

Note from the Field

Tapping Reserve Manpower Through the Implementation of the Judge Advocate Training And Association Program (JATAP)

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During the past several years, the Office of the Staff Judge Advocate (OSJA), XVIII Airborne Corps and Fort Bragg, and the 12th Legal Support Organization (LSO), established a formal mutual support relationship, which contributed to accomplishing both the Active Army (AA) and Reserve Component (RC) missions. This note describes one aspect of that AA-RC training association, involving the Claims Division, OSJA, and Team 3, 12th LSO, and the benefits accruing to both from this mutual support relationship.¹ The note also proposes ways that other units may combine the strengths of AA and RC judge advocates, thereby enhancing the RC training program and improving AA legal services.

United States Army Forces Command and Army National Guard Regulation 27-1 establishes the Judge Advocate Training and Association Program (JATAP)² and provides guidance for establishing training associations between AA SJAs and RC judge advocate general service organizations. Pursuant to the regulation, the 12th LSO developed a mission essential task list (METL) and a training memorandum of understanding (MOU) with the OSJA. Each team leader within the 12th LSO implemented the training MOU with their AA counterparts.

Implementing the JATAP is often hindered by geographical limitations such as the distance between the AA and RC units, as well as scheduling constraints, which generally require RC judge advocates to perform their weekend drills at times when the majority of the AA judge advocates are not present for duty. These geographical and scheduling obstacles typically limit

AA-RC training to the RC two-week annual training period. The Claims Division and Team 3, 12th LSO, which is located in Greensboro, North Carolina, approximately ninety-five miles from Fort Bragg, faced both of those problems in carrying out the training MOU.

Both the OSJA and the 12th LSO recognized that once-a-year training was not the best way to implement the JATAP. However, they realized that through creativity and coordination, their mutual support relationship could be expanded and incorporated into monthly training throughout the year. This monthly training could foreseeably enhance communication and ultimately benefit both organizations.

To implement this monthly training, the OSJA and the 12th LSO examined how reservists on weekend drill could assist in accomplishing of the AA mission in a way that promoted the RC training program.³ The 12th LSO METL was examined, and it was determined that claims services incorporated a number of tasks suitable for development of a training association. For example, the METL included such tasks as the investigation, review, and disposition of claims, preparation of reports for the U.S. Army Claims Service, preparation of litigation reports for the U.S. Army Litigation Division, and processing of claims in favor of the United States under the Federal Medical Care Recovery Act (MCRA).⁴ These METL tasks corresponded with a significant portion of the Claims Division's work-load under the Federal Tort Claims Act (FTCA)⁵ and the Military Claims Act (MCA).⁶ Of note, claims work under the

1. The 12th LSO has teams located throughout North and South Carolina and has training associations with the OSJA, XVIII Airborne Corps and the OSJA, Fort Jackson. For example, teams at Fort Bragg and Fort Jackson provide legal assistance to AA soldiers and their families during drill weekends. This note focuses only on the training association between the OSJA, XVIII Airborne Corps and Team 3, which is located in Greensboro, North Carolina.

2. See U.S. ARMY FORCES COMMAND/ARMY NATIONAL GUARD REGULATION 27-1, JUDGE ADVOCATE TRAINING ASSOCIATION PROGRAM (JATAP) (15 June 1998). See also Policy Memorandum 00-3, Office of The Judge Advocate General, United States Army, subject: Training and Mission Support Between Active, Guard, and Reserve Judge Advocates (7 Sept. 1999); Policy Memorandum 98-3, Office of The Judge Advocate General, United States Army, subject: Integrated Training and Deployment Relationships Between Active, Guard, and Reserve Judge Advocates (12 Sept. 1997).

3. See Colonel Benjamin A. Sims & Lieutenant Colonel William O. Gentry, *Tapping Reserve Manpower through Training Programs*, ARMY LAW., Sept. 1988, at 64-67 (discussing how Reservists, to include Individual Mobilization Augmentees and Individual Ready Reservists can assist in the accomplishment of the active duty claims mission).

4. 42 U.S.C.S. §§ 2651-2653 (LEXIS 2000).

FTCA often required an analysis of state tort law, and, in many instances, the RC judge advocates were more familiar with state law developments than newly assigned AA judge advocates who typically were not licensed in North Carolina. In recognition of this, the Claims Division and Team 3, 12th LSO, focused on the training association involving the METL tasks of tort claims investigation, review, and disposition, to include the preparation of reports for the U.S. Army Claims Service and Litigation Division.

To implement this training association on a monthly basis, the Claims Division forwarded tort claims to Team 3, 12th LSO, by facsimile and electronic mail, on the Thursday before drill weekend. Typically, on the Monday following drill weekend, the 12th LSO completed the analysis and provided a memorandum of law or other suitable report by electronic mail and facsimile. Additionally, the 12th LSO assisted in preparing litigation reports and research and memoranda in support of affirmative claims under the MCRA.⁷ A key to the success of this program was the willingness of the Claims Division Chief and the AA claims judge advocates to plan ahead to ensure that pending tort claims were available for the 12th LSO during drill weekends. Without exception, during the past several years, the Claims Division's planning and coordinating made this support relationship work.

The support relationship has benefited the OSJA, and ultimately soldiers and their families, by providing additional skilled attorneys to process tort claims. In particular, the RC judge advocates working on the tort claims included two insurance defense attorneys, attorneys in private practice skilled in tort litigation in North Carolina state courts, and three assistant U.S. attorneys. Staffed by local attorneys who are familiar with North Carolina tort law, the 12th LSO provided an indispensable work product that addressed the nuances of state tort law. This ensured that meritorious claims were recognized and unsubstantiated claims were rejected. The 12th LSO attorneys drafted memoranda on the intricacies of North Carolina law involving negligent infliction of emotional distress, negligent entrustment, contributory negligence, causation, and contribution among joint tortfeasors. These memoranda contributed to the Claims Division's ability to administer the FTCA and MCA in a manner that conserved federal funds by paying only claims that were meritorious in fact and under the law.

Reserve Component judge advocates also made themselves available throughout the month for consultation in the event that a tort claims issue arose requiring insight into North Caro-

lina law. This included valuing claims, such as predicting how much a particular type of case was worth in terms of jury verdict valuations in state court. Additionally, 12th LSO attorneys assisted in claims investigations throughout North Carolina. This is especially significant since the claims area jurisdiction for the OSJA covers the entire state. This support relationship is especially helpful when a U.S. Army Reserve driver is involved in an accident within North Carolina, but far from Fort Bragg. By making themselves available to assist in these investigations, the RC judge advocates have extended the OSJA's reach throughout the state, thereby ensuring that investigations are done in a more timely manner, and contributing to a more just adjudication of claims based on complete factual information.

The 12th LSO prepared a deskbook on North Carolina tort law, which provides a convenient reference for new claims judge advocates on key North Carolina tort issues. The 12th LSO also collected past legal memoranda and created a brief bank which should facilitate adjudication of recurring-type claims. The brief bank has been placed on computer diskettes so that, as it is updated, it can be shared with the OSJA.

The JATAP support relationship has benefited the 12th LSO by providing realistic training in claims adjudication essential to the performance of its wartime mission. Office of the Staff Judge Advocate claims judge advocates also benefit through participation in the 12th LSO's training program, for example, by giving instruction on claims procedures and the FTCA during weekend drills. The training has been continuous throughout the year and 12th LSO attorneys have received constructive feedback from the Claims Division using the RC Training Assessment Model (TAM),⁸ thereby enhancing their abilities and support to the OSJA. This training is instrumental to the training readiness of the 12th LSO, and has ensured that, in the event of mobilization, 12th LSO judge advocates and enlisted soldiers are prepared to perform duties at the OSJA, XVIII Airborne Corps.⁹

A collateral but very important by-product of establishing a monthly training association, has been to educate the RC judge advocates regarding the challenges faced by AA judge advocates. This in turn has allowed the RC judge advocates to expand their working relationships to assist in other areas, such as administrative law, where RC judge advocates have reviewed hold harmless and indemnification agreements for compliance with state law. Additionally, increased contact

5. 28 U.S.C.S. §§ 2671-2680 (LEXIS 2000).

6. 10 U.S.C.S. § 2733 (LEXIS 2000).

7. *Id.* §§ 2651-2653.

8. UNITED STATES ARMY FORCES COMMAND, REG. 220-3, RESERVE COMPONENT TRAINING ASSESSMENT (7 Apr. 2000). Unit training is evaluated by the AA SJA using FORSCOM Form 1049-R, Training Assessment Model (TAM). This regulation may be accessed at <<http://www.forscom.army.mil/pubs/Pubs/Reg/020220-3.doc>>.

9. Presumably, this training also prepares the 12th LSO to deploy and establish a claims office in support of a division or corps.

between AA and RC judge advocates has facilitated closer working relationships in criminal law and other areas.

The 12th LSO and the OSJA look forward to building on their mutual support relationship during the upcoming years, and are prepared to share their ideas with other judge advocates

interested in developing similar relationships. Building a mutual support relationship is a “win-win” proposition that only requires creativity and coordination between AA and RC judge advocates. The benefits for both Active and Reserve judge advocates are well worth the effort.