



DEPARTMENT OF THE NAVY
NAVAL LEGAL SERVICE COMMAND
1322 PATTERSON AVENUE SE, SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

COMNAVLEGSVCCOMINST 1300.1B CH-1
19 Jan 18

COMNAVLEGSVCCOM INSTRUCTION 1300.1B CHANGE TRANSMITTAL 1

From: Commander, Naval Legal Service Command

Subj: FIRST TOUR JUDGE ADVOCATE PROGRAM

Encl: (1) Revised Page 3

1. Purpose. To transmit new Page 3, which provides clarification of First Tour Judge Advocate (FTJA) practice area and program completion requirements.
2. Action. Remove Page 3 of the basic instruction and insert enclosure (1).
3. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.


G. E. SHARP
By direction

Releasability and Distribution:

This instruction is cleared for public release and is available electronically only via the Office of the Judge Advocate General Web site at <http://www.jag.navy.mil>.



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14 Aug 17

COMNAVLEGSVCCOM INSTRUCTION 1300.1B

From: Commander, Naval Legal Service Command

Subj: FIRST TOUR JUDGE ADVOCATE PROGRAM

Ref: (a) JAGINST 1120
(b) JAGINST 1001
(c) SECNAVINST 1000.7F
(d) OPNAVINST 1210.5
(e) JAGINST 1500.4A
(f) COMNAVLEGSVCCOMINST 5800.1G
(g) JAGINST 5803.1E
(h) JAGINST 5800.7F
(i) NAVJUSTSCOLNOTE 1503 (NOTAL)
(j) NAVJUSTSCOLNOTE 1520 (NOTAL)
(k) JAG/CNLSCINST 1500.1
(l) JAGINST 5801.2B

Encl: (1) Business Rules for First Tour Judge Advocates

1. Purpose. To publish policy for executing the First Tour Judge Advocate (FTJA) Program, including revised business rules applicable to the rotation and utilization of FTJAs reporting to their first assignment following completion of the Naval Justice School (NJS) Basic Lawyer Course (BLC).

2. Applicability. This instruction applies to all FTJAs and those who facilitate the FTJA Program, except as defined below. Reserve Direct Appointments, Lateral Transfers, and Inter-service Transfers are governed by references (a) through (d). As described in enclosure (1), FTJAs who graduated from the NJS BLC prior to 30 March 2017 (BLC 17010 or earlier) will continue to execute the FTJA Program as defined under COMNAVLEGSVCCOMINST 1300.1A.

3. Background

a. In accordance with reference (e), Commander, Naval Legal Service Command (CNLSC) is charged with managing and implementing training for all judge advocates to ensure the community remains capable of delivering high-quality legal services to the Department of the Navy. Standardized FTJA training prepares FTJAs for follow-on assignments providing legal

services world-wide to support fleet and shore commands. Commanding Officers (COs) remain responsible for professionally developing those under their charge.

b. The FTJA Program promotes professional development as naval officers and prepares first tour officers for success in an increasingly complex and specialized legal operating environment. The Program consists of four primary components: (1) participating in Professional Military Education (PME); (2) completing rotations in three JAG Community core practice areas (Legal Assistance, Command Services, and Military Justice (Trial or Defense)); (3) demonstrating proficiency in each of those practice areas by meeting Professional Development Standards (PDS); and (4) mentorship. The FTJA curriculum is intended to cement core competencies through a combination of supervised practice, independent research, cooperative learning, observation, and demonstration of knowledge and skills. The Program is also specifically intended to be flexible to allow for unique circumstances, optimize professional development, and support career progression and mission accomplishment.

c. FTJAs will have up to 24 months to complete the FTJA Program. If the 24-month period is interrupted by a deployment or other assignment, the FTJA will return to his or her parent command to complete the FTJA program.

(1) Practice Area Rotations. Practice area rotations facilitate professional development and practical legal training by allowing FTJAs to observe, develop, and demonstrate their skills in a formal environment where they can interact with and obtain feedback from supervisory attorneys. Enclosure (1) establishes business rules for practice area rotations.

(2) PDS. The JAG Corps PDS program promotes the professional development of all FTJAs, emphasizing core legal knowledge and skills in each of the practice areas. FTJAs must complete the PDS that corresponds to the practice area to which they are assigned prior to rotating to the next practice area. They are not precluded from working on other PDS sections outside of their assigned practice area. NJS promulgates current PDSs each fiscal year in reference (i).

(3) PME Program. The PME program aids in the broad professional development of FTJAs as naval officers. Per enclosure (2) of reference (e), the PME program lasts 24 months and consists of three sub-components: (a) PME training modules; (b) professional reading discussions; and (c) leadership seminars. PME training modules are in-person and online modules designed to provide FTJAs with an introductory overview of the Department of Defense, U.S. Navy, and JAG Corps' mission, history, culture, traditions, governance, organization, capabilities, and key legal topics. Professional readings utilize books from service professional reading programs (e.g., Chief of Naval Operations Professional Reading Program) to facilitate discussions of concepts that will give FTJAs a sense of what it means to be a Sailor, an officer, a member of the naval legal profession, and a leader. Leadership seminars devote time to the importance of personal responsibility, team-building, leader-led values-based ethical decision making, and other topics that help grow and cultivate FTJAs as officers and leaders. NJS promulgates current fiscal year PME requirements and cycles in reference (j).

(4) Mentorship. Mentorship helps retain talent, strengthen bonds between junior and senior personnel, build morale and esprit de corps, and transfer professional knowledge. Per reference (k), every FTJA must be matched with a mentor within six months of reporting. Once paired, FTJAs should make contact with their mentors at least monthly. FTJAs are encouraged to continue or develop new or additional mentoring relationships beyond the 24 month mark. Region Legal Service Office (RLSO) and Defense Service Office (DSO) COs are encouraged to provide FTJAs with other mentorship opportunities in addition to formal mentor pairings.

(5) Other. This instruction establishes a baseline and framework for FTJA professional development. RLSO and DSO COs are encouraged to, consistent with this instruction, supplement FTJA program requirements with additional professional development training and opportunities intended to develop FTJAs as legal professionals, officers, and leaders. FTJA professional development is an all-hands effort, and COs should seek to leverage the skills and experiences of seasoned NLSC and non-NLSC judge advocates and others in the execution of this program.

(6) FTJA Practice Area and Program Completion. RLSO and DSO COs will establish standard procedures for their commands to assess whether each FTJA under their cognizance has successfully completed all PDS and practice area requirements before certifying completion of a practice area rotation. The structure and conduct of these assessments are within the discretion of each CO. The assessments should be used to validate PDS completion, to determine if the FTJA has acquired a satisfactory knowledge base, and as a mentoring tool to ensure the FTJA is ready for practice outside the FTJA construct. In addition, the assessments shall be used to evaluate and improve the effectiveness of the command's FTJA training program. The FTJA Program is a 24-month program. Once the CO certifies that an FTJA has successfully completed all FTJA practice area rotations, PME, and program requirements, the FTJA is eligible for duties as assigned by his/her CO.

4. Utilization of FTJAs. Enclosure (1) governs the utilization of FTJAs.

5. Responsibilities

a. Chief of Staff (COS) RLSO and COS DSO shall:

- (1) Oversee the FTJA Program and ensure implementation.
- (2) Act as approval authority for all waiver requests to deviate from this instruction.
- (3) Regularly provide CNLSC visibility on FTJA Program issues.

b. NLSC COs shall:

(1) Assign and supervise FTJAs reporting onboard in accordance with this instruction and the applicable business rules set forth in enclosure (1).

(2) When required by enclosure (1), submit requests in writing to COS RLSO or COS DSO to deviate from the provisions of this instruction providing a justification based upon operational demand, organizational needs, personnel qualifications and expertise, local conditions, or other special circumstances.

(3) Ensure newly-reporting FTJAs receive a projected rotation plan within 30 days of reporting to the RLSO. COs shall meet individually with each FTJA to discuss the rotation plan and ensure each has received a copy.

6. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.

7. Review and Effective Date. Per OPNAVINST 5215.17A, CNLSC will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, DoD, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will automatically expire 5 years after effective date unless reissued or canceled prior to the 5-year anniversary date, or an extension has been granted.


JOHN G. HANNINK

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BUSINESS RULES FOR FIRST TOUR JUDGE ADVOCATES

1. First Tour Judge Advocate (FTJA) Definition. An active-duty Navy judge advocate reporting to his/her first Naval Legal Service Command (NLSC) assignment after completing the Naval Justice School (NJS) Basic Lawyer Course (BLC).

2. Locations. FTJAs may receive orders to the following Region Legal Service Office (RLSO) locations:

- RLSO Europe, Africa, and Southwest Asia, Naples, Italy
- RLSO Hawaii, Pearl Harbor, Hawaii
- RLSO Japan, Yokosuka, Japan
- RLSO Mid-Atlantic, Norfolk, Virginia
- RLSO Mid-Atlantic Detachment Groton, Connecticut
- RLSO Midwest, Great Lakes, Illinois
- RLSO Naval District Washington, D.C.
- RLSO Northwest, Bremerton, Washington
- RLSO Southeast, Jacksonville, Florida
- RLSO Southeast Detachment Mayport, Florida
- RLSO Southeast Detachment Pensacola, Florida
- RLSO Southwest, San Diego, California

3. Professional Responsibility and Conflicts of Interest. Commanding Officers (COs) shall actively monitor planned rotation dates and ensure that supervisory attorneys plan work assignments consistent with professional responsibility requirements. If a transfer between a Defense Service Office (DSO) and a RLSO would cause any conflicts for an FTJA, that FTJA shall consult with the appropriate ethics/professional responsibility advisors, and if so advised, seek to obtain a waiver from the client or a release from the client. If a client does not elect to provide a waiver or release, the respective COs may agree to provide the FTJA meaningful non-conflicted legal assignments until the case is completed.

a. FTJAs are required to keep a written or electronic log of their courts-martial cases, administrative separation boards, boards of inquiry (BOIs), legal assistance cases, and Defense Services cases and personal representations (PERSREPs). FTJAs in Command Services rotations are also encouraged to keep a record of command-advice matters pertaining to individual service members, such as nonjudicial punishment, debarment, and personnel matters (e.g., promotion delay/removal, detachment for cause, security clearances, or administrative investigations). These logs are created and maintained by individual attorneys as one method to assist the attorney in identifying and managing potential conflicts of interest. They will not normally be deemed agency records for purposes of the Freedom of Information Act and Privacy Act. All judge advocates are responsible for avoiding conflicts of interest and maintaining required confidences at all times.

b. COs shall ensure that FTJAs receive proper oversight, supervision, and instruction on professional responsibility issues including potential conflicts of interest that may arise when transferring between RLSOs and DSOs. COs shall periodically “spot check” the FTJAs’ logs

developed during FTJA rotations under their cognizance to ensure compliance with paragraph 3.a above. COs should establish local procedures to ensure spot checks are conducted in a manner that does not compromise client confidentiality, such as by inspecting redacted logbooks or conducting a spot check through an appropriate designee. Supervisory attorneys must ensure FTJAs are aware of and comply with requirements to keep client information confidential and avoid conflicts of interest under applicable JAG Professional Responsibility Rules (e.g., Rules 1.6 and Rules 1.9) in reference (g) and state rules of professional responsibility.

c. COs and supervisory attorneys must manage FTJA involvement in matters that may extend beyond the time of their rotation to minimize impact on clients, the command, and the FTJA.

4. FTJA Practice Area Rotations - Sequence and Length. FTJAs will spend their first 24 months rotating through and attaining proficiency in JAG Community core practice areas: Command Services; Legal Assistance; and Military Justice (Trial Services or Defense Services). Specific parameters for rotation sequence and length are dependent upon when the FTJA graduated from the NJS BLC.

a. Graduation on or after 30 March 2017 (BLC 17020 or later). FTJAs in this category will complete a six-month rotation in Legal Assistance and a six-month rotation in Command Services, in either order, during their first year. During their second year, FTJAs will complete a final rotation of approximately 12 months in either Trial Services (at a RLSO) or Defense Services (at a DSO). FTJAs in this category will be expected to complete a standard "military justice" PDS in either the Trial Services or Defense Services rotation. When determining whether an FTJA's final rotation will be in Trial or Defense, RLSO COs and DSO COs shall closely coordinate, taking into account mission requirements and the FTJA's interests and professional development. Determinations that cannot be resolved at the RLSO/DSO level should be elevated to the RLSO and DSO Chiefs of Staff for decision.

b. Graduation prior to 30 March 2017 (BLC 17010 or earlier). FTJAs in this category will continue to execute the program as defined under COMNAVLEGSVCCOMINST 1300.1A, unless a waiver is authorized under paragraph 4.c below.

c. Deviations and Waivers

(1) The COSs (RLSO and DSO) are authorized to waive the provisions of this instruction, approve deviations from rotation sequence and length, authorize utilization exceptions, and shall appropriately coordinate in the exercise of this authority.

(a) Rotation Lengths. RLSO and DSO COs have discretion to adjust a rotation by up to one month in their discretion, and up to two months in coordination with the cognizant COS.

(b) Rotation Sequence. Deviations from the above rotation sequences must be approved by the COSs.

(2) Coordination. RLSO and DSO COs will closely coordinate on any rotation deviations that could adversely impact the other's manning or mission. RLSO and DSO COs will also notify the JAG Corps LT/IA/LDO Detailer (PERS-4416C) of any deviations that would accelerate or delay an FTJA's completion of the 24 month FTJA Program by greater than four months.

d. Permanent Change of Activity (PCA) orders. FTJAs will transfer between RLSOs and DSOs under PCA orders. The detaching CO shall keep PERS-4416C informed of upcoming PCA requirements.

5. FTJA Utilization. COs may exercise their discretion over the FTJA Program consistent with this instruction and business rules, as well as all applicable regulations.

a. Command Services. FTJAs may provide command services and advice in accordance with reference (f). This instruction and these business rules do not impose limitations on the practice of command services. However, FTJAs may not provide ethics/standards of conduct advice prior to completion of that section of the Professional Development Standards (PDS). COs, Professional Development Officers (PDOs), and Command Services Department Heads will closely monitor FTJAs on a case-by-case basis to ensure their skills are appropriately matched to the needs of client commands. They shall also manage each FTJA's workload to allow for increasing complexity as FTJAs gain experience and skills.

b. Trial Services (formerly Prosecution Support)

(1) At the discretion of the RLSO CO, FTJAs may:

(a) Provide support to RLSO Trial Counsel (TC) including but not limited to the following:

1. Researching and drafting work product, charging documents, court filings, memoranda and any other documents required by the RLSO.

2. Assisting with other pretrial functions, such as preparing prosecutorial merits memoranda (PMMs), or advising command or criminal investigators during an investigation.

3. Participating in trial preparation, including mock trials and discussions of case theme and theory.

4. Assisting with TC logistics related to members and witnesses, and other administrative matters. FTJAs may observe or participate in witness interviews for professional development; however, appropriate measures shall be taken to avoid the need to call an FTJA as a trial witness.

5. Be designated as a government representative or assist with presentation of the case consistent with Military Rule of Evidence 615.

6. Be assigned to assist government counsel at an Article 32 preliminary hearing, under the supervision of an experienced Core TC or MJLQ officer. COs also have discretion to assign an FTJA as government counsel at an Article 32 hearing under R.C.M. 405, if consistent with their assessed skills and experience, and the nature of the case.

7. Be designated or detailed as government counsel for BOIs, administrative separation boards, initial review officer hearings, and other administrative proceedings.

(2) Consistent with the intent of this instruction to facilitate professional development and practical, standardized legal training of FTJAs, RLSO COs may detail FTJAs as Assistant Trial Counsel (ATC) to courts-martial, including guilty-plea and contested cases. Practical experience gained as an ATC, in conjunction with the PDS, is an invaluable professional development opportunity in the military justice practice. The lead Trial Counsel (TC) must be an experienced Core TC or Military Justice Litigation Qualified (MJLQ) officer. The FTJA shall operate under the direct oversight of a supervisory attorney, and be assigned tasks commensurate with their assessed skills and experience (see Appendix A). For purposes of these business rules, detail as ATC means detailed to perform duties set forth in R.C.M. 502(d)(5). Duties as detailed ATC generally begin upon the receipt of referred charges. FTJAs may not be detailed as lead TC to courts-martial cases.

(3) Within the parameters of paragraph 5.b.(2) above, FTJAs may be detailed as an ATC to a complex or high-visibility case commensurate with the FTJA's experience, demonstrated skills, and work load. COs will exercise caution and appropriate judgment, and must notify COS RLSO if the case will be contested. High-visibility cases are those that meet high-visibility thresholds for purposes of the Case Management System (CMS). The current CMS thresholds are available on the Trial Counsel Assistance Program (TCAP) SharePoint. Complex cases are those determined to be such within the CO's judgment.

(4) COs shall ensure FTJAs complete the PDS within the first six months of their Trial Services rotation, to the maximum extent practicable.

c. Legal Assistance. FTJAs may provide legal assistance services in accordance with references (f) and (l). This instruction and these business rules do not impose additional limitations on work that may be performed. COs, PDOs, and Legal Assistance Department Heads will closely monitor FTJAs on a case-by-case basis to ensure their skills are appropriately matched to the needs of the client. They shall also manage each FTJA's caseload to allow for increasing complexity in workload as FTJAs gain experience and skills.

d. Defense Services

(1) At the discretion of the DSO CO, FTJAs may:

(a) Without being detailed to a court-martial, be assigned to support core Defense Counsel (DC) with specific court-martial tasks, provided they do not form an attorney/client relationship, engage in attorney/client communications with the accused, or allow the accused to

perceive that the FTJA is his or her attorney. Clients in these cases must be advised in writing that FTJAs are not detailed to the case and are not the accused's counsel, but are subject to the same rules of confidentiality for privileged information.

(b) Provide defense services support to core DC consistent with the PDS; references (f), (g), and (h); and this instruction.

(c) Be detailed as DC to administrative separation boards and BOIs.

(d) Provide personal representation (PERSREP) advice and services including representation at initial review hearings for clients in pretrial confinement under R.C.M. 305.

(2) Consistent with the intent of this instruction to facilitate professional development and practical, standardized legal training of FTJAs, DSO COs may detail FTJAs as Assistant Defense Counsel (ADC) to courts-martial, including guilty-plea and contested cases. Practical experience gained as an ADC, in conjunction with the PDS, is an invaluable professional development opportunity in the military justice practice. The lead Defense Counsel (DC) must be an experienced core DC or Military Justice Litigation Qualified (MJLQ) officer. The FTJA shall operate under the direct oversight of a supervisory attorney, and be assigned tasks commensurate with their assessed skills and experience (see Appendix A). The detail of an FTJA as ADC in a case shall be in writing and explicitly state that the FTJA is being detailed in that role. Absent an explicit written detail as such, FTJAs assigned to support DC shall do so in accordance with the provisions and limitations of paragraph 5.d.(1)(a) above. Further, COs may only detail FTJAs as ADC to cases expected to be completed prior to their projected rotation or transfer from the DSO.

(3) Limitations. FTJAs shall not:

(a) When assisting with a court-martial, form an attorney/client relationship, engage in attorney/client communications or behave in a manner that would cause the accused to perceive that the FTJA is his/her attorney (unless explicitly detailed as ADC in accordance with paragraph 5.d(2) above). Clients must be advised in writing that FTJAs are not detailed to the case and are not the accused's counsel, but are subject to the same rules of confidentiality for privileged information.

(b) Substitute for detailed counsel in any capacity, including in docketing sessions, unless detailed as ADC in accordance with paragraph 5.d(2) above.

(c) Observe witness interviews for the purpose of being called as a witness at trial. FTJAs may observe or participate in witness interviews for professional development; however, appropriate measures shall be taken to avoid the need to call an FTJA as a trial witness.

(d) Offer or negotiate pre-trial agreements or stipulations unless detailed as ADC in accordance with paragraph 5.d.(2) above, in which case offers or negotiations shall be under the direct oversight of a supervisory attorney.

(e) Be detailed to complex or high-visibility cases, BOIs, administrative separations, or other types of assignments that typically involve a heightened level of complexity, without concurrence from COS DSO. FTJAs may only be detailed as an ADC to a complex or high-visibility case commensurate with the FTJA's experience, demonstrated skills, and work load. COs will exercise caution and appropriate judgment, and must receive concurrence from COS DSO prior to detailing an FTJA to such a case.

(4) COs shall ensure FTJAs complete the PDS within the first six months of their Defense Services rotation, to the maximum extent practicable.

**ASSESSMENT OF FIRST TOUR JUDGE ADVOCATE AS ASSISTANT
TRIAL/DEFENSE COUNSEL**

Each of these questions assumes the cognizant Commanding Officer (CO) is evaluating a First Tour Judge Advocate (FTJA). The evaluation should be based on expected levels of understanding at this level of experience. If the performance did not highlight an area of questioning, indicate "na."

FTJA NAME: _____

PREPARATION:

1. Was the FTJA prepared for court? Y / N
2. Were any delays or recesses caused by the FTJA's lack of preparation or lack of control of the processes? Y / N / na
3. If events in the case required adjustment while in court, did the FTJA either appear to know what to do or display an understanding that he or she needed to seek assistance? Y / N / na
4. Did the FTJA follow the direction of the supervisory counsel, *or*, if issued, by the judge? Y / N / na

KNOWLEDGE:

5. Did the FTJA understand the Rules of Evidence? Y / N
6. Did the FTJA understand the Rules of Procedure? Y / N
7. Did the FTJA understand applicable Professional Responsibility Rules? Y / N
8. Were any administrative errors caused by, or not corrected by, the FTJA? Y / N / na

SKILLS:

9. Did the FTJA appear to have a cogent reason for the tactical decisions he/she made during the case? Y / N / na
10. From the perspective of the supervising attorney, did the FTJA understand the strategic goals of the case (*e.g.*, demonstrate an ability to execute, understand how the task assigned fits into a complete case process, and appropriately follow through and follow-up)? Y / N

OVERALL EVALUATION:

11. Did the FTJA understand and correctly apply aspects of the FTJA Professional Development Standards (PDS)? Y / N

12. Are you satisfied that the FTJA's performance demonstrated a sufficient understanding of courtroom procedures such that he/she is ready to proceed to the next level of practice (*i.e.*, participation in a contested case under supervision)? Y / N

ADDITIONAL COMMENTS:

13. If the FTJA is not prepared for the next level of practice, please indicate which areas he/she should develop further in order to succeed:

CO signature: _____ Date: _____