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The Management and Administration of Military Legal Assistance Offices*

By: Captain Mack Borgen, Administrative and Civil Law Division, TJAGSA

The rendition of legal assistance to members of the military community has been an integral part of the operation of Judge Advocate offices for more than 30 years. The legal assistance program was initiated by the War Department in cooperation with the American Bar Association in 1943 for the purpose of rendering legal advice and assistance regarding the personal legal problems of eligible service members.[1]

Due in no small part to the efforts and commitment of the civilian bar, the system working well during the war years[2] and was the basis of unlimited and spirited praise.[3] The provisions of War Circular No. 74 were subsequently incorporated into implementing service regulations,[4] and the legal assistance program was fortunately maintained as a matter of permanent policy.

The rendering of such legal services has been of great assistance to members of the military community, but it should be recognized that the provision of those services neither was then nor is now wholly "gratuitous" or "charitable." The legal assistance program is founded upon a perception of military necessity.

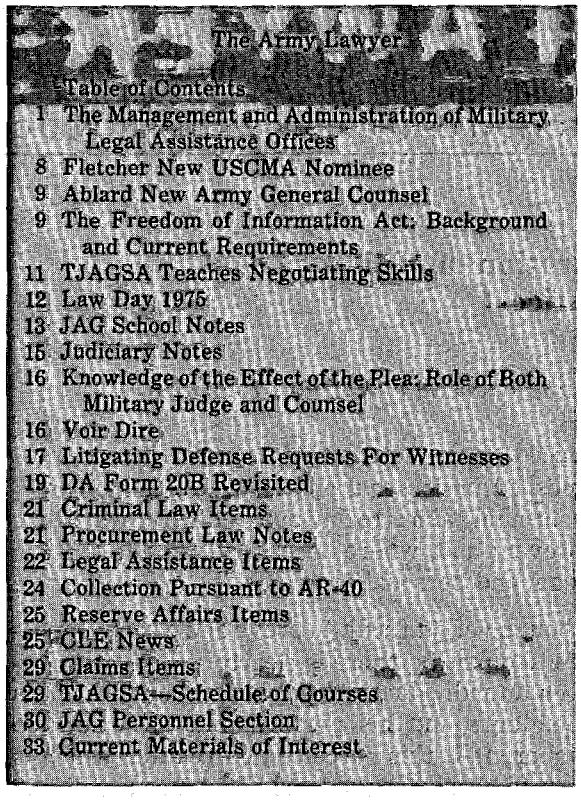
> "[The legal assistance program] is based. . .on the simple truism that efficiency in a military organization is directly related to the peace of mind of its members. Thus, efficiency is reduced to the extent that any member is enmeshed in personal and legal problems. Our continuing aim is to find more effective ways to prevent and, where necessary, resolve these legal and personal problems."[5]

Although very difficult to prove and clearly impossible to quantify, there is clearly a correlation between an individual's "legal health" or that of his dependents and his performance as a service member. It is this perceived correlation which is the stated basis for the legal assistance program.[6] Despite the difficulties of proof and quantification it is reasonable to assume that the early and appropriate resolution of one's legal problems is directly related to both the individual's morale and efficiency and the diminution of certain types of criminal offenses within the command generally.

In planning the allocation of resources, personnel, and facilities, the Corps must strike a balance between the "reactive" criminal proceeding and the "preventive" rendering of legal assistance. To the extent, for example, that family or marital problems or financial indebtedness is the cause of a service member's criminal misconduct or unsatisfactory performance, the early discussion and resolution of these problems is in the interest of the Army and, most importantly, of the individual. Military attorneys should not be narrowly seen by the troops as only a corps of criminal trial and defense counsel. The legal assistance program offers that opportunity.

An overwhelming percentage of career service members never has the dubious distinction of being involved in a court-martial or board proceeding. As cogently and firmly emphasized by Major General Harold G. Parker at the 1974 Worldwide JAG Con-

*This article is based in part upon a series of seminars concerning the military legal assistance programs and administration. The seminars were held during the Fall 1974 and were a part of the elective course curricula of the 23rd Advanced Course, The Judge Advocate's General School, Charlottesville, Virginia. I express particular thanks to CPT John Cruden Member 23d Advanced Class for his assistance.



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ference, the legal assistance program provides a direct opportunity to render meaningful assistance to those service members, that "95 percent" of the Army, who have never faced a court-martial or board action.[7]

The task of rendering expeditious and competent legal aid to already well over 10 million eligible clients is huge, and just like Robert Townsend's "big institutions," sometimes it appears that the legal assistance program has been successful not "because of the way [it] operate[s], but in spite of it."[8] There are some who believe that there cannot be either quantitative or qualitative improvement in the program until there has been a marked increase in the allocation of personnel, resources, and facilities. This author disagrees.

The legal assistance program could, of course, be vastly improved by the reallocation of personnel, resources, and facilities [hereinafter "resources"], but for many reasons which are beyond the scope of this article such a reallocation in the immediate future is improbable. This article and the recommendations included herein are predicated upon that assumption.

The purpose of the program is to provide competent, professional legal services to all eligible clients, and legal assistance officers [hereinafter LAO] are given considerable flexibility by the regulation to design and implement new methods and procedures for the efficient rendering of such services.[9] It has been said that the optimist proclaims that we live in the best of all possible worlds. I presume that the pessimist fears this to be true. The legal assistance program as presently structured and administered is hardly the "best of all possible worlds," but even given the present structure and the limited allocation of resources there is much that can be done.

This article is essentially a series of recommendations relating to the management and administration of military legal assistance offices. It is suggested that the rendition of legal assistance within the military community can be greatly improved by the more thorough planning and utilization of the resources presently available. It is clear that the legal assistance program faces a constriction of resources in the immediate future without a commensurate decline in caseload. Consequently

the energetic and innovative administration and management of the program inevitably becomes even more important.

Many of the recommendations listed and discussed below may not be appropriate for adoption and implementation at a particular installation. It is recognized that, to a degree, the innovative flexibility within any office is directly related to its size, but some of the recommendations hopefully will be applicable and useful to both large and small legal assistance offices.

This list of recommendations is by no means exhaustive—possibly it is just a beginning, but it is hoped that it will serve, first, as a basis for the thorough evaluation of the administration and management of legal assistance programs at particular installations, and, secondly, as a collection of useful ideas which may be selectively chosen, adapted, and implemented.

Before turning to the substantive part of this article, one further preliminary point should be noted. There have been proposals made with regard to altering the structure of the program. The proposals have generally focused upon restricting eligibility, limiting the scope of services offered, placing greater emphasis upon preventive law, and the development and use of some form of prepaid legal services such as those now being offered in the civilian community. These proposals each merit consideration, however it is the purpose of this article, as stated above, to focus upon the actions and programs which the LAO may implement *given* the present structure and *given* the present limited allocation of resources.

The recommendations are organized into four categories: (I) Personnel; (II) Office Management and Administration; (III) Program Effectiveness; and (IV) Affirmative Legal Assistance Programs. Following each subject is a very brief description of the proposal.

I. Personnel.

A. Active Duty JAG Officers.

1. *Assignment Policies: Intra-Office Placement Policy.* Place those officers into legal assistance positions who express the most interest and evidence the best training (relevant substantive law, prior legal practice, clinical legal education, etc.). An informal survey of over 100 incoming JAG officers was conducted by the Judge Advocate General's School during the summer of 1974. The survey showed, not surprisingly, considerably different interests among the officers with regard to the various types of military legal offices. Second only to military justice, 70 percent of the officers were "very" or "somewhat" interested in working in legal assistance offices. Of equal significance and relevance to intra-office placement is the fact that 16 percent were not interested in such work. Both for reasons of professional satisfaction and morale, the internal assignment procedures should comport, to the extent practicable, to the interests of the officer.

2. *Intra-Office Job Specialization with Coordinated Referral and Appointment System.* The rendering of legal assistance, unlike some other aspects of military legal practice, consists of an extremely broad range of substantive legal subjects. The difference in training, expertise, and interest varies considerably among attorneys, and those differences can be reflected within the JAG office by a program of subject specialization. Informally, for example, a "referral system" is oftentimes used with regard to tax or community property questions, but such a system of "specialization" and referral may be effectively used with other subjects such as civil rights, indebtedness and bankruptcy, real property, landlord-tenant, and estate planning. This system not only frees the time of other LAO's but also, and most importantly, facilitates the provision of quality legal assistance in the particular "specialty" fields.

B. Reserve Attorneys.

Introductory Note. JAG Reserve attorneys can be invaluable in the rendering of legal aid. In many instances the role of the LAO closely comports with their private practice and expertise, and they are not willing to satisfy their Reserve obligations by serving in some capacity within the legal assistance program.[10] A JAG Reserve officer can perform military legal assistance as a member of or attached to a Judge Advocate General Service Organization (JAGSO) team[11] or as a Special Legal Assistance Officer.[12] Inquiries regarding either program should be directed to the Assistant Commandant

for Reserve Affairs, The Judge Advocate General's School, Charlottesville, Virginia, 22901.

1. *Rendition of Legal Assistance—Weekends/Nights.* The availability of weekend and night office assistance serves a dual purpose: first, it offers AD personnel a further, and possibly more convenient, opportunity to seek legal advice; and, secondly, it inevitably lessens the daily office caseload.

2. *Rendition of Legal Assistance — Job Specialization —Incorporate with Intra-office Referral and Appointment System.* See parallel discussion, *supra*, at I(A) (2), regarding AD JAG officers.

3. *Training Programs for Active Duty Legal Assistance Officers.* Oftentimes, if not ordinarily, it is necessary to assign the AD military attorney to an installation located in a "foreign" jurisdiction. Many of the legal questions which the attorney serving as a LAO will face will be based upon local law and will require a familiarity with local procedure. The Reserve attorneys can be requested to plan and sponsor "familiarization" programs, conferences, or seminars regarding local substantive and procedural law.[13] Such programs can be easily extended to assist in the training of military lawyer's assistants.[14]

4. *Preparation of Materials.* Reserve attorneys can be used to prepare local legal assistance handbooks to supplement DA Pam 27–12, *The Legal Assistance Handbook;* articles or memoranda of law regarding general legal problems frequently encountered by the LAO (*e.g.* a memorandum regarding the state's garnishment law which will soon take on new significance to the AD LAO due to the recent enactment of the Federal Family Support Act, P.L. 93–647); or even more narrow research memoranda on cases before the AD LAO. Note that frequently the Reserve attorney will be more familiar with local law and will have access to more research facilities and sources than are present in most legal assistance offices.

C. Excess Leave Officers.

Weekend Work Policy. Pursuant to a relatively new policy, excess leave officers may now serve on AD at any time when class is not in session and if for a period of at least two days (*e.g.* weekends). This policy replaces the old five-day rule. The excess leave officers may work under the supervision of the LAO and assist in many ways. If the excess leave officer is to deal directly with clients, the officer should identify himself and explain that although he is not an attorney, he does work directly with and under the supervision of a JAG officer.[15]

D. Military Lawyer's Assistants.

The Judge Advocate General's School has now offered four Administrative and Civil Law courses for the training of military lawyer's assistants. The emphasis in each of the courses has been upon the role of the military lawyer's assistants in the legal assistance field. Although the work and responsibility given to the individual will be a function of many other factors (age, experience, maturity, education, interests, and so forth) the military lawyer's assistant may be used effectively, *inter alia*, for preliminary interviews and screening, case filing, basic research, and the management of an appointment and referral system.

E. Civilian Sources.

Local Attorney Programs and Private Publications and Materials. Although frequently the AD JAG officer is not a member of the bar of the state where he is stationed, he should closely follow and monitor programs and publications prepared for the local attorneys. Many states have recently placed a new emphasis on continuing legal education and with this development, of course, has come a proliferation of state programs and publications which may be valuable to the LAO.

II. Office Management and Administration.

A. Officers—New Officer Training Program.

The program could be sponsored by the AD LAO and/or local JAG Reserve attorneys. The program could be designed for the incoming JAG LAO so that he may be "formally" introduced to legal assistance practice, office administration and facilities, local substantive and procedural law, the local installation offices and, if appropriate, the personnel with whom he, as a LAO, will be working. Although the new attorney could over time discover and learn many of these things, the transition to the new jurisdiction and, in many instances,

to the practice of law, can be made much smoother and more rapid by a formal concise program conducted by experienced officers and/or Reserve attorneys.

B. Office Meetings—Case and Problem Discussion.

Despite the large and steady flow of clients, case pressures, and other responsibilities, it is recommended that periodically office meetings be held among those officers who render legal assistance. The meetings can be invaluable in solving administrative and management problems, in giving the younger attorneys an opportunity to seek guidance, in discussing and evaluating certain frequently recurring legal problems, and in generally improving office cohesiveness and morale. This may be an excellent opportunity for briefings by an officer (assigned the responsibility on a rotating basis) regarding new developments which are of general interest to all the LAO's. For example, a 15-minute briefing by one officer on the recent and numerous changes to the Survivor Benefit Plan can save the other officers from unnecessary repetitive research and improve the overall quality of legal assistance offered.

C. Case and Articles Files.

Many legal assistance problems are, of course, repetitive. An office case file can easily be developed and subsequently maintained by the lawyer's assistant. A possible subject filing system can be drawn directly from the organization of the Table of Contents of the *Legal Assistance Handbook*. Materials obtained through the extra-office retrieval system, discussed immediately below, can be incorporated into this filing system.

D. Office Practice—Extra-Office Retrieval of Materials Systems.

Frequently articles, books, sample forms, and other materials (especially secondary sources) cannot be procurred for the legal assistance office library; however, in many instances copies can be obtained on loan or otherwise (*e.g.* photocopying) from other libraries (public, bar association, law school, etc.) on a periodic basis. The military lawyer's assistant can periodically (every two to four weeks) compile an office list of requested materials and obtain copies of the needed materials for the LAO's. This investment of time and travel can be an extremely valuable method of "increasing" and supplementing the oftentimes scant legal assistance library sources.

E. Office Practice — Photocopying and Library Maintenance.

Although no specific recommendations are made, a thorough evaluation of the administration and management of the legal assistance program must include the needed development of policies regarding photocopying and library maintenance.

F. Office Practice—Form and Form Letter System.

Although most offices have some type of forms system, as a matter of policy, it should be periodically reviewed and updated. The introduction to the availability and use of such forms and form letters may be an important aspect of the new officer training program discussed above.[16] The need for such periodic review and updating, and the need to introduce the forms systems to the new officers, exist even if the legal assistance office has the excellent magnetic card or automatic typewriter capabilities.

G. Relationship with Local Bar — Bar Association — Local Legal Aid Office.

The development of such relationships should be encouraged;[17] they enhance the reputation, image, spirit, and professionalism of the Corps. Most importantly, involvement in local seminars and programs will improve the familiarity of the "foreign" AD LAO's with local law and practice. A spirit of comity should be reflected in constructive and affirmative actions by JAGC officers to open lines of communication with their civilian colleagues.

III. Program Effectiveness.

A. Weekend and Evening Availability.

See discussion, *supra*, at I(B)(1).

B. Preventive Law Program.

One of the major developments during the past several years, in part a result of the proliferation of prepaid and group legal service programs, has been renewed interest in the development of preventive law programs. An emphasis upon preven-

tive law could be taken as a major structural change in the legal assistance program, but it is better seen as adding a further dimension to the existing program. A new program recently has been implemented by the Air Force and one has been in effect in the Navy for several years.[19] Although preventative law programs have been encouraged by the Army for years[20] and are said to "li[e] at the heart of a succesful legal assistance program,"[21] implementation has varied considerably from installation to installation. The theory of such programs is that by "anticipatory" planning and resolution of an individual's problems the long-term demand and need for legal services will decline. It is recommended that consideration be given to the revitalization of preventive law programs within the present structure of Army Regulation 600–14.

IV. Affirmative Legal Assistance Programs.

Closely related to the theory underlying preventive law programs in the recognition that one of the major problems with the traditional methods of delivering legal services within both the civilian and the military community is the failure to communicate to eligible persons the services which are available and the necessity of using those services in defined situations. One of the great difficulties in developing the massive legal aid programs during the early and mid-1960's was overcoming the traditional reluctance to use and/or the distrust of attorneys by lower income groups.[22]

The military LAO can perform many legal services for the client. Unlike the early years when the LAO was confined within the strictures of office counseling and limited office drafting, the LAO may now perform a much broader range of services.

As noted above the methods of improving the rendition of legal services within the military community will vary with local conditions, however there is one problem susceptible to similar attack. It is the problem of communications. The LAO may now offer considerably more services than before, but there exists a correlative need to define and explain those services to the members of the military community. This can be accomplished in part by the rendition of consistently high-quality legal services and by the implementation of "affirmative" public information media programs.

Such "affirmative" programs are not inconsistent with the recognized large volume of cases already being "brought" to the military legal assistance office. Most legal problems can be more quickly, efficiently, and successfully resolved if attention is given to them at an early—rather than late—date.

It is recommended that "affirmative" communication programs be considered. Examples of possible programs are as follows:

(1) Installation newspaper columns on the legal assistance program and/or problematic legal situations;

(2) Spot radio announcements;

(3) The preparation of handouts or other materials for unit distribution; or

(4) Lectures, classes, or even courses for military members or their dependents dealing with selected legal topics.

These programs are essentially directed to potential clients. Another dimension of the communications program should be directed to members of the command.

To a significant degree the allocation of resources and the overall success of the legal assistance program depends upon command awareness and support. One means of soliciting support for and enhancing the reputation of the legal assistance program is the preparation of periodic reports for the CG. Although the exact content and format of the reports should be left to the discretion of the LAO under the direction of the Staff Judge Advocate, the report should relate the caseload and services rendered during the period in question.

Conclusion

The legal assistance program has been recognized as essential to fulfilling the Army's mission and has been supported by Army policy for more than 30 years. The program includes both the preventive law program and the rendition of a broad range of legal services to eligible clients facing existing legal problems.

Because of the constant shortage of personnel, resources, and facilities thorough planning and effective management and administration take on a new importance. Such planning, management, and administration are essential to the Army's legal assistance program since, at least in the short run, it is improbable that there will be a major reallocation of resources or a lessening of demand for legal services.

In this article recommendations have been made with regard to four aspects of the legal assistance program: (I) Personnel; (II) Office Management and Administration; (III) Program Effectiveness; and (IV) Affirmative Legal Assistance Programs. It is re-emphasized that the relevance, feasibility, and implementation of the recommendations will vary considerably from installation to installation. Although admittedly they are best evaluated by each particular office, it is hoped that collectively these recommendations and the brief discussion of each will serve as a basis for an evaluation and possible improvement in the management, administration, and effectiveness of military legal assistance offices.

Footnotes

1. War Dep't Circular No. 74, Legal Advice and Assistance For Military Personnel, 16 March 1943. The program was essentially a system of referral coordination between military commands and state and local bar association "committees on war work." Prior to the establishment of this official program, there had been no general plan or procedure available to military personnel for the satisfactory disposition of their legal affairs and problems other than by the individual employment of lawyers. Because many of the service members were unfamiliar with the retention and use of attorneys and because of the great volume of personal legal problems which was caused by the outbreak of World War II and the consequential disruption of normal life, the more formal and systematic program, as embodied in War Circular No. 74 and the subsequent implementing service regulations, was required. For a more detailed discussion of the early military legal assistance program, *see:* Blake, *Legal Assistance to Servicemen: A Contribution in War or Peace*, 37 A.B.A.J. 9 (Jan 1951); Smith, *Legal Aid During the War and After*, 31 A.B.A.J. 18 (Jan 1945); Beckwith, *Legal Assistance to Military Personnel*, 29 A.B.A.J. 382 (Jul 1943).

2. Although very little data was kept, it was estimated by one writer that nearly two million cases were handled in 1943 alone. Smith, *supra* note 1.

3. In 1943 one writer asserted, for example, that ". . .nearly the whole problem [of handling the service member's legal difficulties] has been solved and the few outstanding details are on the way to a solution." Beckwith, *supra* note 1, at 382. Reginald Heber Smith, an early pioneer in the field of legal aid, wrote in 1945 that [t]he greatest legal aid organization in all history has been created and is being conducted by the Army and Navy of the United States." Smith, *supra* note 1, at 18.

4. The current Army regulation is Army Regulation 608–50, Legal Assistance, 22 February 1974.

5. Note, "Legal Assistance," 15 JAG L. REV. 38, 39 (September 1973).

6. As stated in Army Reg. No. 608–50, para. 2 (22 February 1974):

> "Personal legal difficulties may contribute to a state of low morale and inefficiency, and may result in problems requiring disciplinary action. Prompt assistance in resolving these difficulties is an effective preventive measure. Accordingly, it is the policy of the Army to provide legal assistance to all members of the Army and to their dependents."

Note that while the "legal health" of active duty personnel and their dependents may well affect the member's morale, efficiency, and conduct and thus justify a perception of "military necessity", such reasoning does not appear to be as relevant to the underlying purpose of the program with regard to other categories of eligible clients. The rendition of legal services to retirees and their dependents and to survivors of military personnel is essentially a benefit and can only remotely be tied to any justification based upon military necessity.

Because many of the legal or quasi-legal problems faced by such persons are intertwined with emoluments earned by years of military service, it could be argued that military attorneys are most able to efficiently and competently render such legal services.

Other categories of eligible clients are based presumably upon a number of related factors such as the relative unavailability of civilian attorneys (*e.g.* some civilian employees and their dependents when they are "in the employ of, or accompanying the United States Armed Forces" in a foreign country; prisoners confined in the U.S. Army disciplinary barracks despite their having been discharged from the service) or intergovernmental cooperation and convenience (*e.g.* allied forces members and their dependents while in the United States). *See*, Army Reg. No. 608–50, para. 6 (22 February 1974).

7. Address by Major General Harold G. Parker, The Assistant Judge Advocate General, Opening Session, 1974 Worldwide JAG Conference, October 6, 1974: *Acting TJAG's Address*, THE ARMY LAWYER, October 1974, at 5.

8. TOWNSHEND, UP THE ORGANIZATION ix (1970).

9. It is recognized that local conditions may require "variations" from the prescribed procedures, and thus the regulation expressly provides that, subject only to a reporting

requirement, the regulation "should be construed so that the purpose [of the legal assistance program] may be accomplished." Army Reg. No. 608–50, para. 11 (22 February 1974).

10. For a brief discussion of the role of the Reserve attorney in the expanded program see Army Reg. No. 608–50, para. 4(d)(4) (22 February 1974).

11. Army Reg. No. 608–50, para. 5(c) (22 February 1974).

12. Army Reg. No. 608–50, para. 5(b)(2) (22 February 1974). A brief description of the Special Legal Assistance Officers Program and a listing of those Reserve officers who have been so designated is contained in an article entitled *Reserve Points For Pilot Legal Assistance Program: An Update*, THE ARMY LAWYER, August 1974, at 22. Although the Special Legal Assistance Officer can render in-court representation in certain circumstances to financially-qualifying clients, he may also render office counseling and drafting services under the traditional program subject only to certain restrictions.

13. Similar programs have been sponsored by state attorney general's offices, *see, e.g. Current Materials of Interest*, THE ARMY LAWYER, November 1974, at 29 (Discussing the recent conference "The Military and the Laws of Virginia" sponsored by the Office of the Attorney General of Virginia), and state bar association committees, *see, e.g. Legal Assistance Items*, THE ARMY LAWYER, December 1974, at 15 (Discussing the "Professional Development Program" sponsored by the Military Law Section of the State Bar of Texas).

14. *See* Section I(D), *infra*.

15. *See* Army Reg. No. 601–114, The Judge Advocate General's Excess Leave Program, para. 6(a) (2 July 1974). In addition to using excess leave officers, some installations and bases (*e.g.* Kirtland AFB, New Mexico and Warren AFB, Wyoming) have successfully used law school students to assist in walk-in legal assistance and legal research. Although, of course, the use of such interns would require supervision by JAG attorneys, there are student practice rules in at least 42 states and such programs may be worthy of consideration. See generally, ABA Standing Comm. on Legal Assistance to Servicemen, Ocassional Newsletter No. 6 (April 1974), 9.

16. *See* Section II(A), *supra*.

17. *See* Army Reg. No. 608–50, para. 4(e) (22 February 1974).

18. Air Force Reg. No. 110–27, Air Force Preventative Law Program (1 October 1974). There are three major aspects to the program: (1) Military law seminars, (2) command emphasis items, and (3) the encouragement of preventive law lectures and presentations. The military law seminars are to be conducted by the Staff Judge Advocate or his designee for two or three hours per day a couple of times a month. The purpose of the seminars is to explain and describe the legal jurisdiction and structure and its relevance to members of the military community. The command emphasis program is designed to facilitate the discussion of certain frequently recurring legal problems of servicemen. Upon recommendation by staff judge advocates, selected subjects will receive major command emphasis for a limited period of time (*e.g.* 30 days). The preventive law lectures and presentations are to supplement the programs described immediately above. Suggested topics are listed as an attachment to AFR 110–27 and a clearing house service is provided by the Preventive Law Legal Aid Group, Office of the Judge Advocate General of the Air Force, HQ, USAF, Washington, D.C. 20330. For a discussion of the organization of the preventive law office initiated at McConnell AFB in September 1970, see an article by CPT J. Drantell entitled *Legal Office Organization For the "Now" Air Force*, 14 JAG L. REV. 259 (July 1973).

19. OPNAVINST 5801.1, Legal Checkup Program, (27 April 1972).

20. Army Reg. No. 600–14, Preventative Law Program (30 September 1965); *See*, U.S. Dept. of Army, Pamphlet 27–12, Legal Assistance Handbook, Chap 2 (1 December 1974).

21. U.S. Dept. of Army, Pamphlet 27–12, Legal Assistance Handbook, at 2–1.

22. It is extremely difficult to ascertain to what degree middle and low income families *fail* to use the services of attorneys. As the result of the development and extension of free, prepaid, and group legal services during the 1960s, it is at least arguable that more low and middle income families have "discovered" and are now willing to use legal services. Nevertheless, it appears that a disproportionately large number of such families still fail to use lawyers except in criminal matters and major civil matters. The relevance of this problem within the military community is difficult to assess. The military legal assistance program has been available for more than 30 years and is generally not restricted to low-income families; however, even assuming a "greater familiarity," the general problem persists. Frequently clients fail to use the legal services in an effective and timely manner.

Fletcher Is New USCMA Nominee — To Be Chief Judge Upon Confirmation

The nomination of Albert B. Fletcher of Junction City, Kansas, to be Judge of the United States Court of Military Appeals was received by the Senate on 14 March under authority of President Ford's order of the previous day. The President intends to designate Fletcher as Chief Judge of the tribunal once he is confirmed by the Senate.

Since 1961, Albert B. Fletcher has served as District Judge, Division 2, Eighth Judicial Circuit

for the State of Kansas. For the 10 years preceding those duties, he was a practicing attorney in his home state. In 1948 he received a BS degree from Kansas State University. He received his JD degree from Washburn University in 1951. Judge Fletcher served in the United States Army Air Corps from 1943 to 1945. He is a member of the American Bar Association and the Kansas Bar Association. Judge Fletcher is married to the former Joan Vinaroff, and they have three children.

Judge Fletcher's nomination to the USCMA will be for the remainder of the term expiring 1 May 1986. He will succeed Robert M. Duncan, who resigned effective 11 June 1974 and was subsequently appointed United States District Judge for the Southern District of Ohio.

Ablard Is New Army General Counsel

Charles D. Ablard, 44 year old native Oklahoman, took office as General Counsel of the Army on 25 February 1975. He assumed these duties after serving the past three years as Associate Deputy Attorney General for the Department of Justice. Prior to that he held such varied posts as General Counsel and Congressional Liaison for the US Information Agency; Vice-President and Counsel for the Magazine Publishers Association, Inc., and the American Society of Magazine Editors; Special Counsel to the ABA's Special Committee on Legal Services and Procedure; and Judicial Officer of the Post Office and Chairman of the Post Office's Board of Contract Appeals. Mr. Ablard is a former partner in the Washington, DC law firm of Ablard and Harrison, and from 1954 to 1956 he served as a judge advocate officer in the US Air Force with assignments in Japan and at the Air University, Maxwell Air Force Base, Alabama. More recently, as a colonel in the Air Force Reserve he held mobilization assignments as chief of the international law division and the litigation division, Office of the Air Force Judge Advocate General.

A noted expert in the administrative law field, Mr. Ablard has also written extensively on communications law and lobbying activities. He is active in local, state, federal and international legal organizations. He edited the 1964 edition of the DC Bar's *Manual of Federal Administrative Procedures*, and served as editor of the ABA's *Administrative Law News* and "Administrative Developments" of the FBA's *Federal Bar News*. The new General Counsel holds a bachelors degree in Business Administration from the University of Oklahoma. He received his LLB from Oklahoma in 1954, and the LLM from George Washington University in 1959. He and his wife Doris Maria have three children.

The Freedom of Information Act: Background and Current Requirements

By: Captain Barry N. Capalbo, Administrative Law Division, OTJAG

This is the first in a series of three articles dealing with the Freedom of Information Act (FOIA). It is intended to provide general background information concerning the FOIA, with special emphasis on the 1974 amendments.

Future articles will include, among other subjects, a discussion of the exemptions from mandatory release under the FOIA (5 USC 552(b)(1)-(9)), and the responsibilities of staff judge advocates and initial denial authorities under Army Regulation 340–17, 25 June 1973, as changed by Change 1, 24 January 1975, which implements the FOIA and establishes procedures for processing requests for Army records.

* * *

The Freedom of Information Act (Pub Law 89–487, 5 USC 552) is section 3 of the Administrative Procedure Act (APA). It became effective on 4 July 1967. The Act resulted from dissatisfaction with the former public information section of the APA, because that section generally hindered, rather than facilitated, public access to government records. Thus, the Freedom of Information Act was

initiated and became law with the following concepts:

a. Disclosure should be the general rule, not the exception.

b. All individuals have equal right of access.

c. The burden is on the government to justify the withholding of a document.

d. Individuals improperly denied access to documents have a right to seek injunctive relief in the courts.

e. Government policy and attitude toward release of records should be changed.

In the years following 1967, Congress became increasingly dissatisfied with the executive branch's implementation of the Freedom of Information Act. This dissatisfaction resulted in the November 1974 passage of Public Law 93–502, with the obvious intent to further facilitate public access to government records. This statute was passed over a Presidential veto and became effective on 19 February 1975.

Public Law 93–502 makes some 17 specific changes to the Freedom of Information Act. Those having major impact are:

a. In judicial proceedings to enjoin the withholding of classified government records, the court may examine the records *in camera* to determine whether they are properly and currently classified. This represents a legislative overruling of the holding in *Environmental Protection Agency* v. *Mink*, 410 US 73 (1973).

b. The exemption from release for investigatory files (5 USC 552(b)(7)) has been narrowed. Investigatory files compiled for law enforcement purposes may be withheld only where their production would, (1) interfere with enforcement proceedings; (2) deprive a person of a right to a fair trial or impartial adjudication; (3) constitute an unwarranted invasion of personal privacy; (4) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source; (5) disclose investigative techniques and procedures; or (6) endanger the life or physical safety of law enforcement personnel.

c. Where a record is partially exempt from release, any reasonably segregable portion must be provided to the requester.

d. Strict time limits are prescribed for processing requests for information. Basically, an initial determination must be made within 10 working days after receipt. Appeals from initial denials must be acted upon within 20 working days. In addition, a one-time extension of 10 working days is authorized under certain conditions (see 5 USC 552(a)(6)(b)). The legal consequence of failure to comply with prescribed time limits is that the requester may bring an action in the federal courts without resort to further administrative remedies.

e. Where a court finds that the circumstances surrounding denial raise questions whether Army personnel acted arbitrarily or capriciously, the Civil Service Commission must initiate proceedings to determine whether disciplinary action is warranted against the responsible officer or employee. The applicability of this provision to military personnel is unclear at this time.

f. A uniform schedule of fees for research and copying in response to request for government records is required (see Appendix D, AR 340–17). Direct costs for search and duplication only are recoverable. Fees may be waived or reduced when it is determined that release of a requested record primarily benefits the general public. Examples of situations in which such a determination may be made include: (a) The requester is engaged in a nonprofit activity, benefiting public safety, health, or welfare, (b) The requester is a federal, state or local government agency, (c) The cost of allocation would equal or exceed the amount collected, (d) The requester is a representative of the news media, seeking a reasonable number of records (Enclosure 2, DoD Dir. 5400.7, 14 February 1975).

g. In judicial proceedings to compel disclosure of government records, the defendant must respond to any complaint within 30 days after service is made, unless the court otherwise directs for good cause shown.

h. On or before 1 March of each calendar year, a report must be submitted to Congress providing detailed information on the implementation of the

Act. The report will include the names and titles or position of each person responsible for the denial of records, the number of instances of participation for each, and the results of each proceeding conducted by the Civil Service Commission.

In order to meet the requirements imposed by Public Law 93–502, the Department of Defense has revised DoD Directive 5400.7, its basic directive concerning release of information. A comprehensive change to the Army regulation implementing the DoD directive, Army Regulation 340–17, has also been published. Among the major substantive changes to the Army regulation are:

a. An increase in the number of initial denial authorities (paragraph 2–7). For example: the Commander, Army Materiel Command, is the initial denial authority for procurement records (to include nonappropriated funds) within that command (paragraph 2–7b(11); the Chief of Engineers is the initial denial authority for engineer procurements (para 2–7b(7)) and The Judge Advocate General is the initial denial authority for all other procurement records (para 2–7b(12).

f. The privileged and confidential provision of the fourth exemption (5 USC 552(b)(4)) is limited to trade secrets or commercial or financial information. This is in accordance with present case law and the cited DoD directive (paragraph 2–12d).

g. Requests for exempted information, unless local release is authorized, must be forwarded expeditiously to the appropriate initial denial authority. The initial denial authority must be advised by telephone, or the fastest means available, upon receipt of such requests (paragraph 2–5).

The Judge Advocate General remains the "residual" initial denial authority for all Army records not specified in paragraph 2–7, Army Regulation 340–17. The Administrative Law Division is the central point of contact within the Office of The Judge Advocate General for all matters involving the Freedom of Information Act. Any questions not directed to another division or field operation agency should be directed to the Administrative Law Division (AUTOVON: 225-3315 or 225-4341).

In summary, it is the policy of the Army to release promptly nonexempted records and exempted records for which there is no legitimate purpose for withholding. This is to be accomplished at the lowest possible command level, in order to comply with the statutory time constraints. The recently published change to Army Regulation 340–17 provides this responsibility and the necessary authority. As indicated, it also authorizes the release of exempted records below HQDA level. This should be of particular interest to Army lawyers, as it provides the authority to release locally, DA Forms 3975 (Military Police Report) and 3946 (Military Police Traffic Accident Investigation Report). In acting upon requests for release of these reports, consideration must always be given to potential claims and litigation (see paragraph 2–11, AR 340–17).

TJAGSA Teaches Negotiating Skills

The art of negotiating is a skill which judge advocates must apply every day, whether it be in connection with negotiated pleas, settlement of claims, resolution of disputes in the legal assistance field, government contract or civilian employee actions, or international agreements ranging from the inception of a status of forces agreement to local implementation or interpretation of them. It may be, in fact, that a majority of a military lawyer's time is spent in negotiating on behalf of his institutional or individual client. Accordingly, the School has installed the art of negotiating as a feature of the Judge Advocate Officer Advanced Course curriculum. In the 22d Advanced Course (1974–1975), this took the form of one of the "Special Studies" which brought a series of guest lecturers to the class to explain their respective techniques. In the 23d Advanced Class (1975–1976) "Negotiations: Concepts and Techniques" is the subject of one of the electives offered. This seminar emphasizes basic negotiating concepts and techniques, such as opening positions, fallback techniques, and audience playing. The first session will be opened by Major Fred Moss of the Office of the Chief of Legislative Liaison, a fellow JAGC officer who teaches negotiations in the graduate program at the George Washington University Law School. The practical settings in which those attending the

seminar will have the opportunity to practice the art of negotiation include the equitable adjustment of a government contract, the settlement of a third-party medical claim, the jurisdictional determination as to an offense committed on property subject to concurrent jurisdiction, and negotiations related to implementation of a major international agreement such as reversion of the Canal Zone to Panama. Noting a recently published article on the art of negotiating, The Judge Advocate General observed that JAGC officers must be among the most experienced negotiators in the legal profession. He would like those who have such experience to share it with others. Accordingly, we suggest that readers send the School any anecdotal material or helpful hints for use either in teaching the Advanced Course elective or for publication in *The Army Lawyer*. We sincerely extend that invitation to you and hope you will share your experiences and expertise with us.

Law Day 1975

Introduction

On the occasion of the first observance of Law Day in 1958, President Dwight D. Eisenhower stated:

> It is fitting that the American people should remember with pride and vigilantly guard the great heritage of liberty, justice and equality under law. . . . It is our moral and civic obligation as free men and as Americans to preserve and strengthen that great heritage.

In 1961 the 87th Congress by joint resolution set aside the first day of May of each year as a special day of celebration by the American people in appreciation of their liberties and the reaffirmation of their loyalty to the United States of America; of their rededication to the ideals of equality and justice under law in their relations with each other as well as with other nations; and for the cultivation of that respect for law that is so vital to the democratic way of life.

Law Day is not a day for lawyers, but was established to encourage every citizen to reexamine the central role of law in our society. It behooves the legal profession to take advantage of their opportunity to explain the operation of our legal system and to encourage examination of how it can be improved. Law Day activities provide an excellent educational vehicle to remind all citizens of their rights and the role of the law in the preservation of those rights. The citizens' support of the law must be actively sought and jealously guarded, for without that support the legal system can no longer function.

1974 Law Day Observance

For its role in the Law Day observances throughout the world the Judge Advocate General's Corps has been awarded, during the past three years, Certificates of Merit by the American Bar Association. Last year's award was in recognition of Law Day activities celebrated at 60 installations in 23 states, the District of Columbia and eight foreign countries. News of these celebrations appeared in 59 newspapers. At the request of Army Law Day Chairmen 14 radio stations broadcast ABA spot announcements while seven television stations covered activities relating to the observance of Law Day 1974. Thirty-one installations made use of displays and billboards to alert the public to the Law Day message. In addition, ABA posters, stickers and pamphlets carrying the 1974 theme were distributed along with locally produced posters at schools, commissaries, post exchanges, service clubs, theaters and other frequently visited locations.

Law Day 1975 Observance

In the past, Law Day participation by Army lawyers and units has been the most extensive of any organization participating in the ABA Law Day Program. This year installations throughout the world are encouraged to organize activities reaching even more people. For its 1975 theme the American Bar Association has selected:

AMERICA'S GOAL — JUSTICE THROUGH LAW

In support of that theme programs should convey the value and necessity of achieving justice through the law; should point out the particular dedication to this goal that has marked the American legal profession; should examine those areas in which the law has failed to provide equality in the administration of justice; and should explore avenues by which the legal system can be improved. This year's theme provides an excellent opportunity not only to communicate with citizens of the United States but also to display the American legal system to other members of the world community. This opportunity should be accorded the most serious attention.

1975 After-Action Reports

In furtherance of JAGC participation in Law Day celebrations, all installations are again required to submit after-action reports on local celebrations to TJAGSA, ATTN: JAGS/R, Charlottesville, Virginia 22901 before 10 May 1975. After-action reports should be subdivided into categories of: (1) command letters and proclamations; (2) displays; (3) newspaper articles; (4) radio and television coverage; (5) religious activities; (6) school programs; (7) naturalization ceremonies; (8) Law Day gatherings; (9) seminars and panel discussions; and (10) miscellaneous. Photographs, press releases and other exhibits in conjunction with observances are encouraged but should not delay the narrative reports.

JAG School Notes

1. New Building Grows Old Without TJAGSA. It is with some chagrin and consternation that your Commandant reports a further delay in the relocation of The Judge Advocate General's School. The problem involves the quantum of rent being sought by the University of Virginia. After plans had been made for the School to begin occupying its new facilities early in March, the University revealed to the Corps of Engineers that, due to rising costs of utilities and services, the amount of rent being requested was significantly larger than the amount agreed to following a December 1972 appraisal of the proposed facility. A new appraisal is now being made and we are awaiting the results so that negotiations between the Corps of Engineers and the University can resume. Meanwhile, we are hoping that the matter is resolved in sufficient time to permit us to complete plans for a dedication ceremony early in May.

2. State Bar Requirements for Continuing Legal Education. The School is not unaware that several states have adopted, or are considering adopting, compulsory continuing legal education for members of the state bar. In some states, the CLE requirement relates to the recognition or certification of specialists; in others it is designed to maintain professional competence of the bar generally. This movement is of particular concern to judge advocates, who must maintain good standing in their respective state bars as a prerequisite to membership in the Judge Advocate General's Corps, and who, for the most part, find the CLE programs operated in their state inaccessible for reasons of time, distance, or money. The question naturally arises as to what, if anything, the Judge Advocate General's School is doing about this. The Commandant of the School belongs to an ABA-affiliate known as the Association of Continuing Legal Education Administrators (ACLEA), which recently adopted 25 "Standards of Operation For Continuing Legal Education Organizations." While no method for evaluation and enforcement of compliance has yet been adopted, the School will make every effort to comply with those standards. In addition, the School has recently filed notice of adherence to the "Standards of Fair Conduct and Voluntary Cooperation" (among CLE organizations) adopted by the 1968 National Conference on Continuing Legal Education. These actions, not to mention the quality of our courses, place us in association with such organizations as the Alabama Institute for Continuing Legal Education, California's Continuing Education of the Bar, the Institute of Continuing Legal Education in Georgia, Massachusetts Continuing Legal Education, Inc., the Pennsylvania Bar Institute, and others too numerous to mention. Our next step will be to communicate with each state which has, or is considering having, compulsory legal education for the

members of its bar, with a view to securing accreditation or recognition of courses conducted by The Judge Advocate General's School in satisfaction of the CLE requirements. It should be noted that judge advocates in the active military service are not the only ones involved. Reserve and National Guard Judge Advocates attend courses at this School in large numbers and will likewise want to receive appropriate credit for their attendance. We will keep you informed of our progress towards accreditation of TJAGSA courses in the several states. We shall also continue to monitor any efforts towards a nationwide CLE accreditation scheme. Judge advocates are, of course, entirely free to communicate their views to the officials of their own state bar. It would be particularly helpful, in that event, if the School received information copies of your communications to your state bar and a copy of any reply received. Sharing this information with us could enhance our efforts in respect to your state and others.

3. Impact Statement: Reduction in Travel Funds. Restrictions on the use of Army travel funds impacted on the School as they did on all other commands and agencies. Two February courses, the 5th Law Office Management and the 2d Management for Military Lawyers are cancelled due to lack of attendance. The 18th Senior Officer Legal Orientation had only half as many officers as usual and many of them attended in a leave status. Two Advanced Course field trips—to the United Nations, and to Army correctional and rehabilitation facilities at Forts Leavenworth and Riley—were cancelled. All of the School's "on-site" training (professional legal training of Army Reserve and National Guard Judge Advocates at their home stations) was cancelled for the months of January, February and March. At this writing, we are hoping to resume at least some of the "on-site" training beginning on 31 March. The 61st and 62d Procurement Attorneys Courses and the 2d Environmental Law Course are to be conducted as scheduled. Our 3d Noncommissioned Officer Advanced Course will begin on 14 April. Although there is some doubt about the number to attend, the 20th Senior Officer Legal Orientation will begin 14 April, and the 19th Senior Officer Legal Orientation (coming after the 20th due to a change in schedule) is scheduled to be conducted at the US Army War College beginning 28 April. At the request of the Personnel, Plans and Training Office, the 5th Staff Judge Advocate Orientation, originally scheduled to begin on 5 May 1975, has been rescheduled for 16 June 1975 so that it will more nearly coincide with the permanent changes of station of those officers invited to attend.

4. Not All Judges Are in the Judiciary. March found the Academic Department's International Law Division on the bench. The Division Chief, Major James McGowan, and the School's USMC Representative, Major Hayes Parks, sat as judges in the Phillip E. Jessup International Law Moot Court Competition at the University of South Carolina Law School, while Major Warren Taylor and Captain David Graham traveled to the University of Kentucky for the same purpose. Major Taylor also judged a similar competition at the University of Virginia. Not to be outdone, the Procurement Law Division "judged," too. Its Chief, Lieutenant Colonel Richard Mowry assisted the University's School of Continuing Education and Commerce School in evaluating the certificate program in government procurement at the School of Continuing Education's Northern Virginia Regional Center in Falls Church.

5. US and Foreign Visitors. Recent and prospective visitors to the School, in chronological order, have included Colonel James Thornton (Staff Judge Advocate of the 101st Division (Airmobile) and Fort Campbell), who conducted an SJA roundtable with members of the 23d Advanced Class; Brigadier General John De Barr (Director, Judge Advocate Division, Headquarters US Marine Corps), who conducted a JA General Officer roundtable with members of the same class. In late March, Lieutenant Colonel Robert Smith (Staff Judge Advocate of Fort Benning) will also conduct an SJA roundtable and Professor B. J. George, Jr. (Director of the Center for Administration of Justice, Wayne State University Law School) will deliver the Fourth Annual Hodson Lecture on the topic "Future Trends In The Administration of Criminal Justice." Besides Charlottesville's annual Dogwood Festival, April will bring to the School Major General Harold E. Parker for the graduation of the 76th Basic Course, Lieutenant General James G. Kalergis (Commanding General, First United States Army) and Rear Admiral H. B. Robertson (the new The Judge Advocate General,

United States Navy). Among recent and future foreign visitors are Group Captain D. B. (Toby) Nichols, Director of Legal Services in the Austrialian Air Force, who spoke to the Advanced Class on the Interplay Between National Disciplinary Codes and the Law of War; Colonel Dov Shefi, an Israeli Military Advocate, who spoke to the Advanced Class on Human Rights in the Occupied Territories; and Major General J. C. Robertson, Director of Army Legal Services of the British Land Forces, who will address our classes in early May. In addition, during the period 27–29 May, the School will host the Annual Meeting of the Board of Directors of the *Societe Internationale de Droit Penal Militaire et de Droit de la Guerre.*

6. Law Day After-Action Reports. For its enthusiastic participation in Law Day observances the Corps has been awarded, in each of the past three years, a Certificate of Merit by the American Bar Association. As discussed elsewhere in this issue, these awards were in recognition of imaginative and well-planned activities sponsored by installations located within the United States and in several foreign countries. In order to successfully compete for a fourth consecutive award, after-action reports on local celebrations should be forwarded to TJAGSA (ATTN: JAGS/R) Charlottesville, Virginia 22901, before 10 May 1975. These reports should follow the format outlined in the Law Day USA article in this issue.

Judiciary Notes

From: U.S. Army Judiciary

1. Recurring Errors and Irregularities

February 1975 corrections by ACOMR of Initial Promulgating Orders:

(a) Failing to reflect the findings correctly—two cases.

(b) Failing to reflect the charges and specifications correctly—four cases.

(c) Failing to reflect the pleas correctly—four cases.

(d) Failing to show that the sentence was adjudged by a military judge—two cases.

(e) Failing to show the correct SSN in the name paragraph.

(f) Failing to reflect the ACTION verbatim.

2. USALSA Administrative Notice.

a. Addresses For Messages. The correct message addresses for the US Army Legal Services Agency are as follows:

(1) For matters pertaining to the Judiciary use CH, USA Judiciary, Falls Church, VA/Office Symbol.

Activity	*Office Symbol*
Chief Judge	CJ
Trial Judiciary	TJ
Examination & New Trials Division	ED
Clerk of Court (to include Special Actions Branch)	CC

(2) For all other purposes use CH, USALSA, Falls Church, VA/Office Symbol.

Activity	*Office Symbol*
Chief	ZA
Director	ZX
Contract Appeals Division	CA
Defense Appellate Division	DD
Government Appellate Division	GD

b. Telecopy Service. USALSA has xerox telecopy service available for CONUS use. The following telephone numbers may be used:

Commercial—202–	756-1016
	756-1017
	756-1018
Autovon—	289-1016
	289-1017
	289-1018

The equipment is not compatible with the Graphic Sciences DEX Models 180 and 182.

Knowledge of the Effect of the Plea: Role of Both Military Judge and Counsel

A Note From The Defense Appellate Division
By: Captain John M. Nolan, Defense Appellate Division, USALSA

The lack of advice as to the meaning of a plea of guilty was litigated in the recent case of *United States v. Hancock*, 49 CMR __ (ACMR 29 January 1975). The trial defense counsel in *Hancock* fully litigated the validity of a search, and upon the military judge's denial of the motion, the accused pleaded guilty. The plea was made without the benefit of a pretrial agreement and without the judge's advising the accused that his plea of guilty precluded any appellate review of the judge's ruling. The accused stated in post-trial affidavit that if he had been properly advised by the military judge or his counsel he would not have pleaded guilty. Although the Army Court of Military Review specifically found that the plea was provident on the dual grounds of reasonably competent trial defense counsel and an affirmance of the military judge's ruling on the validity of the search, critical factors pertaining to the role of trial defense counsel and that of the military judge were developed for cases of this kind.

The duty of trial defense counsel before entering the courtroom to advise his client properly and completely is critical. Article 45, Uniform Code of Military Justice, and the case law interpreting that provision stress the need for an accused to enter a plea with an understanding of its meaning and effect. *See generally United States v. Towns*, 22 USCMA 600, 48 CMR 224 (1973) and *United States v. Turner*, 18 USCMA 55, 39 CMR 55 (1968). Clearly inherent within the language of those cases is the obligation to explain the basic aspects of the trial, and the attendant effects of ruling or a plea of guilty may have upon the course of the trial *and the appellate litigation.*

The military judge likewise has a role in such proceedings. It is incumbent upon him to conduct a sufficiently detailed providency inquiry so as to satisfy the requirements of *United States v. Care*, 18 USCMA 535, 40 CMR 247 (1969), and to insure that each individual whose plea he accepts understands its full meaning and effect. Trial Judge Memorandum 94 (15 March 1974), in specific reliance upon page 3–3, Note 2 of DA Pamphlet 27–9 (Military Judge's Guide), provides specific guidelines and a mechanism for a military judge to avoid the problems involved in a *Hancock* situation. Under this procedure the military judge should specifically ask the accused whether he in fact understands that his plea of guilty will result in waiver of appellate litigation and review of such interlocutory matters, thereby insuring that the accused in fact will understand the meaning and effect of his plea and have his questions and problems resolved prior to the acceptance of the plea. The United States Court of Military Appeals in the recent decision of *United States v. Dusenberry*, 23 USCMA __, 49 CMR __ (24 January 1975) lauded a military judge for conducting this additional inquiry and held that this inquiry more than satisfied the question of knowledgeable and intelligent waiver as to the particular interlocutory motion, and understanding of the meaning and effect of the plea.

It is strongly urged that trial defense counsel and military judges adopt the procedures discussed. Clearly it is the duty of trial defense counsel to properly advise his client so as to avoid the problems spoken to in Trial Judge Memorandum 94. This would enable an accused to understand more fully the meaning and effect of his plea. In addition, it precludes strong overtones of an appearance of evil. It is submitted that both are highly desirable goals for an efficient and equitable system of justice.

Voir Dire

A Note From The Defense Appellate Division
By: Captain David A. Shaw, Defense Appellate Division, USALSA

Trial defense counsel's effective use of *voir dire* can significantly improve the trial of court-martial cases. Paragraph 62*b*, *Manual for Courts-Martial* provides that "counsel may question the court, or

individual members thereof, and the military judge concerning the existence or nonexistence of facts which may disclose a proper ground of challenge for cause." Recent review of records of trial indicates defense counsel's failure to take advantage of significant discoveries to be made in the course of *voir dire*.

The underlying rationale of Paragraph 62*b*, *Manual, supra*, is to provide the accused and his counsel the opportunity to obtain full knowledge of all relevant and material matters which may disqualify a member in order to provide a basis for the exercise of the right to challenge for cause or preemptorily. Some basic areas in which a proper *voir dire* will provide a basis for challenge against a prospective member are: command influence; a member's bias against particular defenses; a member's preconceived notion as to particular types of punishment for a particular crime; racial bias; a member's specific or general prejudice or bias against an accused, a witness, or the alleged offenses; and a general bias in favor of prosecution witnesses. *See generally*, Holdaway, "Voir Dire—A Neglected Tool of Advocacy." 40 *Mil. L. Rev.* 1 (1968); *The Advocate*, Vol. 5, No. 1, (March-April 1973).

Voir dire should never be conducted merely for the purpose of asking questions. Records of trial indicate that some defense counsel habitually ask standardized, patented questions which are meaningless in determining the qualifications of a member. Leading questions are not helpful and should be avoided. In addition, questions which suggest or which are asked in such a manner as to suggest the answer should also be avoided.

All questions asked during *voir dire* should have a purpose, and be fully analyzed prior to trial. Though theoretically not the primary purpose of *voir dire*, a well prepared series of questions may often be used to apprise the court members of particular defense theories that are anticipated during the trial. When defense counsel have properly investigated the background of prospective court members, valuable knowledge can be gained as to the number and nature of questions which should be asked to delve into a possible ground for challenge.

In preparation of the *voir dire*, consideration must be given to whether questions should be directed to individuals, to the entire panel, asked with the members placed under oath, or whether the questions will have an adverse effect on the members' attitude toward the trial.

If used correctly and intelligently, *voir dire* can be a useful defense tool. Careful preparation and research must be performed prior to trial, with emphasis placed on the various methods of discovery to gain the required knowledge upon which to base a challenge of prospective members. Questions should be framed to elicit the true and accurate knowledge of members and should not suggest answers inherent in the structure of the question. It is urged that careful and thorough consideration and preparation be given to the *voir dire* portion of trial.

Litigating Defense Requests For Witnesses

A Note From The Government Appellate Division

By: Lieutenant Colonel Ronald M. Holdaway, Chief, Government Appellate Division, USALSA

Curtailment of funds available for official travel is no passing phenomenon and will likely stimulate fresh litigation on the issue of defense requested witnesses who are geographically removed from the site of the trial. I have a general impression from cases I have read over the past four years where the issue was *not* raised (because the prosecution acceded to the request) that many witnesses had their travel paid by the government when their "materiality and necessity" was marginal at best. No doubt shortages of money will force trial counsel to contest more vigorously the need for such witnesses. In anticipation of renewed interest on this issue, a review of the law concerning defense-requested witnesses is in order.

The Law

As in many areas of the law, the rules can be stated simply and succinctly. It is the application of

the general rules to the specific facts that raise the difficulty.

An accused is entitled to an "equal opportunity" to obtain witnesses. (Article 46, Uniform Code of Military Justice, Paragraph 115, *Manual for Court-Martial*, 1969, (Rev. Ed.)). In addition, those witnesses who are necessary and material to an accused's defense must, if available, be obtained at government expense as a matter of sixth amendment due process. *United States v. Sweeney*, 14 USCMA 599, 34 CMR 379 (1964). This right applies also to witnesses in extenuation and mitigation, although there is dicta in *United States v. Manos*, 17 USCMA 10, 37 CMR 274 (1967), indicating an adequate substitute for "live" testimony during extenuation and mitigation may be acceptable in most cases. Furthermore, the burden of establishing "necessity and materiality" is that of the requesting party. (Paragraph 67e, *Manual for Courts-Martial*, 1969 (Rev. Ed); *United States v. De Angelis*, 3 USCMA 248, 12 CMR 54 (1953)).

Upon review, a ruling denying a defense-requested witness, will not be litigated *de novo* but is measured against an "abuse of discretion" standard. (*United States v. Sweeney, supra*). That is, the judge will be upheld so long as his ruling was not arbitrary, unfair, or capricious and was supported by the evidence. Finally, even if the appellate court ultimately determines that the ruling was in error, the effect of the error must result in specific prejudice before the findings or sentence will be reversed. *United States v. McElhinney*, 21 USCMA 436, 45 CMR 210 (1972).

It can readily be seen that these rules impose a rather heavy burden on the requesting party. Yet, as alluded to above, one gets the impression from reading many transcripts of trial that the actual practice is a good deal more liberal. In some instances witnesses have been subpoenaed on the mere averment (as opposed to the proof) of materiality and necessity. In other instances the defense appears to be requesting what amounts to a government subsidized family reunion. In still other cases a "laundry list" of proposed witnesses is submitted apparently in hopes that there will be partial compliance, or, as is more likely, such a request is used as a ploy to force delay or a favorable pretrial agreement. In sum, the prosecution, perhaps out of desire to avoid any possibility of reversal, has in many cases acceded to or compromised on a defense request for witnesses without requiring the accused to carry his burden of proving materiality and necessity by a preponderance of the evidence. While such non-advocacy is commendable where necessity and materiality is manifest, a trial counsel who foregoes litigation of this issue if there is any reasonable possibility of success surely misconceives his role in the adversary process. This is particularly true where, if the trial counsel is successful, the judge's ruling can be reversed only if the appellate court finds an abuse of discretion and specific prejudice.

A trial counsel should then require the appellant to comply strictly with the requirements of Paragraph 115, *Manual for Courts-Martial, United States, 1969* (Rev.). (See *United States v. Harvey*, 8 USCMA 538, 25 CMR 42 (1957)). Necessity and materiality must be proved, not simply alleged, as otherwise the request is little more than a fishing expedition. Finally, trial counsel should impress upon the judge wherein the burden lies and should never permit the onus to be shifted to the government to disprove necessity and materiality. If the accused cannot show that the requested testimony goes "to the core of his defense", (*United States v. Thornton*, 8 USCMA 446, 24 CMR 256 (1951); *McElhinney, supra)*, then trial counsel ill serves the public by acceding to the request.

The question whether the alleged testimony is necessary and material normally is fairly simple to resolve. The harder questions will be whether the accused has hefted his burden of proving that the putative witness actually did observe that which he is alleged to have seen, and whether it has been shown that he will *in fact* testify as claimed. For example, a request framed in terms that Private *X* saw the alleged event and that he *might* corroborate the accused's version would not be sufficient. That is not a request for a witness; it is a request for a hoped-for witness. The accused should show, either by testimony from the Article 32, affidavit, averment that counsel has talked to the witness, or otherwise that the potential witness would in fact testify to matters that were both necessary and material to the accused. In short, a request simply for anyone and everyone who witnessed the alleged crime when it is apparent that the defense counsel does not know what they will testify to, or in the

hope that they will testify for the accused, is not sufficient proof of materiality and necessity. See *De Angelis, supra*. Moreover, if the defense counsel does aver that a requested witness will, in fact, testify to an essential matter, the trial counsel should be alert to challenge the averment. For example, in *United States* v. *Jones*, 21 USCMA 215, 44 CMR 269 (1972), the accused requested certain witnesses who, he claimed, would corroborate his version of the incident. It appeared, from reading the record and the allied papers, that the requested witnesses did in fact observe the incident; however, there was nothing whatever to indicate whose version of the event, if either, they would have corroborated.[1] The Court of Military Appeals ultimately ruled in favor of the accused only because the trial counsel did not rebut or otherwise challenge the averment that the witnesses would testify in favor of the accused. The trial counsel should have exposed the accused's averment of necessity and materiality for what it was, nothing more than speculation as to what the witness would testify to.

Character Evidence

Testimony concerning good character of the accused presents special problems. While there is no doubt that such evidence can be necessary and material in a given case (see *United States v. Sweeney, supra*), it is not the kind of testimony, even though relevant, which is often the "core of the defense". Thus, if character evidence is peripheral to the issue or if the evidence of guilt is overwhelming, a denial of relevant defense-requested character witnesses, even on the merits, will likely not be reversible error (compare *United States v. Sweeney, supra* with *United States v. Harvey, supra*, see also *McElhinney, supra*). Moreover, if an accused is able to prove good character through "local" witnesses, it is highly unlikely that the refusal to produce a witness from afar whose testimony would be largely cumulative would be erroneous. An exception would be a case like *Sweeney* where the requested character witness was of such overwhelming importance (a flag officer) that his testimony would likely be the core of the accused's case. Here again trial counsel should be prepared to challenge averments of necessity and materiality and should bear down hard on the accused's burden of proof. If there is locally available evidence of good character, the burden should be stated in terms of a responsibility to prove that the requested testimony is *not* cumulative.

When the character testimony is to be used only in sentencing, the accused would seem to have even a higher burden. Not only must he prove materiality and necessity but it would appear from dicta in *United States v. Manos, supra*, that "live" testimony need not be furnished if there is adequate substitute testimony. Trial counsel should explore such substitutes as stipulations,[2] written interrogatories (see para. 177(c), *MCM*), or concessions (see last paragraph of paragraph 115(a) of the *Manual*).[3] The trial counsel should avoid compromising solely because he is confronted with a lengthy list of character witnesses. If necessity and materiality cannot be proven, none of the witness should be subpoenaed. Conversely, if any are subpoenaed, it should be because necessity and materiality have been shown, not because there was a friendly agreement to compromise. Moreover, if an accused claims that live appearance is essential and that substitute testimony is inadequate, he should be " put to his proof " unless such averment is manifestly correct. Again, it is the accused's burden to prove *both* materiality and necessity.

Footnotes

1. The facts as outlined above are taken from government pleadings and were not all recounted in the reported case.

2. Stipulations of course require defense cooperation. The accused should not be expected to waive his right to assert on appeal that he should have been permitted live testimony as a price for obtaining a stipulation.

3. Trial counsel should also be prepared to concede undisputed or nonessential facts on the merits of the case.

DA Form 20B Revisited

A Note From The Government Appellate Division

By: Lieutenant Colonel Donald W. Hansen, Government Appellate Division, USALSA

The Court of Military Appeals, over the past two months, has granted review in a significant number of cases where the assigned error is the failure of the Form 20B (Record of Court-Martial Convic-

tion) to show supervisory review has been accomplished for the prior conviction. The frequency of the grant raises the possibility that resolution of the question may be based on a test for specific prejudice which may require rehearing in some cases and reassessment of the sentence at the appellate level in others. In any event reopening a case thought to have been laid to rest will undoubtedly clog up both the trial and appellate levels.

The necessity for showing supervisory review in the Form 20B has existed since 1971. Despite reported cases (*e,g. United States v. Perkins*, 48 CMR 975 (ACMR 1974); United States v. Warren, 49 CMR 396 (ACMR 1974)) and exhortations (*See* Hansen, "Self-Inflicted Wounds," *The Army Lawyer*, July 1974, at 9) the error continues to be made. Although the prime responsibility for insuring that proferred evidence is admissible rests with the trial counsel, and with those preparing the pretrial advice, it is apparent that the administrative procedures designed to record the fact of supervisory review are consistently going astray.

This writer is of the opinion that the basic cause of the problem lies in paragraph 2–25, AR 27–10, which appears to require the staff judge advocate to forward a stamped copy of the promulgating order to the convening authority who is, then supposed to forward it to the personnel officer for entry of the date of the supervisory review on the DA Form 20B. It is highly likely, however, that on receipt of this stamped copy the special court-martial convening authority (more likely the adjutant or courts/boards officer) either files the stamped order or throws it away having finally "got" the accused. Thus supervisory review is seldom noted on the DA Form 20B for the reason that the personnel officer never receives the stamped copy which triggers his duty to reflect that event on the form.

One solution is to educate the special and summary court-martial convening authorities and their minions as to the necessity to forward the stamped copy of the order. A more satisfactory arrangement, however, is for the reviewing attorney to stamp and sign an additional copy. The staff judge advocate's office then makes a pin-point distribution of the stamped copy directly to the personnel officer. This arrangement is far superior than trusting message center distribution particularly where the convening authority is at a distant post (as is often true in Germany) but the personnel officer is across the street from the office of the staff judge advocate.

A simple manner of checking wherein the problem lies is to examine selected 201 files where sufficient time has elapsed from the stamped copy to arrive at the personnel office and to be entered on the DA Form 20B. If the stamped copy is not in the 201 file, a distribution problem is present. If the stamped copy is in the 201 file but the fact of supervisory review has not been entered, an educational program for AG personnel is indicated.

MONTHLY AVERAGE COURT-MARTIAL RATES PER 1000 AVERAGE STRENGTH OCTOBER–DECEMBER 1974

	General CM	*Special CM*		*Summary CM*
		BCD	*NON-BCD*	
ARMY-WIDE	.18	.15	.98	.43
CONUS Army commands	.16	.16	1.13	.51
OVERSEAS Army commands	.21	.14	.71	.28
U.S. Army Pacific commands	.16	.10	.75	.20
USAREUR and Seventh Army commands	.25	.16	.71	.33
U.S. Army Alaska	.11	.11	.73	.18
U.S. Army Forces Southern Commands	.09	—	1.59	.13

Note: Above figures represent geographical areas under the jurisdiction of the commands and are based on average number of personnel on duty within those areas.

NON-JUDICIAL PUNISHMENT MONTHLY AVERAGE AND QUARTERLY RATES PER 1000 AVERAGE STRENGTH OCTOBER–DECEMBER 1974

	Monthly Average Rates	*Quarterly Rates*
ARMY-WIDE	16.00	48.01
CONUS Army commands	16.39	49.17
OVERSEAS Army commands	15.29	45.86
U.S. Army Pacific commands	19.64	58.94
USAREUR and Seventh Army commands	15.77	47.30
U.S. Army Alaska	8.35	25.04
U.S. Army Forces Southern Commands	12.41	37.24

Note: Above figures represent geographical areas under the jurisdiction of the commands and are based on average number of personnel on duty within those areas.

Criminal Law Items

From: Criminal Law Division, OTJAG

Disposition of Evidence. It has come to the attention of the Criminal Law Division that several court-martial cases have been received at Fort Leavenworth, Kansas, for rehearings in which the physical evidence introduced at the original trial, but which was not appended to the original record of trial, was destroyed by the CID evidence custodian at the station of the original trial proceeding. The evidence custodian in these cases usually received approval for final disposition of the evidence.

Staff Judge Advocates should carefully review requests for disposition of evidence, and should disapprove requests for destruction of evidence when the case is still undergoing appellate review.

The authority for refusing a request for destruction is found in paragraph 3–4*c*, AR 190–22, 12 June 1970, as changed, which is set forth below:

> *c. Trial resulting in conviction.* When a trial results in conviction, property used as evidence is held by the custodian designated by the court pending appeal, or it is forwarded to the reviewing authorities if required, or it is retained by the custodian until final disposition of the case.

Procurement Law Notes

From: Procurement Law Division, OTJAG

Lessons Learned. The Appeal of *Roger James*, ASBCA No. 18605, 75–1 BCA __, points out two extremely important means by which the government can insure sustaining its burden of proof in litigation before the ASBCA. One of the most difficult concepts to convey to our clients is the realization that even though they are correct and justified in their actions, it does not mean that the Board will decide in their favor. The key to obtaining a favorable decision is the presentation of "hard evidence" and "solid opinion" as appropriate. Evidence is "hard" when fact, condition, circumstance, event, etc., is readily shown by document, real evidence, and/or sworn eyewitness testimony. Opinion is "solid" when it relies upon a recognized principle, treatise, calculation, study, trade custom or practice, court-qualified expertise, or other similar basis easily demonstrable before the Board.

In *Roger James*, the personnel at Fort Gordon compiled a comprehensive and thorough record of the circumstances leading up to a termination for default and the subsequent reprocurement. Two of the most useful types of evidence were memos of phone conversations and photographs. Both types of evidence weighed heavily in the Board's decision. Phonecon memos fill in between the lines of formal contract communications, many times directly or indirectly revealing a contractor's actual intent. In this case, all such memos were available and had been kept from the beginning of the contract with all parties concerned with, not merely a party to, the contract. They included memos of phone calls to the COR's home on a federal holiday.

More significantly, the imaginative use of photographs confirmed the government's testimony and thereby prevented appellant from disputing or detracting from key elements of proof. Photos taken of appellant's equipment were taken on-the-job so as to show the characteristics alleged to make it unsuitable for the work, and show that the problems later encountered were attributable to appellant. As the problems arose, the resultant real evidence was photographed, as was the site at the time of default. As a result of this timely and thoughtful use of a camera, there was no room for argument over most of the essential elements of proof; the government merely had to show the authenticity and accuracy of the photos, most of which were taken by the COR and his assistant.

All procuring activities should be urged to make camera and film available to all government personnel who come in contact with contracts during performance. Timely photographs may well eliminate many "claims" before they arise. It further eliminates resolving appeals based upon the old

"his word against mine" stratagem, and many times can be used successfully to physically demonstrate the reasonableness of the government's actions. In most cases, a photograph saves thousands of words.

Procurement advisors should recommend to the commander that these two areas of contract administration be brought to the attention of concerned personnel, and that provision for camera and film be funded. A brief reading of the decision in this aspect will demonstrate to all interested persons how *legally uncomplicated* the resolution of disputes can be when the government can readily prove virtually all facts arising under and concerning the contract subject of an appeal.

Legal Assistance Items

From: Administrative and Civil Law Division, TJAGSA

1. Items of Interest.

Proposed Statutory Basis for Military Legal Assistance Programs—Introduction of Senate Bill 895. On February 28, 1975 Senators McIntyre (D-N.H.), Taft (R-Ohio), and Bayh (D-Ind.) introduced Senate Bill 895 which would provide that "Armed Forces personnel and their dependents are entitled to legal assistance in connection with their personal legal affairs under such regulations as may be prescribed by the Secretary concerned." The bill is designed to assure the continued and permanent rendition of legal services to service members and their dependents and to assure the continuation of the Expanded Legal Assistance Program for those servicemembers and dependents who could not otherwise afford court representation without "undue hardship." Additional sponsors are now being sought for the bill. It has been referred to the Committee on Armed Services.

Estate Planning—Survivors' Benefits—Survivor Benefit Plan. On 21 January 1975 Change 1 to DOD Dir. 1332.27, "Survivor Benefit Plan," dtd 4 January 1974, was promulgated. The change is concerned primarily with the definition of "dependent" for purposes of the social security offset and with the effective date of "corrections" of any elections or any changes or revocations of an election. Such corrections may be made by the Secretary or his designee "when he considers it necessary to correct an administrative error."

Wills—An Argument For a Rule of "Substantial Compliance." Although there are many variations in wording and details among the jurisdictions regarding the execution of wills, there is at least one common and, at times, unfortunate similarity. In all jurisdictions there is judicial insistence on exacting compliance and formality. In an excellent article Professor John Langbein [Langbein, "Substantial Compliance With the Wills Act," 88 HARV. L. REV. 489 (Jan. 1975)] asserts that this "insistent formalism of the law of wills is mistaken and needless." (p. 489). Although "the entire law of wills derives from the premise that an owner is entitled to dispose of his property as he pleases in death as in life," there exists a "tension" between this doctrine of free testation and the "insistent formalism" imposed by the courts. (p. 491) (Footnote omitted).

Professor Langbein identifies at least four primary functions served by a degree of formality: (1) "The Evidentiary Function" (". . .to provide the court with reliable evidence of testamentary intent and of the terms of the will. . . ." (p. 492) (Footnote omitted)); (2) "The Channeling Function" ("Compliance with the Wills Act formalities for executing witnessed wills results in considerable uniformity in the organization, language, and content of most wills." (p. 494)); (3) "The Cautionary Function" (The requirements attendant to the making of most wills such as the requirements regarding the writing, signature, publication, and attestation serve ". . .to impress the testator with the seriousness of the testament. . . ." (p. 495)); (4) "The Protective Function" (Some requirements such as the necessity of attestation *in the presence of* the testator by *disinterested witnesses* are thought " 'to prevent the substitution of surreptitious wills. . . .' " (p. 496) (Footnote omitted)). It is most accurately noted that "[w]hat is peculiar about the law of wills is not the prominence of the formalities, but the judicial insistence that any defect in complying with them automatically and inevitably voids the will." (p. 498). The author searches for "justifica-

tion" in the "backstopping effect" of the intestacy statutes, the analogous policies underlying dead man statutes, and the implications of the traditional "inferior status" of probate courts.

Although there has been an effective diminution of the Wills Act formalities via the continuing proliferation and use of will substitutes (*e.g.* inter vivos trusts, joint tenancies, life insurance) and the "admirable simplication of probate procedures" suggested by the Uniform Probate Code (Enacted: Alaska, Arizona, Colorado, Indiana, North Dakota; *see also* recent probate legislation in Wisconsin), nevertheless, the insistence on formality during the probating of a will is prevalent and significant in most jurisdictions.

The author presents a very thoughtful and articulate argument for a doctrine of "substantial compliance." It is a doctrine "neither of maximum nor of minimum formalities, and it is surely not a rule of no formalities. It applies to any Wills Act, governing the consequences of defective compliance with whatever formalities the legislators have prescribed." (p. 513).

This article in the course of analyzing the numerous "formalities" and the "rule[s] of literal compliance" serves as an excellent substantive survey of the law of wills, the implications and uses of will substitutes, and to a much lesser degree the probate systems and the potential effects of the relevant sections of the Uniform Probate Code.

State Attorney General Opinions. The National Association of Attorneys General periodically digests selected opinions of state attorneys general. The following opinions of particular interest to Legal Assistance Officers are noted:

Family Law — Spouse and Child Support — Appearance Bonds — Illinois. If the defendant in a spouse or child-support case fails to appear in court, the defendant's "cash appearance bond" can be paid to the spouse or children. (Ill. AGO; 23 Sept. 1974).

Family Law — Child Support — Governmental Employers — California. A court-ordered assignment of parental wages or salary (salary or wages due, or to be due in the future, for the support of a minor child), is applicable to parents who are employees of governmental entities and is binding upon such governmental employers. (Cal. AGO CV 72/319,6/74).

Family Law — Divorce — Comity to Foreign Law — New York. New York courts would give comity to a divorce granted pursuant to Thai law to United States citizens residing in Thailand. (N.Y. AGO; 9/9/74).

Family Law — Retention of Maiden Name — Massachusetts. A woman who has retained the use of her maiden name after marriage is not compelled by Massachusetts law to assume her husband's surname for any purpose. (Mass. AGO 74-75-5; 9/16/74).

Municipal Salary — Military Leave — Florida. Pending judicial clarification, municipalities should not adopt a policy inconsistent with §115.07, Flor. Stat., which requires that municipal employees be paid their full municipal salary while on military leave. (Flor. AGO 074-189; 7/1/74).

2. Recently Enacted Legislation.

Consumer Protection—Express and Implied Warranties and Service Contracts. Congress recently enacted the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, 15 U.S.C. §2301, *et.seq.* (1975). The Act provides, *inter alia,* for certain minimum disclosure standards for written consumer product warranties and defines certain minimum federal content standards for both written and implied warranties and service contracts. The statute defines "consumer product" as "any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes . . ." Sec. 101(1). The Federal Trade Commission is empowered to promulgate rules defining certain items which must be "fully and conspicuously disclose[d] in simple and readily understood language" in the written warranties.

Most parts of the Act are to take effect in July 1975, however the statute does not apply to products manufactured before that date. Presently the law of warranties is governed primarily by the common law and certain sections of the Uniform Commercial Code (all states except Louisiana), but

the law regarding warranties and service contracts has been a continuing source of confusion and consumer dissatisfaction. As the new Act is implemented and the rules promulgated by the FTC, Legal Assistance Officers will of necessity have to become more familiar with this major new consumer legislation. For a sectional analysis of the Act, *see*: 15 U.S. CONG. ADMIN. NEWS 8762 (1974).

3. Articles and Publications of Interest.

Consumer Protection — Unsolicited Goods. Foulke, Taylor, "A Roundup of 'Unsolicited Goods' Statutes," 61 A.B.A.J. 196 (Feb. 1975). This is a one page reference sheet of the statutory cites of Congressional and state legislation providing for the specific protection of recipients of unordered merchandise.

Family Law — Divorce Settlements — Tax Consequences. Basi, Weinstein, "The Internal Revenue Code and Its Impact on Divorce Settlements," 53 TAXES 132 (Mar. 1975).

Family Law — Separation — Tax Consequences. Higgins, Horvitz, "Tax Considerations For Separated Married Couples," 53 TAXES 154 (Mar. 1975).

Immigration and Naturalization. Legal Aid Society of Sacramento County, *Naturalization Handbook, 1974.* This is a bilingual handbook for Spanish-speaking persons which discusses the naturalization process and provides a brief questionnaire regarding American history and the American political structure. The questionnaire is designed for use in the preparation for the naturalization examination. Copies of the 32-page handbook may be obtained by writing National Clearinghouse For Legal Services, 500 N. Michigan Avenue, Suite 2220, Chicago, Illinois 60611. (No. 14,158) ($1.00).

Property — Condominium Law. "Symposium on the Law of Condominiums, 48 ST. JOHN'S L. REV. 677 (May 1974). This symposium is a very excellent and comprehensive discussion of the many legal aspects of condominium law including development and financing, tax and accounting, governmental regulation, unit ownership, and the second-home market.

Collection Pursuant to AR 27–40 (Medical Care Recovery Program) CY 1975

From: Tort Branch, Litigation Division, OTJAG

Forces Command		
Number of Claims Asserted	1,771	
Total Dollar Amount of Claims Asserted		$2,783,572.52
Number of Claims Collected	1,408	
Total Dollar Amount of Claims Collected		$1,111,104.68
Training and Doctrine Command		
Number of Claims Asserted	2,025	
Total Dollar Amount of Claims Asserted		$2,393,007.61
Number of Claims Collected	1,576	
Total Dollar Amount and Claims Collected		$1,134,413.37
All Other		
Number of Claims Asserted	1,317	
Total Dollar Amount of Claims Asserted		$2,736,829.43
Number of Claims Collected	1,153	
Total Dollar Amount of Claims Collected		$1,258,102.96
Total for All Army Areas		
Number of Claims Asserted	5,113	

Total Dollar Amount of Claims Asserted		$7,913,414.56
Number of Claims Collected	4,137	
Total Dollar Amount of Claims Collected		$3,503,621.03

Reserve Affairs Items

Hultman Promotion. Brigadier General Evan L. Hultman was recently promoted at ceremonies held at the 88th United States Army Reserve Conference, 15 and 16 February 1975. Assisting General Hultman in pinning on his stars were Brigadier General Lawrence H. Williams, The Assistant Judge Advocate General for Military Law, and Major General Merle B. Evans, Commander of the 88th ARCOM. Lieutenant General John J. Hennessey, Commander, 5th U.S. Army, was also in attendance. Since his selection for promotion on 1 June 1974 General Hultman has been serving as Assistant to The Judge Advocate General, Special Projects MOB DES. In addition to his receiving his promotion General Hultman was also awarded the Meritorious Service Medal at the ceremony.

CLE News

1. New Feature. As a new feature in *The Army Lawyer*, developments in the field of continuing legal education will be centralized in this regular section of the publication. A quarterly calendar of CLE events of interest to the military practitioner will be a permanent part of this new offering, as well as other presentations dealing with the subject. Future developments in the area of mandatory continuing education and certification (discussed in Item 2 of JAG School Notes in this issue) will appear in this column. As in the past, however, continuing legal education courses offered at TJAGSA will be published as a separate listing for ready reference and the convenience of our readership. We cordially invite input from "the field" for additional calendar entries and items of interest on the subject of continuing legal education.

2. CLE Calendar.

APRIL 1975

3-5	Federal Bar Association, Midwestern Regional Conference—two seminars "Agriculture and the Law" and "New Federal Rules of Evidence"	Crown Center Hotel Kansas City, MO
4	ABA Section of Natural Resources Law, conference on land use	Washington, DC
8-11	ABA Section of Criminal Justice, Criminal Code Revision Conference to bring together legislators and criminal code revision personnel to mount a nationwide campaign for urgently needed criminal law change through substantive and procedural code revision	Royal Inn at the Wharf San Diego, CA
8-12	National College of District Attorneys Program, Trial Tactics	Indianapolis, IN
13-18	National College of the State Judiciary, Graduate Session in Evidence I	Judicial College Building University of Nevada Reno, NV

18-19	ABA Section of Insurance, Negligence and Compensation Law, Committee on Medicine and Law, National Institute	New Orleans, LA
22-25	ALI-ABA program "Tax Consequences of Property Transactions"	Americana Hotel New York, NY
23-26	National College of District Attorneys Program, Juvenile Justice	Reno, NV
24-26	National Conference of Special Court Judges seminar "National Conference for Improvement of Criminal Justice in the Courts"	Judicial College Building University of Nevada, Reno, NV
24-26	Federal Bar Association, Rocky Mountain Regional Conference, two seminars—"Project Independence" and "New Federal Rules of Evidence"	Denver Marriott Denver, CO
25	ALI-ABA Committee on Continuing Professional Education	Chicago, IL
27-30	Louisiana State Bar Association, annual meeting	Biloxi, MS
April 27-May 2	National College of the State Judiciary, Specialty Session in Search and Seizure	Judicial College Building Reno, NV
MAY 1975		
	New Jersey State Bar Association, annual meeting	
	South Carolina Bar Association, annual meeting	
1-3	ALI-ABA program "Bankruptcy for the General Practitioner and the Business Lawyer"	Fairmont Hotel San Francisco, CA
1-3	15th International Conference on Legal Medicine, sponsored by the American College of Legal Medicine	Caesar's Palace, Las Vegas, NV
2-4	ABA Special Committee on Environmental Law, Airlie House Conference on Environment	Warrenton, VA
4-7	National College of District Attorneys Program, Environmental Law	Houston, TX
4-9	Institute for Court Management, Technology of Court Management Workshops, Records, Systems and Procedures in Courts	New York Area
7-9	Ohio State Bar Association, annual meeting	Columbus, OH

7-11	American Association of Attorney/Certified Public Accountants, Inc., midyear meeting	Dallas, TX
8-10	ABA Special Committee on Prepaid Legal Services, 5th National Conference on Prepaid Legal Services	Monteleone Hotel New Orleans, LA
9-10	Federal Bar Association, Mid-America Conference, two concurrent seminars—"Federal Rules of Evidence" and "Labor Law and Labor Relations Update"	Stouffer's Indianapolis Inn Indianapolis, IN
10	Discovery Seminar (Freedom of Information Act, Litigation in Tax Court, District Court and Court of Claims) sponsored by San Francisco Chapter and Court Tax Procedure Committee, FBA	San Francisco, CA
14-17	Pennsylvania Bar Association, annual meeting	William Penn Hotel Pittsburgh, Pa
18	ABA Appellate Judges' Conference, seminar	Boston, MA
19	ALI-ABA program "Social Security Rights and Remedies"	Mayflower Hotel Washington, DC
20-23	American Law Institute, annual meeting	Mayflower Hotel Washington, DC
21-23	Kansas Bar Association, annual meeting	Holiday Inn Plaza Wichita, KA
22-23	PLI Program, "Practical Will Drafting"	Sheraton Inn Downtown Birmingham, AL
22-23	Kentucky Bar Association, annual meeting	Ramada Inn Louisville, KY
22–24	State of Nevada, annual meeting	Tonopah, NV
23–24	Federal Bar Association Conference on Openness in Government	Mayflower Hotel Washington, DC
28-29	ABA Section of Public Contract Law, National Institute on "Boards of Contract Appeals Practice"	Mayflower Hotel Washington, DC
29-30	Federal Bar Association and American Arbitration Association Annual Practice Institute on Collective Bargaining in the Federal Service	Mayflower Hotel Washington, DC
30-31	ALI-ABA program "Practice Under the New Federal Rules of Evidence," co-sponsored by Massachusetts Continuing Legal Education, Inc.	Boston, MA

JUNE 1975

	Delaware State Bar Association, annual meeting	Wilmington Country Club Wilmington, DE
	Idaho State Bar, annual meeting	Vancouver, B.C., Canada
	Montana Bar Association, annual meeting	Bozeman, MT
	The District of Columbia Bar, annual meeting	Washington, DC
2-4	Mississippi State Bar, annual meeting	Biloxi, MS
4-6	State Bar of Georgia, annual meeting	Savannah, GA
4-7	Arkansas Bar Association, annual meeting	Arlington Hotel Hot Springs, AR
11-13	Tennessee Bar Association, annual meeting	Four Seasons Motel Gatlinburg, TN
12-14	State Bar of South Dakota, annual meeting	Aberdeen, SD
12-15	Massachusetts Bar Association, annual meeting	Wentworth-By-The-Sea Portsmouth, NH
15-27	National College of District Attorneys Course, Executive Prosecutor Course	Houston, TX
June 15-July 4	National Institute for Trial Advocacy, First National Session, 1975	Boulder, CO
June 15-July 11	National College of the State Judiciary, Regular Four Week Session (Session I)	Judicial College Building University of Nevada, Reno, NV
17-19	State Bar of Wisconsin, annual meeting	Lakelawn Lodge, Delavan, WI
18-20	Minnesota State Bar Association, annual meeting	St. Paul Hilton, St. Paul, MN
18-20	State Bar Association of North Dakota, annual meeting	Jamestown, ND
18-21	The Florida Bar, annual meeting	Boca Raton Hotel and Country Club, Boca Raton, FL
18-21	Utah State Bar, annual meeting	Hilton Hotel Salt Lake City, UT
19-21	Iowa State Bar Association, annual meeting	Des Moines, IA
19-21	Maine State Bar Association, annual meeting	Somoset Treadway Resort Rockport, ME

20-21	Virginia State Bar, annual meeting	Marriott Twin Bridge Arlington, VA
25–28	Alaska Bar Association, annual meeting	Vancouver, B.C., Canada
27-28	New Hampshire Bar Association, annual meeting	Mt. Washington Hotel Bretton Woods, NH
June 29-July 11	National College of the State Judiciary, Regular Two Week Session (Session I)	Judicial College Building University of Nevada, Reno, NV
June 30-July 1	PLI Program, "Practical Will Drafting"	Benson Hotel Portland, OR
June 30-July 3	State Bar of Texas, annual meeting	Dallas, TX

Claims Items

From: U.S. Army Claims Service

Carriers Failing to Respond to Claims Correspondence. The U.S. Army Audit Agency recently conducted an inspection of an Army post and criticized the post claims office for failure to notify the transportation office when carriers failed to respond to claims correspondence in violation of paragraph 36 of the carrier's tender of service.

The attention of all claims offices is invited to the provisions of paragraph E-1, Appendix E, AR 27–20, which provides as follows:

> E-1. Attention is invited to DOD 4500.34R which contains a sample copy of the tender of service submitted by carriers. It requires a carrier to acknowledge receipt of a claim within 10 days after its receipt, and to pay, or make a firm offer in writing within 120 days after receipt of the claim. If the claim is not processed and disposed of within 120 days after receipt thereof, the carrier will at that time and at the expiration of each succeeding 30-day period while the claim remains open, advise in writing of the status of the claim and the reasons for the delay in making final settlement thereof. Failure to comply with the above provisions constitutes a violation of the tender of service for which the carrier may be suspended or disqualified. When a field claims office encounters unnecessary delay in responding or failure to respond, the above provisions will be pointed out to the carrier. If this does not produce a reply, then a letter will be forwarded to the origin transportation officer setting forth complete details and requesting suspension action for the violation. Claim files will not be forwarded to the U.S. Army Claims Service as an "Impasse" until results of the above action are received.

Strict compliance with the provisions of this paragraph by all claims offices is requested.

TJAGSA—Schedule of Resident Continuing Legal Education Courses Through 30 August 1975

Number	*Title*	*Dates*	*Length*
5F–F11	62d Procurement Attorneys	7 Apr–18 Apr 75	2 wks
5F–F13	2d Environmental Law	7 Apr–10 Apr 75	3½ days
5F–F8	20th Senior Office Legal Orientation	14 Apr–17 Apr 75	3½ days
(None)	3d NCO Advanced Course	14 Apr–25 Apr 75	2 wks
5F–F8	*19th Senior Officer Legal Orientation Crs	28 Apr–1 May 75	4 days

Number	*Title*	*Dates*	*Length*
5–27–C28	22d JA New Developments Crs (Reserve Component)	12 May–23 May 75	2 wks
	Reserve Component Training JAGSO Teams	2 Jun–13 Jun 75	2 wks
5F–F6	5th Staff Judge Advocate Orientation Crs	16 Jun–20 Jun 75	1 wk
5F–F30	1st Military Justice I Course	16 Jun–27 Jun 75	2 wks
5F–F1	1st Trial Attorneys' Course	23 Jun–27 Jun 75	1 wk
5F–F8	21st Senior Officer Legal Orientation Crs	30 Jun–3 Jul 75	3½ days
	USAR School (Civil)	7 Jul–18 Jul 75	2 wks
5F–F9	14th Military Judge Course	14 Jul–1 Aug 75	3 wks
5F–F3	19th International Law Course	21 Jul–1 Aug 75	2 wks
5F–F11	63d Procurement Attorneys' Course	28 Jul–8 Aug 75	2 wks

*Army War College only

JAG Personnel Section

From: PP&TO, OTJAG

1. Retirements. On behalf of the Corps, we offer our best wishes to the future to the following officers who retired 28 February 1975 after many years of faithful service to our country:

Colonel Charles W. Levy
Colonel Henry R. Thomas
LT Colonel Richard D. Sanders

2. Orders Requested as Indicated.

Name	*From*	*To*
	COLONELS	
BRANNEN, Barney	USAWC, Carlisle Bks, Pa	S-F, TJAGSA, Charlottesville, Va
COSTELLO, John	TJAGSA, Charlottesville, Va	USA Leg Svc Agcy, Falls Church, Va
CULPEPPER, Vernon	HQ 1st US Army, Ft G.Meade Md	Europe
MOUNTS, James A	USA Claims Svc, Ft Meade, Md	USA Leg Svc Agcy, Falls Church, Va
	LIEUTENANT COLONELS	
DAHLINGER, Richard	USAC&GSC, Ft Leavenworth, Ks	Europe
GARNER, James G	OTJAG	USA Tng Center, Ft Jackson, SC
HAIGHT, Barrett	USAC&GSC, Ft Leavenworth, Ks	S-F, C&GSC, Ft Leavenworth, Ks
JOHNSON, Jeremy	USAC&GSC, Ft Leavenworth, Ks	Europe
RABY, Kenneth A	USAC&GSC, Ft Leavenworth, Ks	USAG, Ft Stewart, Georgia
SUTER, William	USAC&GSC, Ft Leavenworth Ks	101st Abn Div, Ft Campbell, Ky
WASINGER, Edwin	USAC&GSC, Ft Leavenworth Ks	HQ TRADOC, Ft Monroe, Va

MAJORS

ADAMS, John B	23d Adv Class, Charlottesville	Mil Support Agcy, Wash DC
ARKOW, Richard	23d Adv Class, Charlottesville	9 Inf Div, Ft Lewis, Wa
BABCOCK, Charlie	USAC&GSC, Ft Leavenworth, Ks	OTJAG, Wash DC
CREAN, Thomas M	23d Adv Class, Charlottesville	Europe
LEWIS, Jerome X	USAC&GSC, Ft Leavenworth, Ks	2d Armored Div, Ft Hood
RICE, Paul J	USAC&GSC, Ft Leavenworth, Ks	OTJAG
STEINBERG, Barry	USA Leg Svc Agcy, Falls Church	Aberdeen Pvg Ground, Md.
TIEDEMAN, John	23d Adv Class, Charlottesville	Korea
WOSEPKA, James	WRAMC, Wash DC	Okinawa

CAPTAINS

AILEO, William	23d Adv Class, Charlottesville	Electronics Cmd, Ft Monmouth, NJ
ALLEN, Paul T	USA Stu Det, Ft Benj Harrison	USA Armor Center, Ft Knox, Ky
ALTIERI, Richard	23d Adv Class, Charlottesville	4th Inf Div, Ft Carson, Colo
ANDERSON, Gary	23d Adv Class, Charlottesville	QM Center, Ft Lee, Va
BROCKWAY, David	193d Inf Bde, Canal Zone	USAG, Pres of S.F. Ca
BURGER, James A	23d Adv Class, Charlottesville	S-F, TJAGSA, Charlottesville, Va
BUSHMAN, Howard	Mil Dist of Wash	USA Leg Svc Agcy, Falls Church, Va
CARTER, Lyman	USA Armor Center, Ft Knox Ky	Korea
CATHEY, Theodore	23d Adv Class, Charlottesville	S-F, TJAGSA, Charlottesville, Va
COOKE, John S	Air Defense Center, Ft Bliss, Tx	S-F, TJAGSA, Charlottesville, Va
COUPE, Dennis F	23d Adv Class, Charlottesville	S-F, TJAGSA, Charlottesville, Va
DAVENPORT, David	23d Adv Class, Charlottesville	USA Sgt Major Academy, Ft Bliss
DEBERRY, Thomas	23d Adv Class, Charlottesville	USA Comm Cmd, Ft Huachuca, Ariz
DEPUE, John F	23d Adv Class, Charlottesville	USA Leg Svc Agcy, Falls Church, Va
FLANIGAN, Richard	23d Adv Class, Charlottesville	Europe
GRAY, Kenneth D	23d Adv Class, Charlottesville	S-F, TJAGSA, Charlottesville, Va
HARGUS, Patrick	USA Gar, Ft Riley, Ks	MACTHAI Support Gp, Thailand
HIMES, Albert L	USA Leg Svc Agcy, Falls Church	Ofc of Def Supply Svc, Wash DC
HOPKINS, Gary L	USA Leg Svc Agcy, Falls Church	Ofc of Def Supply Svc, Wash DC
KULIK, Joseph	OTJAG	USA Leg Svc Agcy, Falls Church
MACKEY, Patrick	23d Adv Class, Charlottesville	USA Tng Center, Inf, Ft Ord, Ca
MEACHAM, Christopher	23d Adv Class, Charlottesville	USA Inf Center, Ft Benning, Ga
MCCOY, Regis J	OTJAG	USA Leg Svc Agcy, Falls Church, Va
NOLL, Jon G	Stu Det, Ft Benj Harrison Ind	82d Abn Div, Ft Bragg NC
READE, Robert M.	82d Abn Div, Ft Bragg, NC	7th Radio Res Fld Sta, Thailand
RICHARDSON, John	23d Adv Class, Charlottesville	USALSA,w/dy Sta Ft Stewart, Ga.
RICHARDSON, Quentin	23d Adv Class, Charlottesville	82d ABN Div, Ft Bragg, NC

ROBBLEE, Paul A	23d Adv Class, Charlottesville	S-F USMA, West Point, NY
RUPP, James A	Mil Dist of Wash DC	USA Leg Svc Agcy, Falls Church Va
SEPULVEDA, Eloy	23d Adv Class, Charlottesville	Beaumont Gen Hosp, El Paso, Tx
SMITH, Edgar A	23d Adv Class, Charlottesville	Ballistic Msl Def System, Huntsville, Alabama
SMITH, Lawrence	Europe	USA Tng Center Ft Leonard Wood, MO
SOVIE, Donald E	USA Stu Det, Ft Benj Harrison	USA Leg Svc Agcy, Falls Church Va
SWICK, Richard	23d Adv Class, Charlottesville	USA Garrison, Ft Meade, Md
THOMAS, Evan E	23d Adv Class, Charlottesville	101st Abn Div, Ft Campbell, Ky
WILKERSON, James	23d Adv Class, Charlottesville	172 Inf Bde, Ft Richardson, Ala
ZIMMERMAN, Charles	23d Adv Class, Charlottesville	USA Gar, Ft Riley, Ks

WARRANT OFFICERS

KOCEJA, Daniel	USA Avn Sch, Ft Rucker, Ala	USA Leg Svc Agcy, Falls Church Va

3. Fontanella Runner-Up In Pace Award Selections. The Secretary of the Army recently announced that Lieutenant Colonel David A. Fontanella, Chief of OTJAG's Labor and Civilian Personnel Law Office, was named one of the three military officer runners-up for the 1974 Pace Award. This annual award was created by a distinguished group of private citizens interested in providing recognition to one civilian employee (GS 14 or below) and one military officer (Lieutenant Colonel or below) serving in a staff support capacity at Headquarters, Department of the Army, for contributions of outstanding significance to the Army. Recipients of the award are also honored with a fellowship in the Massachusetts Institute of Technology's Alfred P. Sloan Fellows Program. LTC Fontanella is one of the three nominees additionally chosen from each category as a runner-up in the award selections.

4. Senior Trial Counsel. The following JAG officers have been designated as Senior Trial Counsel.

Major David McNeill, Jr.
Captain Wiley J. Beevers
Captain John W. Belk
Captain David P. Bobzien
Captain William C. Bushnell
Captain John S. Cooke
Captain David M. Curtis
Captain Anstruther Davidson
Captain Renny W. Deese
Captain William Douberley
Captain Ronald G. Guziak
Captain George W. House
Captain Alfred H. Juechter
Captain John G. Karjala
Captain John W. Lewis
Captain Rocco F. Meconi
Captain Michael T. Mitchell
Captain James D. Mogridge
Captain Robert E. Morris
Captain Robert Mulderig
Captain John Nix
Captain Kenneth D. Pangburn
Captain Ralph J. Platt
Captain Gary W. Ramaeker
Captain Larry Robinson
Captain Joseph J. Sano
Captain Larry C. Schafer
Captain Lee D. Schinasi
Captain John G. Stokesberry
Captain Bruce E. Wagner

Current Materials of Interest

Articles

The March 1975 issue of the *American Bar Association Journal* contains excerpts from the presentations of The Judge Advocates General and Chief Legal Counsel of the armed forces who participated in a panel discussion program on "The Evolving Military Law" presented by the Standing Committee on Military Law at the Annual ABA Meeting in Honolulu. Included in this anthology are: Real Admiral Merlin H. Staring, The Judge Advocate General, United States Navy, "The Role of the Commander" 61 A.B.A.J. at 305; Brigadier General John R. DeBarr, Director of The Judge Advocate Division, United States Marine Corps, "The Military Judiciary" 61 A.B.A.J. at 307; Rear Admiral Ricardo A. Ratti, Chief Counsel, United States Coast Guard, "The Military Jury" 61 A.B.A.J. at 308; Major General George S. Prugh, The Judge Advocate General, United States Army, "Sentences and Sentencing" 61 A.B.A.J. at 309 (this presentation appeared in its full length in the December 1974 issue of *The Army Lawyer)*; and Major General Harold R. Vague, The Judge Advocate General, United States Air Force, "Probation, Parole, Rehabilitation" 61 A.B.A.J. at 311.

Comment, "Army Drug Treatment Programs and the Doctrine of Military Necessity: *Committee for G.I. Rights v. Callaway* and *United States v. Ruiz*," 10 HARV. CIV. RIGHTS-CIV. LIB. L. REV. 215 (Winter 1975). A 36-page discussion concluding that "the proper application of the doctrine of military necessity will guarantee that an individual need not surrender more than the necessary minimum of his right while serving in the military."

Wacker, "The 'Unreviewable' Court-Martial Conviction: Supervisory Relief Under the All Writs Act From the United States Court of Military Appeals," 10 HARV. CIV. RIGHTS-CIV. LIB. L. REV. 33 (Winter 1975). Judge Advocate Captain Daniel J. Wacker, USAF, has authorized a 60-page article which traces the emergence of the USCMA, reviews its initial and short-lived attempt to use the All Writs Act to expand its powers over "unreviewable cases" and presents a theory under which the court would be able to grant extraordinary relief under the Act in cases not within its statutory review jurisdiction.

Stewart, "The Plight of the POW/MIA and Attendant Legal Problems," 8 CREIGHTON L. REV. 295 (1974–75).

Note, "The Guilty Plea As a Waiver of 'Present But Unknowable' Constitutional Rights: The Aftermath of the *Brady* Trilogy," 74 COLUM. L. REV. 1435 (December 1974). Examines the impact of the Supreme Court decisions in *Brady v. United States, McMann v. Richardson* and *Parker v. North Carolina* against the functions served by guilty pleas in the criminal justice system; considers the problem of defining those rights not properly waivable by pleas of guilty; and sets out standards for determining the waivability of retroactively endowed constitutional rights by guilty pleas.

Fahy, "Special Ethical Problems of Counsel for the Government," 33 FED. B.J. 331 (Fall 1974). A reprint of the timely and timeless lecture by Judge Charles Fahy, Senior Circuit Judge of the District of Columbia Circuit, at the Columbia University School of Law, April 11, 1950.

Rubinstein, "The Anatomy of a Bid Protest," 33 FED. B.J. 296 (Fall 1974).

Curnow, "Legal Insanity and the Federal Courts: Does the Ninth Circuit Guide or Confuse" 33 FED. B.J. 305 (Fall 1974).,

Mahoney, "Federal Employee Appeals Authority" *Federal Bar News*, Vol. 22 No. 2 (February 1975) p. 41.

Comment, "Joint Lenancy: Select Methods of Escaping Its Undesirable Consequences," 43 U. MO. (K.C.) L. REV. 60 (Fall 1974).

Comment, "Durational Residency Requirements for Divorce," 123 U. PA. L. REV. 187 (November 1974).

Comment, "Injunctive Relief for Disappointed Bidders on Government Contracts, *William F. Wilke, Inc. v. Department of the Army of the United States*, 485 F.2d 180 (4th Cir. 1973)" 1974 (3) WASH. U.L.Q. 475 (1974).

Forsythe, "The 1974 Diplomatic Conference on Humanitarian Law: Some Observations," 69 AM. J. INT'L. L. 77 (January 1975).

A special eight-page issue of *Commanders Digest*, Vol. 17 No. 8 (February 18, 1975) concerns itself with a discussion of "DoD's New Freedom of Information Program."

By Order of the Secretary of the Army:

Official:

VERNE L. BOWERS
Major General, United States Army
The Adjutant General

Manual

Guidelines for Pre-Recording Testimony on Videotape Prior to Trial, Federal Judicial Center Publication No. 74–9 (November 1974). Write: The Federal Judicial Center, Dolley Madison House, 1520 H Street NW, Washington, D.C. 20005.

FRED C. WEYAND
General, United States Army
Chief of Staff