

## Prosecutorial Misconduct

27. Capt. Susan Bet-Sayad, USAFA/JA, was detailed as assistant trial counsel by the Staff Judge Advocate in all three cases, including Cadet Hannigan's. From the beginning of the investigation, she (as well as the Air Force Office of Special Investigations) pre-determined that the complaining witness was fully telling the truth and that Cadet Hannigan must, in fact, be guilty. She then proceeded to act in a way over much of the next year to discover, or create, evidence upon which Cadet Hannigan could be convicted (note: she had to do this to secure a conviction because there was insufficient actual evidence of a crime). In doing so,

Capt Bet-Sayad violated numerous rules of professional responsibility found in both the Air Force JAG Corps' code of ethics, as well as the rules of her licensing state, Alabama. Some of those professional rules and norms include, but are not limited to: contacting known represented parties directly and not contacting counsel; interviewing/interrogating represented parties directly and not contacting counsel, creating witness statements and producing those statements for the witness to sign, telling witnesses what needed to be in the statements they actually got to write (including specifically naming Cadet Hannigan as a "ring-leader" when the witness did not organically do so), and not providing exculpatory discovery information to the defense immediately upon learning of its existence and instead holding onto it for over six months.

28. The experience of Cadet #7 is illustrative. On 5 September 2018, he was interviewed by Capt Bet-Sayad and she obtained a sworn statement from him. His defense counsel was not given notice of this interview. Capt Bet-Sayad told him "you don't need a lawyer" and did not read him his Article 31 rights. The meeting was held in the courtroom. If Capt Bet-Sayad did not like an answer that Cadet #7 gave, or he was unsure of or didn't remember something exactly, Capt Bet-Sayad said things to him like "I'll take you to the Superintendent to have you disenrolled, and he will sign your disenrollment orders." Other times she would say, "Oh so you're going to stick with lying?" He made it clear that "I told OSI the truth." However, Capt Bet-Sayad made it clear that if he didn't change his answers, he would be punished for it. She then "provided specific names" and made him provide a definite "yes/no" on details. During the interview, Capt Bet-Sayad wrote two statements for Cadet #7 and he refused to sign them. Capt Bet-Sayad discarded these unsigned statements. On the third statement, Capt Bet-Sayad "had [him] change words" and she was the one who asked him to list the "ringleaders." Notably, the unsigned statements have never been provided to the Defense and appear to have been permanently destroyed.

29. Cadet #7's experience is a representative sample of the prosecutorial misconduct and violation of professional norms experienced by most cadets. First, he was represented by an Area Defense Counsel at the time Capt Bet-Sayad contacted and interrogated him. Second, she did not warn him of his Article 31 rights, even though she accused him of obstructing justice and making a false official statement. Third, she endeavored to create evidence to use against Cadet Hannigan. Fourth, upon Cadet #7's non-compliance with her directive, she stood over his shoulder and made him include certain names (Cadet Hannigan) and details to her satisfaction. Fifth, even though a LOR response from Cadet #7 was signed and submitted in July 2018 and clearly in possession of the government, Capt Bet-Sayad did not provide this exculpatory material to the defense until 6 February 2019.