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AFJAGS Podcast: Episode 80

JAGs on the Job: Civil Law & Litigation with Col Patricia Wiegman-Lenz & Maj Sean McDivitt

Host: Major Laura Quaco

Guests: Colonel Patricia Wiegman-Lenz and Major Sean McDivitt

In this episode, Major Laura Quaco interviews Colonel Patricia Wiegman-Lenz and Major Sean McDivitt about their experiences serving as judge advocates in the United States Air Force, and more specifically, working in civil law and litigation capacities. Over the coming months, there will be one more episode in this "JAGs on the Job" series, focused on operations and international law. In case you missed it, go back to Episode 76 to hear the episode on military justice and discipline.

[Intro music – The Air Force Song (Instrumental)]

Introductions

Major Laura Quaco:

Good morning, afternoon, and evening listeners. Welcome back to The Air Force Judge Advocate General's School's Podcast. I'm Major Laura Quaco and I'm your host for this podcast. This week's episode is the second episode in our JAGs on the Job series. You may have heard our first one a few episodes back, that was episode 76 and featured military justice and discipline. In this episode, I've got two subject matter experts with some great experience in the civil law arena. We have Colonel Patricia Wiegman-Lenz and Major Sean McDivitt.

Col Wiegman-Lenz is currently the director at our headquarters office for Acquisition, Fiscal Law, and Litigation. You may hear us call it JACQ, and for my nonmilitary listeners out there, that's a short for the judge advocate civil law domain and for some reason, us lawyers and in the government we use "Q" for contracting. Col Wiegman-Lenz has been a three-time staff judge advocate, which if you listen to this show, you know that that is kind of like the lead attorney in a legal office. So, she's had contracting experience as a supervisor in those roles, but also relevant to today's episode, she's been the Chief Trial Attorney and Chief of the Commercial Litigation Field Support Center, which falls within JACQ. She also got her Master of

Laws or LL.M, as we call it, in Contracts and Fiscal Law. She's worked as the Officer in Charge in Contracts at one of her base assignments. And of course, she's held various other positions as a judge advocate, but those are her positions primarily related to today's episode. I will say as a fun fact that she wasn't always a judge advocate. She actually has prior Air Force experience as a Communications Officer and a Protocol Officer. So, Col Wiegman-Lenz, thank you so much for joining us today on The AFJAGS Podcast.

Colonel Patricia Wiegman-Lenz:

Thank you. Super excited to be here.

Maj Quaco:

Yes, ma'am.

And next, we have Maj Sean McDivitt. He actually recently moved into the Chief of Recruitment officer position at our headquarters office. So, for any of you thinking of joining the JAG Corps, and you've got questions, you can reach out to him. But he's coming fresh off an assignment within the civil law domain, specifically as a Litigation Attorney in the Personnel and Information Law Division. He's held many other roles, but related to civil law, he's been Chief of Litigation and a Chief of Legal Assistance and Preventive Law in base officers. And a fun fact about him is he's had the opportunity to deploy as a national security law attorney.

Welcome, Maj McDivitt.

Major Sean McDivitt:

Thank you. Happy to be here.

Overview of Civil Law Domain

Maj Quaco:

All right. So enough talking from me so far. I know you want to hear from our experts. Before we get into your specific areas of practice, Col Wiegman-Lenz, could you first give our listeners just an overview of the various types of issues encompassed within the Air Force's civil law domain?

Col Wiegman-Lenz:

Sure. I guess I would start with the fact that this is an incredibly broad area of the law. And the way that I like to think about it is, basically, if it's not military justice or operational law, which includes environmental law, there's a really good chance that the civil law domain is going to touch it in some way. And so really, the civil law domain provides both field support and litigation support in the areas that help the Department of the Air Force accomplish the mission. So, starting with people, it deals with military personnel issues, labor and employment issues on the civilian side, medical, tort, personal property. One of the big portions is also the legal assistance policy, and this is everything from wills and powers of attorney to Servicemembers Civil Relief Act to helping our military family members with exceptional family members get the services that they need to thrive. We also touch all of the base issues, so the impact of the Constitution, legislation, court or administrative decisions that impact what commanders and individuals can do in the military and helps shape that civil law policy.

A big part of the civil law domain's job jar is ethics and making people making sure people stay on the straight and narrow, and then also advising Air Force Installation Contracting Center on enterprise-wide acquisitions to strategically source things for the Air Force installation for the goods and services that they need. Another big part is materiel. So how do we get the technology, the supplies, the services or department of the Air Force War fighters? So obviously a big part of that is acquisition and contract law, and that's everything from providing field support for base contracts for, say, janitorial services or putting carpet in a building, to rethinking how the Air Force provides information technology services or contracts for its national security space launch programs. So, it's-it's incredibly broad. We also touch on how we spend our money, so fiscal law, the litigation piece of that. So bid protests, Contract Disputes Acts claims. And then also acquisition integrity, so including criminal prosecutions or civil litigation for contract remedies involved in fraud or corruption. And then also another

big part that I think is becoming even more important is information law, because the American public has the right to know what its government is doing, but this really become sort of a balancing act between what people have a right to know and laws that are designed to protect individual privacy, trade secrets, or other information that can't be disclosed.

Civil Law Experience

Maj Quaco:

Great. Thank you, ma'am, so much for that overview. And listeners, you can tell that there is a lot to the civil domain. So, we're not going to get to all those subject areas because as you can probably guess, we could make a 20-hour episode, which nobody's going to listen to that. Right? But if there were any topics of interest that, you know, we don't talk about today, please feel free to drop a comment on the podcast and say, "Hey, I'd like to hear more on X, Y, Z," and we'll see if we can get you a subject matter expert for that. Switching gears for today's conversations, I want to open it up to the both of you to kind of give an overview or background of the specific civil law related jobs you've held, what you're kind of day-to-day and responsibilities were like, kind of cool things that you did in those jobs. So, Col Wiegman-Lenz, we'll start with you, ma'am.

Col Wiegman-Lenz:

Okay, thanks. So I started out, I think, as a lot of JAGs do at the base level as the Officer in Charge of Contract and Environmental Law, and that was working with the local contracting squadron on the base to make sure that we were doing the contracts correctly, that they were complete contract files dealing with local types of claims and disputes. I got a bigger picture of that—of the acquisition law field as the executive officer to the SJA at Air Force Materiel Command, which really opened my eyes to a lot of the big issues that go on from the acquisition law standpoint. After my LL.M. from the Army JAG School, I also went to the Air Force Office of Scientific Research, and this is really one of my favorite jobs that I've had because it was advising on grants and

contracts for basic research. So this was an opportunity to sit down with Ph.Ds and really get an exciting front row seat on the new technology that the Air Force is trying to develop or even just learn more about, so that was a really fun job. I've done a fair amount of contract law work at the base level as both the Deputy SJA and SJA, and then jumping into the fire with bid protests and Contract Disputes Act claims clients and intellectual property litigation at JACQ as the Chief Trial Attorney.

Maj Quaco:

Wow. And what were some of your favorite types of cases or issues to work?

Col Wiegman-Lenz:

Well, so, you know, again, it's incredibly broad and it runs the gamut, right? And so some of the—at the Litigation Field Support Center, could be as small as a \$20,000 claim by a small business who worked a base level contract for, let's say, installing carpet or painting the interior of a building. But it's important to remember that this might be a small issue to the government, but it might actually determine whether a small business survives. So working those types of issues was really interesting. But then also on the other end of the spectrum, running into the millions or the billions of dollar acquisitions that might impact how the government gets goods and services to the warfighter. So, JACQ handles litigation not only for the Department of the Air Force, but also for USTRANSCOM and Special Operations Command. So one of the projects that I worked was the new Global Household goods contract, which was a \$1.6 billion contract for TRANSCOM, that really changed how we move our government numbers from place to place when we PCS. So lots of big impactful work just across the spectrum.

Maj Quaco:

Yes, ma'am. Thank you so much for sharing those. I want to move it over now and Maj McDivitt, can you please share what your type of experience has been like?

Maj McDivitt:

Sure. So like a lot of JAGs, I started out as the Chief of Legal Assistance in the Air Force at my first duty station. I did a lot of civil law, so reviewing base contracts and agreements we had with different organizations off base, on base. Also doing some ethics reviews. And then while I was my first duty assignment, did a little training in deployed fiscal and contingency contracting law. And so I wasn't able to deploy at that time, but that came very useful when I deployed a couple of years ago, right as Afghanistan was drawing down and I deployed and got to put that to use in reviewing contracts, figuring out investigations for property liability, things like that. And then after I deployed, I came back and for about a year, I held a position as a civil litigator in our Personnel and Information Law Division within the Civil Law Domain. And in that capacity, I worked as Agency Counsel for the Air Force.

All of my cases were actually federal court cases, and I worked doing military personnel issues. So you had a lot of Constitutional challenges brought by members or former members of the military in federal court, and they would challenge policy issues. They would challenge civil rights, civil liberties. And so we would defend the Department of the Air Force's policies in federal court. It wasn't me that was attorney of record. We would actually work jointly with the DOJ, so the DOJ would represent us on the record, but then I would be agency counsel, so liaising between the Department of Justice and the Department of the Air Force. And that was really important because a lot of these policy decisions affect how military commanders can operate their units and make the important decisions that defend their national security, national interests. And so our responsibility was making sure that the commanders were in a position, a defensible position, to enforce their policies and make sure that the Air Force was abiding by current policy and current regulations and articulating to courts throughout the country why certain policies were in place, some of the reasoning behind those decisions, enabling commanders to make those really difficult calls when, you know, they have people to lead, and they

have missions to accomplish, and we wanted to make sure that they were in the best position to do that.

Maj Quaco:

Wow. That sounds incredible. Do you have any specific issues that you worked that you're particularly proud of or make you proud to serve?

Maj McDivitt:

Yeah, I think there's a couple. So, we worked a lot of civil liberties issues, so it was really important making sure that, you know, when airmen come into the Air Force or when individuals enlist or commission into the Air Force, their liberties don't go away. They can maintain those liberties when they're wearing the uniform. There are certain regulations that may temper how those liberties are acted upon, and there may be specific reasons underlying those. And so we have to make sure that the airmen are able to exercise their liberty while the Air Force is able to accomplish its mission. And I think my favorite part about that was really coordinating with specific commands all over the world, really, because we have, you know, we have a policy, but it's applied in many different ways all across the globe. And just figuring out what those commanders were dealing with on a day to day basis, how it affected their airmen, how it affected their decision making process, and helping them articulate the military jargon, all of its acronyms and processes, articulating that and kind of translating it in a way that would make sense to a court of law that may or may not be where they're located. And trying to get the court to understand what those situations were and putting really the commander's best foot forward and articulating their reasoning.

The other piece, too, was *habeas* decisions. So, members who have been court-martialed. We—we have a semi-complex process, where they are court-martialed, they may appeal to the Court of Appeals for the service itself, and then they may appeal to the Court of Appeals for Armed Forces. If a conviction is upheld by the Court of Appeals for Armed Forces, then they may attack that in federal court, and so it almost starts another process

where they're filing a complaint in federal district court. And if that's upheld there, then it may be taken to the circuit court. And following all those different processes and the military nuances, it really married my military justice background as a prosecutor and then my civil litigation background, because we're a federal court now, and still trying to uphold policy just from a more civil legal.

Maj Quaco:

Right, and so for my nonmilitary listeners who might not know this, because you've all heard about the Space Force by now, most likely, we actually don't have judge advocates who are in the Space Force. So you all are also handling Space Force and Guardian issues, correct?

Maj McDivitt:

That is correct, Yeah. We have lots of cases with airmen and guardians. We also have to distinguish between what is an Air Force policy, what is a Space Force policy, seeing which ones apply to either airmen or guardians or both. Sometimes they're combined in the same case, sometimes we'll actually combine cases with different services. So in one case, you might have the Air Force, you might have the Army, you might have the Navy, all in one case. And it's really fascinating to be able to coordinate across the different branches.

Maj Quaco:

Wow, that's really interesting. So, you get kind of this joint effort working across different services. That's really neat. So, Maj McDivitt, before we move on, I did want to ask you really quick, because we did have a conversation offline previously where you talked to me about how your SVC experience kind of allowed you to join both military justice in civil law experience. So can you talk to that a little bit?

Maj McDivitt:

Yeah, I think one of the most impactful things I've done as an Air Force JAG is to be a Special Victims' Counsel, and that helped me marry my legal assistance background with my justice experience, as well, in helping different

clients navigate not just the military justice system, but also personal civil law issues that they may experience, whether it's like housing, child custody issues, getting a divorce. Sometimes it was making sure that they had a place to live for that period of time. One of the civil law issues I encountered was getting a client a dog—a therapy dog. And helping her through the process of obtaining one, getting it certified for the workplace and recognizing that it was for rehabilitation, so it wasn't going to be a permanent thing. It was to get her back to a place where she could serve, but allowing her to have that experience and go through that process with her was really rewarding. And this is all, of course, like, while she's going through her justice case, so it really impacted her life and enabled her to accomplish her mission in her specific unit.

Initial Inspiration to Serve

Maj Quaco:

Great. Thanks for sharing that. Now, I want to shift it to the beginning of your careers and ask about your initial inspirations to serve. I know Col Wiegman-Lenz, ae gave a little fun fact about you not always being a JAG. So can you please share with our listeners what your initial inspiration was?

Col Wiegman-Lenz:

Well, so part of my initial inspiration was the fact that I'm an Air Force brat, and my dad was an Air Force Intelligence Officer. And so when I went to college and I graduated and I didn't quite know what I wanted to do, I looked around and the Air Force really gave me the opportunity to do something that was bigger than just me. And it was more than just making money and it was the opportunity to serve. So, I signed up for OTS, and in their infinite wisdom, they made me a Communications Officer, even though I didn't really have the background for that. I was a Psychology major, but I loved it so much.

Maj Quaco:

Great, and Maj McDivitt, over to you.

Maj McDivitt:

I think what really sparked my interest in the Air Force, specifically, was its sense of professionalism and pride in serving. I had done some clerkships at a few different firms. I had a pretty wide background. I had no idea what area of law, specifically, I wanted to engage with and take on. I didn't have the, you know, the ultimate goal in front of me during law school. But I will say when I interviewed with the JAG Corps, they really took me seriously. I was pretty young when I came in, and when I did interview with some firms, they kind of felt like my age might set me behind in some ways. When the Air Force interviewed me, they took me seriously. They looked more at my abilities and less of my age, so they gave me responsibilities right off the bat. I did an externship out at Tinker Air Force Base and I loved engaging with the captains there. I saw a court-martial and that whole experience was really exciting to me and prompted me to join the Air Force.

And since I've been in, I've really enjoyed my time. I've had such a diverse experience being here. When I came out in the military, my military family was there for me, and they saw me through, they supported me. And I'm really proud to wear this uniform because it really makes me be part of a team. And I know that they have my back and I hope that they know that I have theirs.

Reasons to Continue Service

Maj Quaco:

And I'm sure anyone who knows you like I do knows that you have our backs. So I want to ask you both now, though, you know, we talked about your original inspiration to serve. Now, I want to move more towards what encourages you to continue to serve. You know, I know a lot of people think they'll come in and do their four years, maybe six years to start out, which is great, gives them some great opportunities, gets great experience, gets them out there. Then others say, you know, that was the plan and now here I am 20 or 30 years later retiring. So is there anything else really that has encouraged you to continue your service or

anything else that you particularly love about being a judge advocate?

Col Wiegman-Lenz:

Sure. So like I said, there are lots of cases that I've been involved in that I'm proud of that I've enjoyed. But what I really enjoy about my job is being a professional problem solver. I love those situations where a commander or a leader brings me something and says, "this is what I want to do and why." And they ask me to help them get there lawfully.

Maj Quaco:

Yes, ma'am, I agree. I also like the problem-solving aspect of being a judge advocate. Maj McDivitt, I want to turn over to you to discuss your continued inspiration to serve.

Maj McDivitt:

I think it's the team. I think you'll find a lot of places out there which will have, you know, great success rates. They'll have some really interesting opportunities for you. But what keeps me going in the military is my team. We see ups, we see downs, we see challenges, we see successes. We come together. We figure things out. My experience hasn't been a cutthroat environment. It's been a very collaborative environment. When we face challenges, like I said, we put our heads together, and we figure things out. I think the opportunities for leadership in the JAG Corps are really important, and it's not leadership in positions like managerial roles, but it's the opportunity to lead people. There is a wide range of people in the Air Force, in our legal offices, too. We have paralegals, we have attorneys, we have senior attorneys, we have junior attorneys, we have senior paralegals, we have junior paralegals. That stretches quite the range of people. And you have all of their personalities, all their different backgrounds coming together all in one place. And I don't really know a whole lot of places that would provide that same opportunity. And I have enjoyed that experience, and I really look forward to seeing that continue.

Maj Quaco:

Right. Yeah, I agree with the team aspect there.

Col Wiegman-Lenz:

Can I actually jump in and add something to that?

Maj Quaco:

Absolutely.

Col Wiegman-Lenz:

Okay, great. And Maj McDivitt just talked about the people, and I want to amplify that, because it's really true that we get to work with really some of the best legal professionals out there, and it's such a great team and collaborative environment. And that's why I stay, is really it's all about the people and having those relationships. I would also say another big component of why I stay is I'm still having fun and I never have the same day twice. Every day is something different and there's always new questions to answer and new challenges to face. And I don't think anybody else gets the same opportunity to see the law from the perspective that we do.

Guidance for Those Seeking Civil Law Experience

Maj Quaco:

Yes. Yes, ma'am. So, I want to ask the two of you if you have any wisdom or guidance for—maybe we've got some judge advocates out there, or those who are not in the JAG Corps and considering it, and are interested in pursuing work in the civil law arena. What advice do you have for those individuals and how they get more exposure in that arena?

Col Wiegman-Lenz:

Well, I think I would say as an SJA, talk to your SJA, and express the interest, and particularly for people who have specific areas of the law that they have interest in or think that they'd like to get more experience in, communicate that. And use your WebPDI to—to let JAX know that, as well. But I would also say for our civilian attorneys or for people who are thinking about, you know, maybe I'd like to join the JAG Corps,

but I might not be cut out for military service wearing the uniform, we have a great program called the Palace Acquire Program, which brings in fairly newly licensed attorneys to come in and focus specifically on the civil law aspect. And Hanscom has had a number of Palace Acquire attorneys who have just been able to get so much training, get so much experience as base level civil law attorneys that it's really been a great experience and they've really done great things for the Air Force.

Maj Quaco:

Yes, ma'am. I'm glad you brought up that Palace Acquire Program. Definitely a great program for folks to consider. Now, Maj McDivitt, I wanted to turn it over to you. Did you have any words of advice that you wanted to share?

Maj McDivitt:

Yeah, I would say when—when a JAG gets to their first assignment, their experience is pretty broad. They won't just do military justice. They'll do actually like a wider range of things. And that's really unique to the Air Force, I think, is that they do get a lot of experience. Sometimes we focus really heavily on justice, but there's also the opportunities for civil lot in very simple doses, I would say. You might review a base agreement, which really isn't super complex, but it's really an introduction to contract law. It's really an introduction to how the military operates. A lot of our justice cases may deal with specific issues, of course, people involved, but civil law tells the story of what they're doing for the Air Force, and I think that's a really kind of human component of civil law, is that it gives them the perspective of how things operate, how they accomplish the mission. And when people think of the military, they're often thinking of civil law issues. So, I would see that, you know, as a perspective generally for law students who are thinking about joining the military and becoming a JAG, civil law is, like I said, something you'll interact with right at the beginning. You'll have your cases. You'll also have random issues that pop up. And when I was at my first duty station in civil law, we had a primate facility and we had to figure out how the Air Force is going to deal with these primates on base.

We had a host of other issues that were so diverse. There's lots of regulations involved and it really broadens your areas of research. You learn how to write formal legal reviews. We actually—writing legal opinions about specific issues, and that's a wealth of experience and knowledge in regulatory research and also just legal writing generally. So, there's a lot of experience there. I remember when I was—I had been in the Air Force for about six years and I told my boss, I said, "Sir, I want to figure out what the civil law domain has for me, as well." And so I looked at JAACL, which is the Information and Personnel division, and I was able to get a slot there and have thoroughly enjoyed civil litigation and been able to to work through that and have that federal court experience. Because in the military, a lot of our court time is going to be a lot of military court, but civil law offers you exposure to the federal court system in civilian court. So you understand the rules there, you understand how cases work, how filings work from a civil perspective, and not just a criminal perspective.

Closing Remarks

Maj Quaco:

Great. Well, thank you to you both for sharing. I think that's all we have for today. But thank you so much, Col Wiegman-Lenz and Maj McDivitt for coming on the AFJAGS Podcast and sharing your experiences with our listeners.

Col Wiegman-Lenz:

Thank you so much. This was great.

Maj McDivitt:

Thanks for having me.

Maj Quaco:

Alright, listeners. That's all I've got for you today. Please feel free to review, rate, and subscribe this podcast. And for now, this podcast is in recess.

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Glossary

- **DOJ:** Department of Justice
- **JAACL:** Information and Personnel Division
- **JACQ:** Contracting and Fiscal Law Division
- **JAG:** judge advocate general
- **JAX:** Professional Development Directorate
- **LL.M:** Master of Laws
- **OTS:** Officer Training School
- **PCS:** permanent change of station
- **Ph.D.:** Doctor of Philosophy
- **SJA:** staff judge advocate
- **SVC:** Special Victims' Counsel
- **USTRANSCOM:** United States Transportation Command
- **WebPDI:** Web Professional Development Information

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