personnel. Major Lauren DiDomenico, an appellate counsel who has taken on the extra duties of being an executive officer, deployed to Africa for six months as part of nation-building and rule of law initiatives. Appellate government counsel also built active relationships with sister Service counterparts through participation in quarterly meetings and regular consultation on matters of common interest.

Trial and appellate government counsel continue to seek out opportunities to provide guidance and leadership in military justice. Division counsel have provided training at the Trial Advocacy Conferences, the Military Justice Administration Course, the Trial and Defense Advocacy Course, the Keystone leadership conference, and during worldwide webcasts. STCs have also provided training at the base level in conjunction with trying courts-martial. Further, appellate counsel continue to update and distribute the Trial Counsel Deskbook and an electronic newsletter containing appellate updates and relevant articles for military justice practitioners. Finally, JAJG continues to provide updates on the Government Trial and Appellate Learning

Center on CAPSIL, which provides the field with the latest developments and resources concerning case law, trial advocacy, and military justice.

### **Military Justice Division (JAJM):**

JAJM supports the field in military justice matters and drafts and implements Air Force military justice policy. JAJM is responsible for ensuring that military justice practice complies with continually evolving legislation, court decisions, and policy and informing the field of these changes.

JAJM represents the Air Force on the Joint Service Committee (JSC) on military justice voting group and its working groups, which drafts proposed legislation and executive orders for the Uniform Code of Military Justice (UCMJ) and the Manual for Courts-Martial. The division makes recommendations to the Judiciary and The Judge Advocate General for changes in military justice policy and completes other staff taskings as requested. In its role as a JSC voting member on military justice, JAJM helps refine proposed procedural and evidentiary changes to the UCMJ and the Rules for Court-Martial (RCM). In 2012, the JSC submitted proposed amendments to the UCMJ and RCM for inclusions in the 2013 Executive Order, including a redraft of the elements, definitions, explanations, maximum punishments, and sample specifications of Articles 120, 120b, and 120c.



The Victim Issues and Policy Branch was established in June 2012. This branch focuses on victims of sexual assault, domestic violence, and child abuse to ensure comprehensive support to victims throughout the military justice process. The new branch is responsible for oversight of the Victim and Witness Assistance Program, providing support to the JSC on sexual assault issues, and implementing DoD and Air Force policies pertaining to sexual assault cases. JAJM implemented the SECDEF Art. 120 initial disposition authority for sexual assault cases and continued to work with SAPR and senior leadership in responding to Congressional and media inquiries and providing statistical clarity and uniformity with regard to sexual assault cases.

The Justice and Court Activities Branch monitors officer and other special interest cases and prepares a monthly consolidated report for TJAG and the Chief of Staff. The branch reviews officer resignations in lieu of court-martial (RILO) and prepares advisory opinions for the Secretary of the Air Force; 14 RILOs have been reviewed so far this calendar year. Action officers review and process requests by civilian jurisdictions for return of overseas Air Force members, review and process requests for inter-MAJCOM permanent change of station or temporary duty of accused members for courts-martial, review and process Article 15 appeals from MAJCOMs, and act on special requests for Air Force counsel. This branch also identified several opportunities to provide training to the field. For example, the Military Justice

Administration Course is now provided twice a year, making it possible to reach a larger number of Chiefs and NCOICs of military justice before or shortly after they take the position.

JAJM provided webcasts on essential military justice topics such as processing special interest reports (SIRs) and RILOs. Nonjudicial punishment and central witness funding guides were updated to assist offices in accurately and efficiently processing those actions. AMJAMS has also been updated to update items of interest in sexual assault cases. The senior trial counsel screen gives the base the ability to add information into AMJAMS when they consult with an STC on sexual assault cases. The SIR screen has been updated to make sexual assaults all one category and eliminates the language stating that SIRs were to be submitted at the end of the month. Now, any significant event will require an updated SIR. These processing and training improvements ensure that justice is not only fair but timely, efficient, and accurate.

In 2012, JAJM's Relief and Inquiries Branch answered more than 50 high level inquiries from the White House, members of Congress, and Our Corps. Action officers reviewed 93 applications to the Air Force Board for Correction of Military Records (AFBCMR) on military justice issues. After carefully reviewing the applicable records and researching the issues, AFBCMR was provided an evaluation, including an interpretation of the request, an opinion of the applicant's contentions, and recommendations for disposition. Action offices performed more than 40 post-trial reviews for TJAG under Article 69(a), UCMJ, and reviewed 6 applications for relief under Article 69(b).

JAJM maintains the file repository for all courts-martial records of trial. The Appellate Records Branch processes all records of trial, whether forwarded for appellate review or forwarded for staging. The records section distributes necessary copies and prepares correspondence directing actions taken by appellate courts on cases undergoing appellate review. The branch typically processes more than 700 records of trial into JAJM during the year, closes nearly 300 cases, and transfers more than 500 cases to AFCCA and USCAAF. Additionally, the branch processes more than 250 decisions from those courts and the U.S. Supreme Court, and stages more than 1200 records of trial to permanent storage. The division also annually processes approximately 120 requests for court records under the Freedom of Information Act and Privacy Act. Finally, division personnel manage the \$500,000 web-based Air Force Centralized Witness Funding program and furnish fund citations and procedural instructions to the field. They also oversee AMJAMS, which includes consolidating data, preparing statistical analysis reports, preparing the final TJAG inputs to all records of trial, and providing statistical data in response to special inquiries.

### **Clemency, Corrections, and Officer Review Division (JAJR):**

JAJR is responsible for reviewing court-martial cases to make independent recommendations to TJAG and SecAF on clemency for convicted members. In accordance with Article 71, UCMJ, upon completion of appellate review JAJR examines all officer and Air Force Academy cadet cases with an approved sentence to a dismissal, and prepares a recommendation to SecAF on whether the dismissal should be approved and ordered executed or if clemency should be extended. As would be expected, SecAF approves most dismissals, but in past years clemency

has been granted for extenuating circumstances. Of the cases reviewed this year, all culminated in approved and executed dismissal actions.

Under Article 74, UCMJ, SecAF has the power to substitute an administrative discharge for a punitive discharge when “good cause” is determined. JAJR, reviews enlisted cases at the completion of appellate review when requested either by the Airman, Appellate Defense Counsel or Appellate Court Judges. It is rare for SecAF to exercise the power to grant clemency, but there are those unusual cases where extenuating circumstances exist. No enlisted members received Secretarial clemency this year. The President of the United States is given the authority by the U.S. Constitution to grant pardons to offenders, including those convicted by court-martial. In the past year, JAJR provided advice and information to several former members on how to apply for a Presidential pardon. Additionally, they prepared multiple case analyses for the United States Justice Department’s pardon attorney, at his request, on former Air Force offenders.

JAJR serves as TJAG’s representative on the Air Force Clemency and Parole Board. The board considers cases of long-term prisoners, i.e., those with approved sentences of a year or more, for clemency, parole, and mandatory supervised release. The board also considers whether to revoke parole when conditions of parole are violated, reviews applications for entry into the Return to Duty Program, and approves those who have completed the program for actual return to duty. The board has acted in hundreds of cases this year, including 86 parole decisions. At 24%, the Air Force has had the lowest parole rate in recent years; however its parole revocation rate remains extremely low.

JAJR provides counsel to Air Force Security Forces (AFSFC) regarding corrections matters, and gives legal advice on numerous issues related to the confinement of Air Force members. In this regard, JAJR is proud to announce the Memorandum of Understanding between Air Force Corrections and Navy correction has been executed. United States Naval Level II Brigs are supporting Air Force Level I confinement in their local jurisdictions.

In addition, JAJR has participated in brainstorming sessions on how to run the Return to Duty Program more efficiently. Federal law (10 USC 951 and 953) requires the military services to establish a system for the suspension or remission of unexecuted court-martial sentences and restoration to duty of selected offenders. The Air Force Return to Duty Program was established in 1953, and since 2007, it has been operating out of Lackland Air Force Base, Texas. Support and participation in the Return to Duty Program has ebbed and flowed, generally coinciding with force shaping. JAJR advocates the program within the AFJAG Corps, and provides valuable education regarding its benefits.

The Return to Duty Program is not a manpower or personnel program. It permits the court-martial part of our justice system to do more than punish, deter, and label convicted members as criminals. It is an opportunity for a few select airmen to be rehabilitated. Ultimately, increased of awareness throughout the legal field and command levels help foster support and participation in this valuable program. Statistically, 90% of Return to Duty graduates continue on in their careers and eventually either separate honorably from the Air Force after their commitment, or



go on to retirement. Units receiving these graduates provide laudatory comments about the excellent Airmen they receive from this program.

## Civil Law and Litigation Directorate

The Civil Law and Litigation Directorate (JAC) is the premier Directorate in the Air Force Legal Operations Agency and defends Air Force interests in civil litigation, excluding contract litigation, in various forums to include local, state, federal administrative bodies, federal district courts, the U.S. Court of Federal Claims, and federal appellate courts. In addition to its litigation practice, JAC oversees the Air Force Claims Program. JAC is made up of over 300 judge advocates, civilian attorneys, paralegals, and administrative personnel at 35 locations worldwide. JAC includes four divisions: Community Legal Services (JACA), Claims and Tort Litigation (JACC), General Litigation (JACL), and Environmental Law and Litigation (JACE).

### **Community Legal Services Division (JACA):**

The Community Legal Services Division (JACA) administers the Air Force Legal Assistance, Preventive Law, and Tax Programs; and manages JAG Corp capabilities to effectively provide Airmen, NCOs, officers, commanders and their families with information on matters common to Air Force communities. To accomplish these responsibilities, the Division sets and implements policies regarding legal assistance and preventive law at Air Force installation legal offices on behalf of TJAG. JACA identifies legal assistance training requirements and provides guidance and practice resources to the field. Building on recent years' efforts, the Air Force embarked on several initiatives aimed at improving legal assistance education and resources.



By providing essential advice and legal services to military members, their dependent family members, and retirees, the AFJAG Corps ensures Airmen are ready to deploy in the defense of their nation. These services are also critical to the welfare and morale of servicemembers. Between 1 January 2012 and 31 October 2012, Air Force attorneys advised 206,155 clients. Air Force legal assistance practitioners prepared 42,518 wills, of which 10,740 were prepared by paralegals; 194,673 powers of attorney; and 121,722 other legal documents.

One of the key accomplishments of the Division this year was the implementation of new training requirements. Starting this year, all military and civilian attorneys who have legal assistance in their position description, must receive legal assistance annual refresher training addressing the latest law and policy matters impacting the practice of legal assistance. The first annual update was provided via webcast in January. Recognizing the on-going importance of maintaining competency in this core practice area, there is now an annual requirement to complete military continuing legal education (MCLE) in legal assistance. Finally, in cooperation with the Professional Development Division of The Air Force Judge Advocate General's School,

JACA is developing in-depth training and evaluation in core legal assistance areas. The first of these distance learning courses, covering estate planning, was completed in 2012.

The 2012 National Defense Authorization Act (NDAA) reiterated that legal assistance is available for sexual assault victims otherwise eligible for legal assistance services. It also mandated that eligible victims be informed of the availability of such assistance. In order to ensure a firm understanding of these issues, JACA and JAJM (the Military Justice Division) provided comprehensive training to the field via a webcast. Further training was provided at various in-residence courses throughout the year. This year JACA partnered with the IRS to spearhead tax program training initiatives. With the current fiscal constraints felt across the federal government, the IRS is unable to provide the same number of training opportunities for IRS VITA trainers as it has in previous years. JACA and the IRS continue to explore alternatives that will meet the needs of the installations at no additional cost to either the IRS or the Air Force, including satellite training and the use of Defense Connect Online (DCO).

The Division has also actively participated as a liaison to the ABA's Legal Assistance for Military Personnel (LAMP) Committee. In addition to participating in business meetings and working with our sister-services to co-sponsor continuing legal education opportunities with the LAMP Committee, Air Force attorneys have fully embraced the ABA LAMP Committee's Military Pro Bono Project. This year alone, 89 cases have been referred for consideration. Volunteer attorneys provided many of these clients with extensive pro bono services, including in-court representation.

### **Claims and Tort Litigation Division (AFLOA/JACC):**

The mission of the Claims and Tort Litigation Division spans the globe. The Division provides administrative processing of personnel, carrier recovery, and tort claims. It operates the Medical Cost Reimbursement Program (MCRP) to recover money owed to TRICARE for medical care provided to Air Force personnel and their families. The Division also advises Air Force attorneys, commanders, and other officials at every organizational level on issues related to medical and aviation law, and it provides legal support to accident investigation boards. In addition, JACC represents the Air Force in litigation in a variety of forums. The Division is divided into five Branches and three Field Support Centers (FSCs).

### **The Medical Cost Reimbursement Program (MCRP):**

The MCRP enjoyed another successful year since its inception in 2009. MCRP paralegals and attorneys continue to aggressively pursue collection actions against third party tortfeasors, insurance companies, and other financially responsible parties to recoup the costs of medical care supplied by the Air Force, whether directly (via treatment in a military facility), or indirectly (via TRICARE payments to a civilian facility). The MCRP is a self-funding program, paid for by the funds collected. In FY12, MCRP recovered more than \$20 million. A small percentage of this was used to fund employee salaries and operating expenses. The MCRP continues to prove that the program is well worth the investment.

### **Aviation and Admiralty Law Branch (AALB):**

The mission of the AALB is threefold: One is adjudicating tort claims and defending the United States in litigation arising from Air Force aviation and admiralty activities, including aircraft crashes, sonic booms, low overflights, and events occurring on or over a navigable waterway. Branch members also protect Air Force interests, such as maintaining its policy of strict neutrality and preserving the military safety privilege when responding to discovery requests in private litigation involving Air Force aviation and admiralty activities. A second duty is to oversee the Accident Investigation Board Field Support Center and provide Air Force-wide policy and guidance on the accident investigation board (AIB) and ground accident investigation board (GAIB) processes. Third, the AALB advises the Air Staff on all issues within the purview of aviation and admiralty law, including release of mishap information, protection of the military safety privilege, friendly fire investigations, public use of Air Force aviation and admiralty assets, aerial demonstration flights, disposal of wreckage and surplus equipment, the Civil Air Patrol, and aviation tort liability implications of proposed legislation and international agreements. Because of their particular specialty, Branch attorneys are often called upon to brief members of Congress and make presentations before bar associations regarding military claims and also prepares and presents training for AIB and GAIB board presidents, legal advisors, and paralegal recorders at the Air Force Safety Center, Air University, the Air Force Judge Advocate General's School, and Air Force bases throughout the world.



### **Accident Investigation Board Field Support Center (AIBFSC):**

An integral part of the AALB, the AIBFSC provides JAG legal advisors and paralegal recorders for AIBs and GAIBs around the world. Primarily, it assists with MAJCOM-convened Class A mishap investigations, prepares publicly releasable reports, and secures evidence for potential claims litigation and other actions. It also provides critical reach-back expertise for other judge advocates and paralegals in the field. In the five years since its inception in September 2007, the AIBFSC has supported 92 mishap investigations. In 2012, three paralegals were assigned to the AIBFSC as recorders. Their addition to the AIBFSC team has already paid dividends as they were crucial in training a new set of legal advisors after the summer assignment rotations.

### **Foreign Claims Branch (FCB):**

The FCB guides Air Force offices worldwide on proper settlement of tort claims, adjudicates the Air Force's highest value Foreign Claims Act (FCA) claims arising abroad, and coordinates with overseas commands responsible for satisfying third party claims falling under international cost-



sharing agreements. The Branch also assists in resolving tort claims arising in the United States in connection with foreign military sales agreements having an Air Force focus. Throughout the year, the Branch provided effective reachback to Air Force and sister-service legal offices inquiring about tort claims policies and procedures, and advanced Air Force training objectives through repeated instructional visits to the Air Force JAG School. In 2012, in addition to coordinating with AFSOUTH/JA on liability concerns relating to NEW HORIZONS, a series of Joint Field Training Exercises and Medical Readiness Training Exercises in Peru, the Branch worked closely with the U.S. Embassy in Azerbaijan and Fifth Air Force in Japan to amicably resolve a number of personal injury and property damage claims.

### **Medical Law Branch (MLB):**

The MLB is responsible for adjudicating all Air Force medical malpractice claims worldwide, and all DoD military medical malpractice claims arising out of Japan. The MLB also provides litigation support to all Department of Justice attorneys defending the government in these lawsuits. Over the past year, the MLB has adjudicated over 130 claims in which claimants demanded over \$2.1 billion dollars in compensation. From these claims, about \$2.6 million was paid out in settlement awards (approximately 0.1% of the total demanded). In addition to adjudicating claims, MLB attorneys provide guidance, training, and support on all medical-legal issues arising in Air Force medical treatment facilities. In 2012, MLB attorneys acted as legal advisor in 12 medical privileging hearings for the Air Force Medical Service. Furthermore, MLB attorneys have shared their expertise with medical and legal communities throughout the Department of Defense by publishing the *Air Force Medical Law Quarterly* and by speaking at a variety of educational forums including the annual Air Force Medical Law Mini-Course, the Air Force Medical Law Consultant Course and Annual Update Course, the Inspector General's Worldwide HIPAA Briefing, and the Air Force Legal Administrative Investigations Course.

### **Medical Law Field Support Center (MLFSC):**

The MLFSC works closely with the MLB to provide medical-legal services to military treatment facilities (MTFs) throughout the Air Force Medical Service (AFMS). The MLFSC is led by the MLFSC Chief, stationed at JB Andrews, who supervises a competitively selected team of specially-trained Medical Law Consultants (MLCs). MLCs are strategically positioned at the Air Force's largest MTFs, HQ USAFE/SG, and the recently established tri-service Medical Education and Training Campus (METC) at Ft Sam Houston, TX. In 2012 JB Elmendorf-Richardson added a new MLC position, bringing the MLFSC to a total of 15 MLCs, six civilian support personnel and one military paralegal, assigned to 10 locations worldwide.

The MLFSC provides expert advice on an expansive and constantly changing range of issues related to healthcare operations. Common issues include such complex areas as authorized uses and disclosures of protected health information under the Health Insurance Portability and Accountability Act (HIPAA), quality of care and clinical adverse actions, medical ethics issues, research on human subjects, informed consent for healthcare, and end-of-life issues. In addition, MLCs advise on an ever-increasing variety of interservice and interagency agreements, as well as agreements with civilian medical facilities, for purposes of provider training and proficiency.

A one-of-a-kind position, the METC MLC, focuses exclusively on issues related to the training of enlisted medical personnel, providing counsel on a wide array of tri-service agreements, training affiliation agreements, and a variety of other issues unique to this academic setting. For MLCs located in MTFs, their duties are two-fold: (1) providing medical-legal advice and training to the MTF/CC and staff at their location; and (2) providing reachback support and training to their regions, including annual visits to MTFs and base legal offices.

### **Air Force Claims Service Center (CSC):**

The CSC is JACC's FSC for the adjudication of all Air Force personnel claims (P-claims). In FY12, the CSC adjudicated over 2,000 claims, with an average processing time of 11 days per claim. Thanks to the CSC, Airmen received over \$2 million in 2012 for damages to their household goods. The CSC collected over \$1 million in carrier recovery claims, due to an impressive 98% collected to-asserted ratio. The CSC recently moved into a newly renovated facility on Wright-Patterson AFB from its original off-base location in nearby Kettering, OH. Though the number of P-claims adjudicated by the CSC has waned, the need for their expert guidance remains as strong as ever. The CSC has fielded over 10,000 calls for claims assistance this year, an average of more than 40 calls per working day. Also, although the volume of household goods claims being handled by the CSC has decreased, the complexity of the claims has increased due to the implementation of DPS. Under DPS, military members must first file household goods claims with the carrier. The CSC becomes involved when the member and the carrier are unable to reach a settlement. Thus, the more difficult a claim is to settle, the more likely it is to end up in the hands of the CSC. Fortunately, the shift to an all-civilian workforce enables the Air Force to build and retain invaluable personnel claims experience and expertise. The CSC's expertise was recognized by the US Army's Judge Advocate General's office this year when they sent a team to evaluate the CSC's processes to use as a model for the Army's claims transformation. In the words of the Army Team Chief, "I was very impressed with the people, technology and operations and think we can learn a lot from your experience."

### **General Torts Branch (GTB):**

The GTB adjudicates tort claims and provides litigation support for cases that are not within the scope of one of the other Branches. In FY12, the Air Force received more than 1,600 general tort claims, demanding more than \$1.8 billion in damages. The types of litigation supported by the GTB are as varied as the number of installations we support, and in FY12, 36 new lawsuits were filed arising from general tort cases. GTB attorneys traveled around the country to assist the Department of Justice in defending some highly-contentious cases. GTB paralegals have become increasingly proficient in investigating and adjudicating complex tort claims. The Branch also has policy oversight for pro-government tort claims (G-claims) to recoup payment for damage to Air Force property. In addition, the Branch provides reachback tort claims support to base legal offices worldwide. In this role, GTB personnel apply specialized knowledge and legal services to support installation claims offices with regard to the investigation, settlement, and litigation of general tort claims (e.g., motor vehicle accidents, slip-and-fall claims) against the Air Force and to assist them in resolving tort claims within their settlement authority. GTB paralegals provide immediate reachback assistance to installation offices, by sharing their knowledge with installation-level paralegals to assist them in fulfilling



their tort claim responsibilities. Also, when traveling to defend cases, GTB attorneys routinely go to nearby installations to provide in-person training.

### **Environmental Law and Litigation Division (JACE):**

JACE works to preserve and protect air, land, and other precious resources central to the successful performance of the Air Force mission. JACE helps Air Force clients comply with environmental laws and seek legislative and regulatory resolutions to environmental issues impacting the mission. JACE also defends the Air Force against legal challenges that threaten mission accomplishment.

### **Environmental Litigation Center:**



The Environmental Litigation Center pursues Air Force interests in affirmative and defensive litigation nationwide. The Center litigates approximately 60 active matters at any given time, including injunctions and encroachment issues with the potential to directly impact Air Force missions, as well as potential monetary liability exceeding \$900 million. In addition, the Center pursues affirmative cost recovery (ACR) cases to return scarce remediation funds to Air Force coffers. Center attorneys, in cooperation with attorneys in the Regional Counsel Offices (RCOs), seek to reduce alleged liability estimated at \$368

million for contamination at more than 40 sites located outside installation boundaries. The Center also adjudicates environmental tort claims currently seeking \$200 million. In FY2012, the Center had many successes, including protecting flight training operations from utility company activities in administrative forums, defeating a threat to the operations of a \$300 million water reclamation facility, and recovering \$1.3 million from third-parties back into the Air Force Environmental Remediation Account.

### **Regional Counsel Offices:**

Located in Atlanta, Dallas, and San Francisco, the RCOs work with state and federal environmental, energy, and land-use policy makers in their geographic regions. The RCOs partner with sister services through the Department of Defense Regional Environmental Coordinator (REC) program and provide legal support to co-located offices of the Assistant Secretary of the Air Force for Installations and Environment (SAF/ IE) and the newly-formed Air Force Civil Engineering Center (AFCEC). The RCOs support installations by negotiating environmental enforcement actions, reviewing proposed state environmental laws and regulations, and assisting with fee and tax issues.

### **Eastern Region:**

The Atlanta office (JACE-ER) tackled several compliance matters in 2012. JACE-ER led negotiations with the Occupational Safety and Health Administration (OSHA) for two citations at a Florida base, which ultimately led to withdrawal of one citation and lowering the severity of the other. JACE-ER's efforts also led to a 40% reduction in the penalties assessed by the various Environmental Protection Agency (EPA) regions against Eastern Region installations. Additionally, JACE-ER continues to be an integral member of a working group composed of the Air Force, Army, and Navy to review pending legislation and regulation in EPA Regions 1, 2, and 3. JACE-ER coordinated on comments for multiple pieces of legislation in these states, including anti-idling laws in New York that would not provide an exclusion for military tactical vehicles. Finally, JACE-ER identified issues in Florida's draft management plan for gopher tortoises and convened a working group with all of the services to provide consolidated comments to the state, which adopted DoD's recommended language in their revised plan.

### **Central Region:**

The Dallas office (JACE-CR) facilitated comments on several critical state legislative bills and regulations, including opposing a Kansas bill that would have limited conservation easements near Air Force installations, supporting a Missouri bill setting state limits no stricter than federal hazardous waste requirements, and supporting a Texas regulation exempting military engineering apprentices from certain state licensing provisions. JACE-CR continued to lead in applying DoD guidance on paying storm water fees to local municipalities, laying the foundation on how the Air Force will address these fees in the future. JACE-CR also helped convince Wyoming to exempt remote underground storage tanks (USTs) from an impending EPA-mandated monthly inspection requirement, which may set a precedent that saves millions in O&M funds going forward. Additionally, JACE-CR was instrumental in resolving a three-year-old Clean Air Act notice of violation that decreased Kirtland AFB's monetary liability to only 1/3 of the original assessed amount. Finally, with the assistance of the Department of Justice, JACE-CR secured a tolling agreement with a potentially responsible third party that allows the Air Force to continue pursuing reimbursement for a \$20 million cleanup at Kirtland AFB.

### **Western Region:**

The San Francisco office (JACE-WR) successfully introduced several important pieces of energy legislation in Washington State, including a bill that requires developers to notify the military of proposed renewable energy projects. JACE-WR personnel testified against, and ultimately defeated, a California bill that would have repealed certain zoning protections for military airfields. The office also negotiated major enforcement actions for Air Force installations in Alaska, saving more than \$350K in fines and penalties.

### **Environmental Law Field Support Center:**

The mission of the Environmental Law Field Support Center (ELFSC) is to provide full spectrum reachback for Air Force environmental law practitioners at all levels. Staffed with 38 environmental law experts, including four reservists, as well as environmental liaison officers

(ELOs) embedded at six MAJCOMs and a satellite office in Alaska, the ELFSC consolidates Air Staff, MAJCOM, and base level environmental law reach back into a single center located at the former Kelly AFB, San Antonio, TX. The ELFSC maintains expertise to address restoration; environmental compliance; air space and ranges; natural and cultural resources; pollution prevention; National Environmental Policy Act (NEPA) and other environmental planning issues; energy; hazardous and solid waste issues; and international environmental law matters. In addition, ELFSC provides subject matter experts throughout the year as speakers at various training conferences and symposiums. These responsibilities are handled by four distinct branches within the ELFSC.

### **Compliance Branch:**

The Compliance Branch stood up in July 2012, combining the former Air and Water, Hazardous Materials Management, and the International Law branches. Branch attorneys were actively involved in crafting changes to the Air Force environmental compliance assessment program, enabling it to work effectively within the IG inspection system. The Branch continues to face significant issues on underground storage tank compliance, national emissions standards for hazardous air pollutants compliance, and compliance with storm water fees as recent amendments to the Clean Water Act are implemented. The Branch was involved in formulating or revising DoD and Air Force instructions governing water systems, air emissions, and environmental compliance requirements for DoD installations located in foreign countries. The Branch provided extensive support identifying and analyzing environmental planning requirements for proposed major Air Force projects in several foreign countries. Finally, the Branch worked closely with other agencies to ensure continuous legal support as the AF civil engineering (CE) community transitioned into a new CE field operating agency, the Air Force Civil Engineering Center (AFCEC).

### **Cultural & Natural Resources Branch:**

The Branch provides specialized legal counsel to help Air Force organizations comply with laws protecting valuable cultural and natural resources. This advice preserves flying and training flexibility while protecting operations from legal challenges both now and in the future. Examples include the F-35 beddown relating to the Endangered Species Act and the consultations with the Commonwealth of the Northern Mariana Islands in the development of divert airfield capabilities for aircrews supporting humanitarian assistance or other operations in the PACAF Area of Responsibility, and consultation with Indian tribes on the Davis-Monthan AFB solar array project.

### **Restoration Branch:**

The Restoration Branch provides direct legal support to AFCEC and, in conjunction with ELOs, to MAJCOMs and bases on all environmental restoration matters. The Branch also works with SAF/GCN in the formulation and implementation of Air Force and DoD environmental restoration policy and guidance. The Branch continues to work to resolve a dispute with EPA over the Federal Facilities Agreement terms for Tyndall AFB. The Branch played a significant role in the environmental restoration of transferred and transferring property and assisted with

the whole base transfer of 2,284 acres at the former England AFB. Other highlights include identifying issues pertaining to land use controls to prevent incompatible uses of former missile sites, engaging in high-visibility cleanup issues at the high priority Kirtland AFB bulk fuels facility petroleum release and plume, and negotiating with the US Forest Service regarding cleanup at the former Duncan Canal Radio Relay Station. Finally, the Branch continues to emphasize education, with its members briefing AFCEC and MAJCOMs on developments in emerging contaminants and new DoD restoration management guidance.

### **Planning & Sustainment Branch:**



In 2012, the Branch provided support to the full spectrum of Air Force missions. This includes the completion of the planning documents for beddowns of the Joint Strike Fighter (F-35A) training and operations, and the F-22 and T-38 operations; guidance to the Air Force Encroachment Management Program; expansion of airspace for bomber training for aircrews from Ellsworth and Minot AFBs; evolution of a flying training program for special operations aircrews at Cannon AFB; expansion of Air National Guard training at Davis-Monthan AFB; increased training airspace for fighter aircrews at Shaw AFB; and enhancement of joint airspace and range facilities in Alaska.

The Air Force's focus on developing energy and renewable energy projects has increased to meet mandates and enhance mission operations. The Branch was a key participant, advising on environmental requirements for numerous energy projects, and was actively involved in streamlining existing processes to take environmental requirements into account.

### **Environmental Liaison Officers (ELOs):**

ELOs are embedded at six MAJCOMs and provide timely and accurate legal advice to base and MAJCOM SJAs as well as MAJCOM-level clients on environmental issues affecting command interests. ELOs are responsible for keeping MAJCOM SJAs and JACE informed on the status of environmental issues affecting their MAJCOM. The ELOs have had impacts worldwide over the course of the past year. Examples of the active involvement of our ELOs include: providing continued direct support of the Joint Strike Fighter beddown in three different MAJCOMs; guiding multiple installations through consultations with federally recognized tribes relating to solar array projects; advising an installation on proper handling of old munitions encountered by local citizens who seek Air Force assistance; advising an installation on hunting program requirements; training base environmental attorneys; and assisting in the development of Divert airfield capabilities for aircrews supporting humanitarian assistance or other operations in the PACAF AOR.

### **General Litigation Division (JACL):**

JACL is composed of hard working, skilled litigators, paralegals, and administrative personnel whose victories protect important Air Force policies, practices, and interests. The Division handles a broad range of cases in federal courts, state courts, and various administrative forums. JACL defends the Air Force and its personnel in federal litigation and administrative proceedings involving civilian and military personnel, constitutional torts, information law, and utility/energy law. In addition, the Division reviews all Freedom of Information Act appeals, accepts civil service of process on behalf of the Secretary of the Air Force, manages the Air Force civil witness program, and advises field and higher headquarters staffs on civilian labor law issues. JACL performs its mission through two Branches and two Field Support Centers.

### **Information Litigation Branch (IL):**

The IL Branch represents Air Force interests in federal court cases involving information litigation, the improper assessment of taxes against the United States, and constitutional torts alleged against Air Force officials. Importantly, its attorneys and paralegals review and process all Air Force Freedom of Information Act (FOIA) administrative appeals and advise the Secretary of the Air Force designee regarding final action on those appeals. Branch attorneys also provide service-wide advice on requests for Air Force personnel to appear as witnesses in litigation and for release of official Air Force information outside the scope of FOIA. During fiscal year 2012, the Branch reviewed and advised on 149 FOIA appeals, an increase of over 110% from the year before. Working with the Department of Justice, the branch had a docket averaging 38 cases in litigation, with 14 new cases opened and 15 cases closed. Two cases that illustrate the nature and scope of issues managed are *Cioca et al. v. Rumsfeld et al.* and *Hoffman et al. v. Panetta et al.* Both cases are class actions against Department of Defense senior leaders in which Plaintiffs, who include current or former Air Force members, claim they were the victims of sexual assault. The complaints are a series of allegations about the prevalence of rape and sexual assault in the military, practices within the military that the Plaintiffs assert are a systematic failure to stop rape and sexual assault, and actions or lack thereof by the military with respect to correcting the alleged systematic failures. The cases are actions against former and current DoD and Service Secretaries in their individual capacities and seek money damages for violations of Constitutional rights. One case is on appeal after having been dismissed by the District Court under the *Feres* Doctrine. IL branch attorneys are gathering information and preparing a response in the other case. Although the Department of Defense is in a strong legal position, these cases will likely continue to generate media attention and Congressional interest.

### **Labor Law Field Support Center (LLFSC):**

The LLFSC is comprised of a leadership section with four subordinate Branches, plus four Regional Offices (Eglin, Scott, Randolph and Los Angeles AFBs). The LLFSC handles Air Force labor and employment law matters in federal court and before the Merit Systems Protection Board (MSPB), the Equal Employment Opportunity Commission (EEOC), the Federal Services Impasse Panel, the Federal Labor Relations Authority (FLRA) and labor arbitrators. The LLFSC routinely advises policy makers at the Headquarters Air Force level and



at other Department of Defense agencies. The Center is the source of most of the labor law training in the Air Force.

The LLFSC Labor Law Branch defends the Air Force against hundreds of Unfair Labor Practice charges filed annually by unions representing approximately 120,000 of the Air Force's 165,000 full-time civilian employees. This requires daily analysis of labor management relations, rights, obligations and evidence. Charges not dismissed or withdrawn by the FLRA must either be settled or litigated at hearings. The Branch also represents the Air Force in negotiability appeals, bargaining impasses and representation petitions that have occurred at the Joint Bases. Attorneys regularly provide advice to agency labor counsel and civilian personnel officers worldwide. On request, the Branch defends the Air Force in complex labor arbitrations or those having potential service-wide impact.

The two LLFSC Administrative Litigation Branches (East and West) defend the Air Force in discrimination cases before the EEOC and in disciplinary cases before the MSPB. They also advise Air Force installations on disciplinary actions that are appealable to the MSPB, as well as any other action they are requested to review. The LLFSC Federal Litigation Branch assists the Department of Justice in defending the Air Force in United States District Courts, Claims Court, Courts of Appeal, and in court ordered settlement conferences. The Branch also reviews formal complaints of discrimination and advises on their acceptance and dismissal.

LLFSC litigators and paralegals assigned to the Regional Offices defend against the entire spectrum of administrative and judicial challenges in labor and employment law in their geographical area. This year, the LLFSC defended Air Force interests in a number of cases, including: alleged failure to bargain changes in conditions of employment; reprisal for protected activity; and a wide variety of disciplinary and performance actions alleged to have been based on age, sex, and race discrimination. The LLFSC also advised Headquarters-level policymakers and field labor and employment attorneys, and labor specialists on every aspect of labor and employment law, including labor management relations, collective bargaining, and adverse personnel actions.

The Administrative Litigation branches opened 244 administrative EEOC and MSPB cases this year and they closed 91. They also defended 22 MSPB cases where Appellant alleged they were demoted when they were converted out of the National Security Personnel System (NSPS) to a lower GS grade than they were prior to NSPS. This continues to be an issue DoD-wide. The Federal Litigation Branch has 27 open cases in United States District Courts and Courts of Appeal and has reviewed 98 EEO Complaints for acceptance or dismissal. The Labor Relations Branch has opened 194 FLRA cases this year and they closed 153 cases. The LLFSC continues to actively defend class grievances about claims for unpaid overtime under the Fair Labor Standards Act which spans four Air Force installations and three major commands, and has the potential to spread Air Force-wide.

### **Military Personnel Litigation Branch (MP):**

The Military Personnel Litigation Branch defends the Air Force against all federal civil court challenges to Air Force personnel practices and programs, averaging 45 to 55 active cases at any one time. The Branch defends claims for military pay and benefits in the United States Court of Federal Claims. *Habeas Corpus* petitions filed by former and current Air Force members serving court-martial sentences are also part of the Branch's workload. Additionally, the Branch defends Air Force personnel decisions challenged in United States District Courts under the Constitution, the Administrative Procedure Act, and other statutes. The Branch routinely handles "front-page headlines," monitored by Air Force and Department of Defense senior leadership and the American public, the results of which have broad application.

Many of our military personnel claims arose from Air Force Board for Correction of Military Records' denial of applications for relief to individual Airmen, who petitioned the Board for a correction to their military record. In one such case, *Martin v. United States*, the Branch successfully defended the Board's denial of an officer's claim alleging he was wrongfully discharged after refusing the anthrax vaccination. Military Personnel litigators also defended a number of significant cases dealing with the residual effects of the Don't Ask Don't Tell repeal. One of these cases is *Collins v. United States*, a class action case of 181 service members throughout the Department of Defense who challenged the amount of their separation pay. They were paid half separation pay upon their discharge instead of full separation pay because the basis for their discharge was homosexual conduct. Another important case is *Witt v. Dept' of Air Force*, which was the landmark case challenging homosexual conduct discharges.

Additionally, Branch litigators have worked closely with Army and Navy counterparts in *Sabo et al v. U.S.*, a class action lawsuit asserted on behalf of 2,100 Iraq and Afghanistan veterans (including 126 Airmen) diagnosed with Post-Traumatic Stress Disorder and assigned less than 50% disability rating on discharge. They also regularly consult with the Department of Defense and the other the services on policy issues for litigation purposes, such as the role of women in combat.

### **Utility Law Field Support Center (ULFSC):**

The Utility Law Field Support Center (ULFSC), Tyndall AFB, Florida provides expert legal advice to the Department of Defense, Air Staff, Air Force functional communities, and the newly established Air Force Civil Engineer Center (AFCEC) on highly specialized issues dealing with energy acquisition and management in an effort to achieve the most cost effective solutions to meet Air Force energy needs and goals. The ULFSC provides installations advice and contract negotiation support for matters involving electric, gas, water and sewage rates and service. The ULFSC also appears before state and local regulatory bodies in matters involving these commodities. The General Services Administration has delegated responsibility to the Air Force to represent all federal utility customers in rate-making cases in 17 different states and the ULFSC acts as executive lead agent in those states. Finally, the ULFSC makes up the "legal half" of AFCEC's joint legal/civil engineer Utility Rates Management Team (URMT), providing advice and negotiation skills for the acquisition of utilities services across the Air Force.

This year one member of the ULFSC completed a successful deployment as the Deputy Staff Judge Advocate for Joint Task Force Guantanamo, Guantanamo Bay, Cuba. In this capacity, he supervised 13 attorneys and 15 paralegals in resolving 150 detainee requests and ensuring the perfect execution of a movement operation for three high visibility detainees.

Overall in 2012, the ULFSC advised commanders on legal issues related to the purchase of renewable energy and development of renewable power projects on 12 Air Force installations, including: solar, wind, urban waste, biomass, algae fuel, landfill gas, photovoltaic, and geothermal energy. The ULFSC also handled 21 negotiations involving non-regulated utilities and represented the federal government in 23 rate-making cases before state regulatory commissions across seven different jurisdictions ranging from Alaska to Florida. For those ratemaking cases that concluded in 2012, the ULFSC achieved a direct cost avoidance of over \$2.3 million per year in the form of lower utility prices for Air Force and federal government installations. The ongoing impact to the Air Force for all URMT efforts is nearly \$60 million per year in energy cost savings and avoidance.

## **Acquisition Law and Litigation Directorate (AF/JAQ)**

The Headquarters Air Force Acquisition Law and Litigation Directorate (HQ AF/JAQ or AF/JAQ) stood up two years ago. AF/JAQ is The Judge Advocate General's (TJAG's) Air Staff lead in supporting the Air Force's Acquisition Improvement Plan and SecAF's and CSAF's acquisition goals. The Acquisition Improvement Plan's purpose is to ensure the Air Force acquisition system delivers weapons systems, commodities, and services that perform as promised—on time, within budget, and in compliance with all laws, policies, and regulations. To complete this undertaking, AF/JAQ assists TJAG in managing the AFJAG Corps' acquisition law resources, training, and readiness to ensure mission success.

AF/JAQ specifically: provides counsel to TJAG on acquisition law and assists TJAG in providing acquisition advice at the headquarters level; assists the Secretariat (SAF/AQ and SAF/GC) in the review and evaluation of Air Force acquisitions; oversees and directs the representation of the Air Force in legal challenges to acquisition decisions and contract claims made against the Air Force; formulates and issues policy pertaining to litigation and the resolution of claims based on litigation developments and risk factors; serves as functional manager for more than 250 AFJAG Corps acquisition personnel worldwide who advise on major systems and other types of acquisition, and provides executive leadership for those attorneys and support personnel; ensures AFJAG Corps assets are organized, trained, and equipped to provide expert acquisition legal advice; and interfaces directly with the Air Staff, sister Service counterparts, Department of Defense agencies, the Department of Justice, legislative and executive agencies of the United States, and representatives of foreign governments. To carry out these responsibilities, AF/JAQ is organized into three divisions: (1) Plans and Programs Division, (2) Litigation Division, and (3) Acquisition Law Division. In just its second year, this new directorate made significant strides in improving acquisition law operations Air Force wide. In the area of acquisition fraud, great progress was made in coordinating fraud remedies between SAF/GCR (Air Force General Counsel for Contractor Responsibility) and non-AFMC bases, which historically have struggled to obtain adequate fraud remedy support.

An historic Memorandum of Understanding (MOU) was signed in December 2011 between SAF/AQC, SAF/GCR, and the Air Force Office of Special Investigations (AFOSI) to better coordinate fraud remedies. AF/JAQ is working with non-AFMC bases and MAJCOMs to enhance implementation of this MOU. AF/JAQ is also working with the development of AFLOA/JAQ's Acquisition Fraud Branch to ensure non-AFMC bases are fully supported. Significant activity also occurred this year in the realm of housing privatization. Because of potential force structure changes contemplated at some bases, issues have arisen regarding competition and scope of work for some privatization projects. Also, because of the economic downturn, some local governments are now trying to assert tax jurisdiction over housing privatization project owners. The additional financial strain that such taxation poses to project owners has raised significant issues involving bankruptcy, tax jurisdiction, and risk allocation between project owners and the Air Force. AF/JAQ has been working with AFLOA/JAQ, SAF/GCN-SA, SAF/GCQ, and AFCEE/JA to resolve these issues.

In the area of utilities privatization, recent changes in the utilities privatization statute (10 U.S.C. 2688) has raised questions as to how to deal with on-going and future privatization efforts at Air Force bases around the country. AF/JAQ worked this issue with SAF/GCN, AF/A7CEA, ACC/A7/A7OE, 772 ESS/PKH, and AFCESA to formulate a best course of action. In the area of Enhanced Use Leases, AF/JAQ has worked together with SAF/GCN, SAF/GCQ, and AFLOA/JACL to resolve various labor law and competition issues involving leasing of excess Air Force property at various installations also assisted with Anti-Deficiency Act investigations; built relations with, and reviewed issues for, SAF/SB; and continues to work to improve extended debriefing procedures.

In terms of litigation, AF/JAQ recently teamed with AFMCLO/JAN, SAF/GCQ, DoD/GC, and AFLOA's Commercial Litigation Field Support Center (CLFSC) to defend a protest of the Afghan Light Air Support procurement. The protester challenged the Air Force's decision to take corrective action in response to a previous protest. The Air Force prevailed in this protest at the Court of Federal Claims. In another challenge regarding insourcing of base supply services in Alaska, AF/JAQ worked extensively with the CLFSC, Department of Justice, and PACAF to win a bid protest at the Court of Federal Claims challenging this initiative. Additionally, AF/JAQ provided strategic advice in high visibility cases such as Suitland, Redlands, and United Launch Systems.

In support of the AFJAG Corps' renewed emphasis on training, AF/JAQ delivered a featured presentation with SAF/GCQ on the extended debriefing pilot program at the meeting of the American Bar Association. In addition, AF/JAQ has extended its outreach to AFOSI. Twice a year, AF/JAQ presents at the AFOSI Environmental and Economic Crime courses at the Federal Law Enforcement Training Center. AF/JAQ also participates in the quarterly meetings of SAF/GCR, AFOSI, SAF/ACQ, and Air Force Audit Agency at Marine Corps Base Quantico. AF/JAQ has also begun to participate in the Department of Defense Procurement Fraud Working Group meetings.

AF/JAQ will continue developing acquisition law competencies through education, training, and experience opportunities to meet current and future Air Force requirements. AF/JAQ is

collaborating with JAX, JAZ, and other AFJAG Corps stakeholders to deliberately connect training and developed expertise to assignment and deployment decisions to best grow our acquisition law professionals and serve the Air Force and the warfighter. In addition, AF/JAQ is developing a broad and deep pool of recognized subject matter experts within specific areas of acquisition law. These subject matter experts will be available to consult with field activities, other SAF/HAF offices, and other Department of Defense agencies for questions or issues within their particular areas of expertise.

In an effort to leverage technology to achieve synergistic results in information sharing and training, AF/JAQ has developed a website for Air Force acquisition law professionals. This website is also intended as a career management tool that will track individual training, certification levels, and career development. The website will be accessible by the acquisition community at large and features training for both attorneys and paralegals. The website will provide a voice for the acquisition law professional in the allocation of opportunities and resources. Also, in an effort to timely share contract law developments with the acquisition community, AF/JAQ publishes a monthly newsletter that is sent out to the AFJAG Corps and acquisition communities. AF/JAQ and the newsletter authors look to collaborate with all acquisition and fiscal law stakeholders to develop a rich resource benefitting the acquisition law workforce.

Finally, consistent with AF/JAQ's career management function, AF/JAQ identified a need to have a cadre of HQ and AFLOA acquisition personnel with TS/SCI clearances to better support the mission, obtaining high-level clearance requirements for both military and civilian acquisition law attorneys. With the lifting of the Air Force wide hiring freeze, AF/JAQ acted quickly and decisively to fill five vacant positions, either through internal reassignment or hiring actions. AF/JAQ continues to work closely with JAX on assignment and deployment requirements, gathering information on the AFJAG Corps' personnel resources and projecting its needs for the long term. All of these AF/JAQ efforts continue TJAG's response and support to the Chief of Staff's call for "Recapturing Acquisition Excellence."

### **Commercial Litigation Field Support Center (CLFSC):**

The CLFSC supports commercial litigation with nearly \$2 billion at risk before the Armed Services Board of Contract Appeals (ASBCA), Government Accountability Office (GAO), and federal courts including the Court of Federal Claims (COFC) and Court of Appeals for the Federal Circuit (CAFC). The CLFSC has specialized expertise in the areas of bankruptcy & surety and intellectual property.

Additionally, over the past year senior leaders frequently called on the CLFSC for advice on bid protest corrective actions for multi-million dollar procurements, some of which captured national media interest. The CLFSC is frequently sought out for expertise on intricacies of complex contract litigation.



## **Federal Courts:**

The CLFSC worked closely with the Department of Justice on bid protest cases at, both pre- and post- contract award, as well as on Contract Dispute Act cases. The CLFSC is currently defending 15 COFC cases (6 protests and 9 disputes totaling \$284 million). This past year, insourcing installation services continued to be a hot issue. In district court, the CLFSC succeeded persuading judges that only COFC has jurisdiction to hear in-sourcing cases under the Administrative Dispute Resolution Act; consequently, cases filed in federal district court are now routinely dismissed for lack of jurisdiction. While challenges to insourcing may continue, these cases should dwindle.

## **GAO:**

FY12 saw a significant spike in the number of bid protests filed, with some making national news. 271 bid protests were filed at GAO, up from 208 protests in FY11. In the month of October 2012, 43 new bid protests were already filed. This increase in protests has occurred over the course of the last few years, likely a result of factors including fewer procurement dollars, a sluggish economy, and an inexperienced acquisition workforce. Improper evaluations and failures to document the evaluation process continue to be the biggest bid protest problem areas.

Two of the CLFSC's more significant protests were *Sierra Nevada* and *Herman Miller*. In *Sierra Nevada v. United States*, the court held it was reasonable for the agency to terminate the award and take corrective action. This protest involved a \$350 million dollar contract for fixed wing aircraft to be delivered to the Afghanistan National Army Air Corps. *Herman Miller, Inc.*, was a significant win for the Air Force because GAO upheld the Air Force's strategic sourcing effort on a \$280 million modular furniture buy and found the novel two-tiered contracting approach to be reasonable.

## **ASBCA:**

In FY12, the CLFSC closed 32 cases having total exposure of over \$159 million. The CLFSC currently has 52 appeals before the ASBCA with \$925.2 million at stake (\$896.9 million in certified contractor claims and \$28.3 million in government claims). The two most significant cases continue to be Redlands and a Global Positioning System (GPS) launch services contract. In Redlands, appellants seek \$237 million in alleged damages for environmental cleanup costs arising out of subcontract performance for the 1965-1975 design, development, and production of SRAM missile system in the vicinity of Redlands, California. This claim is based on contract indemnification clauses, never before litigated, that have appeared in over 2,500 DoD contracts since 1958, creating a potential liability many times the current claim amount. Another significant appeal seeks \$273 million arising from contracts for GPS satellites launches. Appellants contend the Air Force caused it to use a larger launch vehicle than it had anticipated because of growth in the satellite's weight. Significantly, appellants seek to reform the contracts to re-price them entirely based on alleged Air Force breaches.

**Contract Law Field Support Center (KLFSC):**  
**Acquisition Fraud Branch (AFB):**

The AFB provides advice to Air Force Office of Special Investigation (AFOSI) agents investigating procurement fraud cases, and provides fraud-fighting skill, training resources, and high-level coordination to base acquisition professionals at all installations outside of AFMC. The AFB's focused largely on developing and monitoring over 160 procurement fraud cases. The AFB also provided training for hundreds of judge advocate, AFOSI, and contracting personnel on installation level fraud, coordination of procurement fraud remedies, and the suspension and debarment process. One major success involved the establishment of a fraud program at Los Angeles AFB that led to a recovery of approximately \$150 million that had been lost to fraud, \$100 million of which went directly back to the Air Force.

**Enterprise Sourcing Branch (ESB):**

The ESB was instrumental in numerous acquisition successes by the Enterprise Sourcing Group (ESG). The ESG, on behalf of Air Force Medical Services, awarded \$2.5 billion in services contracts in 2012, supplying Air Force medical treatment facilities with critically needed services. The Hospital Aseptic Management Services contract, valued at \$207 million, was awarded to eight prime contractors to provide janitorial services at medical treatment facilities. The ESB also won two significant bid protests this year. Planned Systems International, Inc., protested the evaluation of the \$985 million Consultant, Advisory, and Technical Services A&AS medical services contract. Additionally, Herman Miller, Inc., protested the solicitation in Systems and Modular Furniture which will be the contract vehicle for Air Force wide modular furniture purchases.

Both protests were denied by the GAO. In the area of contract support to the Defense Technical Information Center's Information Analysis Centers, ESG/PKS and ESB have continued to successfully execute the ongoing paradigm shift from long-term single award research contracts to short-term multiple award research contracts. The ESB continued to work closely with the 38th Cyber Engineering Installation Group to successfully transition as the contracting office of choice for 24th Air Force Cyberspace contracts. Finally, the ESB supported the ESG and the Air Force Civil Engineering Center in construction contracts, including runway construction and AFCAP III, which delivers logistical and engineering support to downrange warfighters.

**Field Support Branch (FSB):**

The FSB provides reachback support, research, and advice on contract and fiscal law issues to attorneys across the Air Force. Although it's primary focus is on deployed and base-level contract law attorneys, providing them rapid answers to contract and fiscal law questions ranging from simple to complex, the FSB helps attorneys at all stages of experience and grade. This year, the FSB tackled issues as diverse as the direct sale of scrap metal under the Qualified Recycling Program; potential Anti-Deficiency Act violations; liquidated damages recoveries after terminating contracts for default; potential Procurement Integrity Act violations; and using program funds in counterdrug support missions.

### **Source Selection Branch (SSB):**

The SSB advised AETC Program Executive Offices (PEOs) on procurements totaling over \$1.5 billion. The SSB provided legal support throughout the source selection process, from acquisition planning to final award, ensuring PEO source selections were legally defensible and obtained best value for the government. Source selections finalized this year included a contract for international training on the F-16 and a significant aircraft maintenance contract. The SSB also created online training for Air Force contracting personnel on how to establish a competitive range. This training was posted on the Air Force Contracting Learning Center homepage. Finally, the SSB participated in drafting several new rules for inclusion in the Federal Acquisition Regulation, including rules on contractors performing private security functions and rules implementing sustainable acquisition practices on a government-wide basis.

## **Legal Information Services Directorate**

The Legal Information Services Directorate (AFLOA/JAS) is the DoD executive agent for the Federal Legal Information Through Electronics (FLITE) system. JAS's staff of military and civilian personnel provides a broad range of information technology (IT) products to the Air Force and DoD legal communities that enhance knowledge management and facilitate decision-making dominance. Its seven divisions include application development (JASA), claims management system development (JASC) systems operations (JASD), information assurance (JASIA), legal (JASL), resources and personnel (JASR), and plans, requirements, testing and training (JASX). Below are just a few of JAS' accomplishments for the past year.

### **Accessions:**

JAS, in collaboration with JAX and JAR, has developed a new online "Accessions" application program. This fully web-based system brings the Air Force AFJAG Corps' accession process into the modern age. The new system allows JAGC applicants to complete a full application on the web, including the upload of required documents. The new system will automatically review applications for completeness prior to being accepted and distributed to the interviewing legal office. This will save countless hours at legal offices which are presently required to compile paper application packages by hand and resolve the many application issues that are discovered. After application submission, all documents will be available online to the interviewing legal office as well as JAX and JAR for their review. Additionally, board reviews of the applications will be done completely electronically saving JAX from having to handle hundreds of paper files in preparation for selection boards.

### **AMJAMS:**

JAS made a number of enhancements to AMJAMS during the calendar year 2012. Specific to sexual assault cases, we added tracking of STC consultation to ensure that such cases are fully vetted prior to disposition and changed the Special Interest Reporting process so that all sexual assault cases are now reportable to JAJM. The amount of available space for Case Notes was increased from 16,000 to 24,000 characters and a character counter to inform users as to how

much space remains was added. New validation rules were added to prevent Article 15 cases from being dropped if they were never offered and to ensure the date of discovery is entered on all cases. A PTA justification field was added to the Pretrial Agreement tab to satisfy newly established JAJM requirements. The AMJAMS Reports tool was enhanced to provide faster report response time, impose a limit to the number of concurrent reports to prevent Report Server failures, and modify the processing time/in progress reports to include current metrics.

### **DoD Secure Kiosk (DSK) – Legal Assistance:**

During late 2012, JAS first began releasing the DoD Secure Kiosk to legal offices to allow clients to visit the Legal Assistance Website (LAWS) to complete surveys or access other information without using a Common Access Card (CAC). Previously, there was no approved means for organizations to allow customers to access a networked computer without a network account. In response to this Air Force-wide issue, JAS teamed with JACA and AFRL to develop and purchase secure kiosks for deployment in each legal office performing legal assistance. The kiosk will provide an approved, secure way for clients to access the LAWS without needing a CAC or network account. While the immediate challenge solved by the kiosk is to provide legal assistance clients with access to LAWS from legal offices, the DSK has application throughout the Air Force as a means for customer service oriented organizations to allow their customers to access network resources without compromising network security.

### **Google Search Appliance:**

This past year, AFLOA/JAS purchased the Google Search Engine for FLITE. The Google Search Engine will reside on the FLITE platform, searching across traditional FLITE databases and websites, Lynx sites, CAPSIL, and WebDocs. An all new one stop shopping web search page will replace all currently used search forms. The Google Search Engine provides natural language searching, drill down search results, suggested searches, and spell checking. This is a substantial upgrade and modernization of FLITE. Implementation is expected to require three months of engineering with a launch date of 1 March 2013. Ultimately, AFLOA/JAS plans to leverage the Google Search Engine to search JAGC applications as well. We are confident that the new search engine will greatly enhance our users' experience while providing a cost effective and value added tool to the JAGC.

### **Next Generation AMJAMS:**

On 1 October 2011, JAS and JAJM began identifying requirements for the Next Generation of AMJAMS. Over the last 12 months they held five workshops focused on convening authority-related business processes, litigation, and appellate processing. The workshops were comprised of JAGC members representing the Total Force across all MAJCOMs and user groups. The workshops were conducted using user-centered methods and techniques wherein the project scope and work plan were provided to the workshop participants, along with a sequence of specific tasks leading them to define and design their own requirements. In addition to the workshops, they interviewed personnel across all military justice related specialties and solicited JAGC wide feedback through an online request. These efforts resulted in the creation of a Software Requirements Specification, Market Research Report, and Business Use Cases.

The identified end state is to create a system that supports the following four user group modules: installation level, trial courts, appellate courts, and statistical data and reports analysis. The modules will have the following interactive capabilities: case management, electronic court docketing and calendaring, electronic filing, electronic discovery, electronic record of trial production, appointment task and suspense management, court-member management, document production and assembly, records management, victim witness assistance management and increased reporting and analysis capabilities.

Phase two of the project is to request funding for development to begin in FY15. The requirements and system design lend themselves to modular contracting. If funding is secured and the modular contracting acquisition method approved, the system will be developed in successive acquisitions of interoperable modules.

### **SharePoint:**

The use of SharePoint as a collaborative resource continued to grow in CY12. This year saw the introduction of the JAGC mentorship survey on SharePoint as well as increased use among Court Reporters to assign and track audio transcripts. In addition, AFLOA started using the Evaluation Management System to process and track evaluations and decorations within the command, eliminating the use of folders and paper copies from the process. This use has eliminated the cumbersome reporting requirements from each AFLOA division as the program can track who is on time or past due on reports and where the package is in the process.

### **WebAFCIMS:**

This past year, five WebAFCIMS programmers were reassigned from the Air Force Claims Service Center to JAS. They continue to work at Wright-Patterson AFB as dedicated WebAFCIMS developers. This transfer of personnel has helped JAGC through tighter integration between the JAS Applications Development Division and the WebAFCIMS developers. In addition to the reassignment, the JAS Service Center is now the focal point for WebAFCIMS support issues.

## **Conclusion**

The Air Force JAG Corps provides world-class legal advice and services to commanders, Airmen, and their families. Air and Joint Force commanders at all levels face evermore complex legal and operational issues in carrying out military operations and Air Force AFJAG Corps professionals stand at the ready to support them at every step.

Airmen and their families deserve the highest quality legal services. The organizational structure of the Corps, supported by our Foundational Leadership initiatives, ensures we are providing those services in a thorough and responsive manner.

Relying on our guiding principles of *Wisdom, Valor and Justice* the Air Force AFJAG Corps is well positioned to tackle our current and future challenges for the betterment of this nation.



