



**the army**

**LAWYER**

**HEADQUARTERS, DEPARTMENT OF THE ARMY**

Department of the Army Pamphlet  
27-50-76  
April 1979

**ARMY REGULATION 27-14, REVISED**

**Procedures for Article 138, UCMJ,  
Complaints)**

*Samuel T. Brick, Jr., Administrative Law  
Division, Office  
of The  
Judge Advocate General*

**Table of Contents**

Army Regulation 27-14, Revised	1
General Deterrence Arguments	5
Report From San Remo	9
Guilty Pleas in the Absence of Jurisdiction—The Unanswered Question	12
Professional Responsibility and the Legal Assistance Officer	16
Labor Law Item	16
Judiciary Notes	16
Legal Assistance Items	17
Reserve Affairs Items	18
Library High Density Shelving	24
Videocassettes Available From TJAGSA	24
CLE News	33
JAGC Personnel Section	35
Current Materials of Interest	36

The experience with Article 138, Uniform Code of Military Justice, complaints, an experience of novel proportions due to the recent unshelving of this general grievance system, has precipitated a revision of Army Regulation 27-14.<sup>1</sup> The revision to the Article 138 process pertains primarily, although not exclusively, to the general court-martial convening authority by making more specific the requirements placed upon him. The revision also clarifies the administrative procedures to be followed in the preparation, submission, transmission, and consideration of complaints made pursuant to Article 138.

The basic tenets regarding Article 138 complaints are unchanged. It still is a general complaint system not available when there is a more specific channel of appeal in a regulation or other directive. A complaint lies only against a commander, whose official discretionary act the complainant considers to have wronged him. It is available only to active duty members

and is lost if the individual is discharged prior to the filing of the formal complaint. The complaint must be in writing, timely, and follow a request for redress to the respondent commander and a denial of that request. Paragraph 2-2a of the new regulation lists ten requirements necessary to perfect the complaint. None of these requirements is new; the listing is intended as an aid to the complainant and the general court-martial convening authority to narrow the issues of concern. The complaint still must be filed within 90 days of the purported wrong. In computing the 90-day period, the revised regulation excludes the time the complaint was in official channels prior to it being returned to the complainant for a technical deficiency.<sup>2</sup> This expands the excluded period of the former regulation which only forgave the time the complaint was with the respondent during the 90-day period.

As one of the requirements of a complaint is clearly and concisely to describe the specific wrong complained of (or the reason the complainant considers the commander's action a wrong), the complainant may need a military lawyer to assist in drafting the complaint. Paragraph 2-3a specifies that a military lawyer is provided only for consultation, advice, and assistance in drafting. The military lawyer is

not an advocate in any ensuing proceedings. Also, the respondent commander may receive legal advice by his judge advocate. As the complaint must result from a discretionary official act, the judge advocate may advise the respondent as to the legal sufficiency of the act, any curative steps in the event the act is based on specious grounds, and whether to grant or deny the redress sought. An office standard operating procedure may be appropriate to designate responsibilities with regard to advice for Article 138 complainants and respondents.

The new regulation requires a prompt response by the respondent to the request for redress. The request must be answered within ten normal duty days of receipt of the complaint unless an interim response is provided stating an estimated date of final response.<sup>3</sup> The failure to meet this ten-day requirement is considered a refusal of redress and enables the member to file the formal complaint. The ten-day period, while being the maximum time a respondent has to respond, need not be the minimum period. The respondent still has the duty as a commander to act on the complaint promptly, especially if redress may be mooted by inaction. The general court-martial convening authority is bound by the same requirement for expedition which is generated by the terms

---

**The Judge Advocate General**  
**Major General Wilton B. Persons, Jr.**  
**The Assistant Judge Advocate General**  
**Major General Lawrence H. Williams**  
**Commandant, Judge Advocate General's School**  
**Colonel Barney L. Brannen, Jr.**  
**Editorial Board**  
**Colonel David L. Minton**  
**Lieutenant Colonel Victor G. McBride**  
**Major Percival D. Park**  
**Editor**  
**Captain Frank G. Brunson, Jr.**  
**Administrative Assistant**  
**Ms. Helena Daidone**

*The Army Lawyer* is published monthly by the Judge Advocate General's School. Articles represent the opinions of the authors and do not necessarily reflect the views of The Judge Advocate General or the Department of the Army. Masculine or feminine pronouns appearing

in this pamphlet refer to both genders unless the context indicates another use.

*The Army Lawyer* welcomes articles on topics of interest to military lawyers. Articles should be typed double spaced and submitted to: Editor, *The Army Lawyer*, The Judge Advocate General's School, Charlottesville, Virginia, 22901. Because of space limitations, it is unlikely that articles longer than twelve typewritten pages can be published. If the article contains footnotes they should be typed on a separate sheet. Articles should follow *A Uniform System of Citation* (12th ed. 1976). Manuscripts will be returned only upon specific request. No compensation can be paid for articles.

Individual paid subscriptions are available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The subscription price is \$9.00 a year, 80¢ a single copy, for domestic and APO addresses; \$11.25 a year, \$1.00 a single copy, for foreign addresses.

Issues may be cited as *The Army Lawyer*, [date], at [page number].

of the statute—"as soon as possible." Dilatory tactics in this regard are inappropriate and may subject the command to close scrutiny by inspector general personnel of higher headquarters.

The new regulation specifies that the complainant may withdraw his complaint at any time before final action is taken at the Office of The Judge Advocate General.<sup>4</sup> The complainant always has been permitted to request a withdrawal of his complaint. The current regulation requires that after the complaint has reached the general court-martial convening authority, the withdrawal request be in writing. A withdrawal option should provide an additional tool to the respondent or an intermediate commander in attempting to settle the complaint. The intermediate commander is required to forward the complaint to the general court-martial convening authority unless it is withdrawn. Paragraph 3-1 states that the person through whom a complaint is forwarded may add pertinent information or grant any redress within his authority. It is contemplated that a commander higher in the chain of command than the respondent will examine the complaint, deal with any matters within his authority, and thereby narrow the issues that finally are presented to the general court-martial convening authority. One result of this action may well be the withdrawal of the complaint.

Once the general court-martial convening authority receives the complaint, his first decision is to make a preliminary review of the matter. If the complaint does not meet the requisites of paragraph 2-2a of the new regulation, the commander is not required to utilize the full procedures of Army Regulation 27-14. The complaint may be returned with an explanation of the deficiency and, if correctable, how it may be corrected. The general court-martial convening authority may then close the file on the case. Should he choose to do so, he may waive deficiencies and provide whatever redress or action on the complaint he deems appropriate that is within his authority. If the complaint contains a deficiency listed in paragraph 3-2b(3), action under Article 138 is improper. Those deficiencies are considered "jurisdic-

tional" and may not be waived. Basically, they are those complaints *not* by a member on active duty when the complaint is delivered to a superior commissioned officer, *not* against the complainant's commander, *not* involving a discretionary action under color of Federal authority, *not* affecting the complainant personally, or *not* adequately identifying the respondent or the wrong complained of. An additional class of complaint deficiencies is set forth in paragraph 3-2b(2) which requires an explanation stating good cause in order to waive the deficiency. These three deficiencies are untimeliness (failure to meet the 90-day requirement), lack of a request for redress and refusal, and repetitiveness. Action by the general court-martial convening authority on a complaint possessing other deficiencies constitutes a waiver of those deficiencies.

Once the general court-martial convening authority makes the initial determination that the complaint is ripe for disposition, he may either direct a subordinate to investigate whether an alternate channel is available for resolving the alleged wrong or make that determination himself. In all other cases, the general court-martial convening authority must appoint an investigation under the provisions of AR 15-6. The informal proceedings of AR 15-6 are encouraged. The investigating officer, normally senior to the respondent, and never under his command, must make four findings<sup>5</sup> in each case as well as recommendations concerning redress requested and any other corrective action considered appropriate. The general court-martial convening authority must then act personally on the complaint. His actions are limited so that if an alternate channel is available, he must refer the complainant to that channel unless he determines that it is inadequate for the particular matter being considered.<sup>6</sup> If that disposition of the matter is inappropriate, the officer must decide whether to deny or, as the case may be, grant whatever redress is within his authority. If he considers redress appropriate but lacks the authority to grant it, the officer may send the complaint file with his recommendations for redress to an authority empowered to grant the redress. If he

does not have the power to grant the redress but considers the requested redress inappropriate under the circumstances, he should deny the complaint.

The general court-martial convening authority must advise the complainant of the action taken and forward the complaint file to the Office of The Judge Advocate General for review and final disposition.<sup>7</sup> The use of the word "deny" is inartistic if the complaint is being returned due to a more appropriate channel provided by a different regulation or returned for a failure to comply with those administrative requirements capable of being waived. Stating that a complaint is denied in those cases indicates that the general court-martial convening authority is unfavorably disposed to the complaint. Even though other channels are available for disposition of the problem, a denial would discourage the claimant from proceeding further. The preferable language is, "Your complaint under Article 138 is being returned without action under the provisions of paragraph 3-3b(1), Army Regulation 27-14. Your complaint is more suitable for disposition under the specific appeal channel provided by Chapter 3, Army Regulation 27-10. The Office of the Staff Judge Advocate is available to assist you in the preparation of an appeal." Further discussion of the matter under Article 138 or Army Regulation 27-14 is unnecessary. The foregoing quote incorporates the new requirement of AR 27-14 that when a member is referred to an alternate channel, the referring officer will specify "any Army assistance available to the complainant in using that channel."<sup>8</sup>

One additional problem that the revised complaint procedures attempt to resolve is that involving jurisdiction over the complaint. The respondent, complainant, or both may be transferred from the unit where the alleged wrong occurred. When the respondent has been reassigned, the new general court-martial convening authority may act on the case. However, under the new procedures, he must consent to the complaint being forwarded for his action.<sup>9</sup> The primary actor specifically is designated as the officer, or his successor, who exercised general court-martial jurisdiction over

the respondent at the time of the alleged wrong.

The basic manner in which Article 138 complaints are administered in the Army is unchanged. Certain procedures now are specified to standardize the approach of commanders to Article 138 complaints and to make the gravamen of the submitted complaint more specific. If a complaint is addressed on the merits, an informal investigation under the provisions of Army Regulation 15-6 is required. In the event a specific channel of appeal is available to the complainant, the action on the complaint must be returned for submission to the alternate channel unless the channel is considered inappropriate for the case at hand. A firm limit of ten days is required of the respondent to answer a request for redress. Other changes, mostly noted above, are minor and designed to afford a specific and identifiable basis on which the actor may make his decisions. Finally, while AR 27-14 specifies rigid requirements for complaints made under the provisions of Article 138, a commander faced with a grievance by a member of his command may address the matter without regard to the formal proceedings of AR 27-14 even though not a technically correct Article 138 complaint.

#### FOOTNOTES

<sup>1</sup> See Gerwig, "Article 138 Revisited," THE ARMY LAWYER, DA Pam 27-50-36, Dec 75, and Army Regulation 27-14, 1 Feb 79.

<sup>2</sup> Compare paragraph 5b, AR 27-14, 10 Dec 73, with paragraph 2-2b, AR 27-14.

<sup>3</sup> Paragraph 2-1b, AR 27-14.

<sup>4</sup> Paragraph 2-2c, AR 27-14.

<sup>5</sup> Paragraph 3-3a (2), AR 27-14. The IO must determine whether the act or omission was in violation of law or regulation; beyond the legitimate authority of the respondent; arbitrary, capricious, or an abuse of discretion; and materially unfair. An investigation lacking a finding as to one of the four mentioned above is deficient.

<sup>6</sup> Paragraph 3-3b, AR 27-14.

<sup>7</sup> Paragraph 3-3d, AR 27-14. Although the file being transmitted to HQDA must reflect personal action on

the complaint by the GCMCA, as a response to the suggestion of the FORSCOM SJA, the transmittal papers need not personally be signed by the GCMCA. Care must be taken to show clearly that the GCMCA acted on the complaint. A photocopy of the signed ac-

tion (the letter to the complainant) is the best evidence of compliance with this requirement.

<sup>8</sup> Paragraph 3-3b(1)(b), AR 27-14.

<sup>9</sup> See paragraphs 3-2c and 1-4d, AR 27-14.

## GENERAL DETERRENCE ARGUMENTS

### (An Excursion Ticket, Good For This Day and Trip Only<sup>1</sup>)

*Major Owen Basham, Senior Instructor, Criminal Law Division, TJAGSA*

*Near the end of a long trial the trial counsel stands, walks from behind counsel table, and turning to address the court, commences a closing argument on sentence. The trial counsel is tired, just as is everyone else in the courtroom. "Fortunately," the trial counsel thinks, "a quick summary of the nature of the crime, a reference to aggravating factors about the character of the defendant's service and a mild exhortation to the court members will be enough to meet prosecutorial obligations." The trial counsel has not prepared his argument and during it makes passing reference to the necessity for a severe sentence in order to deter others from committing the same offense which the accused was convicted of committing.*

*Opposing counsel and the judge listen intently at first and then, as defense counsel begins to doze, the judge's attention is diverted by a stray thought about a possible omission from his instructions. As the judge turns the instructional question over in his mind to look at it from another angle, he is jarred into complete attention by comments of trial counsel concerning deterrence of others. The judge impatiently awaits the conclusion of the trial counsel's argument and then convenes an Article 39a session where he asks for argument on the propriety of trial counsel having made a general deterrence argument. At first, counsel wonders why the judge told the court members that the session without their presence might last several hours.*

#### General Deterrence

General deterrence is the hypothetical impact upon potential criminals who, it is be-

lieved, will avoid criminal activity because of the observation of the sentence which was awarded the accused in an earlier case. This aspect of deterrence is to be distinguished from a sentence imposed for the purpose of discouraging the offender to be punished from commission of another crime. The latter, perhaps best described as individual deterrence, may be accomplished in private. The former requires public dissemination of the results of the criminal trial. The public stocks serve both purposes as one person might not wish to suffer a repeat of the indignity, while an onlooker may feel no desire to personally experience it at all.

Likewise, the drawn and quartered prisoner whose head is mounted on a pike has suffered the ultimate in individual deterrence. It is believed by some that the public display of the ceremony will give pause to one in contemplation of a criminal act.<sup>2</sup>

By definition then, it is apparent to even the casual student of history that the concept of general deterrence is hardly a new one. Whether or not the underlying premises are correct need not concern us here. Instead we look to the issue of whether the trial counsel may argue the proposition to the sentencing agency in a court-martial.

#### United States v. Hill<sup>3</sup>

The concept of general deterrence as a sentencing factor was no doubt utilized in prehistory, but it was rediscovered on the banks of the Potomac by the Court of Military Appeals in 1972. The vehicle for announcement of the

discovery was *United States v. Hill*.<sup>4</sup> Hill was sentenced by the military judge for conspiracy to sell and transfer heroin. He was told by the judge, after announcement of a sentence which included eight years confinement at hard labor, "Now you take that message back to those other pushers."<sup>5</sup>

As is frequently the case with great discoveries, the Court was not quite sure what to do with theirs. After first expressing agreement with the trial judge's stated view that the courts must "endeavor to deter others from engaging in conduct similar to" the accused's,<sup>6</sup> the Court went on to determine that the sentence was too severe because the "trial judge apparently believed that the sentence he imposed upon the accused should operate as a deterrent to the other pushers."<sup>7</sup> The Court thus took a firm stand both for and against "general deterrence" as a sentencing factor and held that high ground until 1976 when a Court of Military Appeals of entirely different composition readdressed the question.

#### **United States v. Mosely<sup>8</sup>**

The argument made by the trial counsel in *Mosely* included the urging that the court members consider the nature of the accused's criminal activity when determining a sentence and look to the impact upon others "who might venture into such activity."<sup>9</sup>

Judge Cook, writing for a unanimous court in *Mosely*, observed that deterrence has two aspects. The general half of the deterrence aspect is met by the potential maximum punishment. He said that it is not relevant to sentencing of a criminal because he has already committed the crime and was therefore not deterred by the possibility of punishment back when he was a noncriminal member of the public.<sup>10</sup>

This rationale presupposes that the criminal knows the maximum punishment but either doesn't know or doesn't care what criminals of his particular persuasion are actually being awarded. The opposite of that proposition could be well argued.

*Mosely* also stands for the proposition that the aspect of deterrence dealing with the im-

pact on an individual is a valid consideration as it falls within the definition of factors properly considered under the traditional military rule of "individualized sentencing."

Criticism might be made of the accuracy of the predicate for the *Mosely* holding, but the effect of the decision was clear. Neither trial advocates or trial judges found any difficulty in applying the decision. Post-*Mosely*, general deterrence was not a legitimate sentencing concern and could not be argued. However, more was to come. *Hill* had been the law for four years. *Mosely* only made it two.

#### **United States v. Varacalle<sup>11</sup>**

Sergeant Varacalle suffered from pedophilia and engaged in various sexual activities with young females over a period of several months. In argument to the military judge on sentence the trial counsel gave a novel twist to *Mosely*. Instead of *not* arguing general deterrence as *Mosely* envisioned, the trial counsel argued that the judge *not* consider it.<sup>12</sup> Not accepting the trial counsel's invitation to comply with *Mosely*, the trial judge both considered general deterrence and announced on the record that he was doing so.<sup>13</sup>

Three separate opinions were written by the Court of Military Appeals. Chief Judge Fletcher, in the principal opinion, determined that the *Mosely* decision had been too broad and that general deterrence could be considered by the sentencing agency as one of the factors to be weighed in "individualizing" a sentence.<sup>14</sup> Searching for a reconciliation between bad facts and *stare decisis*, Judge Perry determined that the trial judge really didn't mean it when he said:

Now, counsel argued that I shouldn't think of the deterrence of others. Very frankly I did, because I am convinced there are probably a good many people who are sexually attracted by children and tempted to engage in acts similar to yours, and I hope the sentence in this case will have some tendency to help them resist the temptation.<sup>15</sup>

Having discounted the importance of the trial judge's reference to general deterrence, Judge Perry insisted that *Mosely* was still good law and *Varacalle* could be distinguished on the facts.<sup>16</sup>

Judge Cook's dissent in *Varacalle* correctly pointed out that the rule for trial participants after *Varacalle* is that the trial counsel may not argue for general deterrence but the judge may consider it.<sup>17</sup> That rule of law lasted for two weeks.

#### McCree<sup>18</sup> and Whitehead<sup>19</sup>

Sometime between January 30, 1978 and February 13, 1978 a metamorphosis took place. The perch from which the chrysalis flew was the *McCree* case. *McCree* was one of several cases receiving summary disposition on the same day. Each cited *Varacalle* as a basis of authority and were it not for Judge Cook's dissent we would have no way of knowing the significance of the cases. With the help of his recitation of the facts we are able to determine that Judge Perry had joined Chief Judge Fletcher to form a majority in affirming cases where the prosecutor made general deterrence arguments. That this was the new law of deterrence argument was reinforced as recently as August 1978 when the Court addressed the case of *United States v. Whitehead*.<sup>20</sup> *Whitehead* had been received to consider, along with another question, the potential prejudice to the accused as a result of trial counsel's general deterrence argument. In an opinion by Chief Judge Fletcher with Judge Perry concurring the Court said in a footnote: "Under guidelines set forth recently in *United States v. Varacalle*, the argument in question, which merely listed deterrence of others as one of many factors for the court members to consider on sentencing, was proper."<sup>21</sup>

Judge Cook dissented in *Whitehead*. Not one to surrender in the face of adversity, he mentioned the general deterrence problem, and ignoring all developments since 1976, cited *Mosely* but not *Varacalle* or *McCree*.<sup>22</sup>

Apparently recognizing that confusion must surely reign at the trial level the Court had still

another go at the general deterrence argument only two months after *Whitehead*.

#### United States v. Ludlow<sup>23</sup>

The *Ludlow* case was an excellent vehicle for putting to rest "in our time" the general deterrence question. There the trial counsel had argued "an extremely serious and heavy penalty should be [imposed] primarily to serve as a deterrent to others."<sup>24</sup>

Consistent with the latest position of the judges, one should find Chief Judge Fletcher opining that, while a little general deterrence is a good thing, here the trial counsel went too far by inviting the court to ignore "individualized sentencing." One would expect to find Judge Perry agreeing with him. Judge Cook, faithful to *Mosely*, would have likely been all alone in dissent. However, everyone loves a surprise.

As the decision was per curiam, the position of the judges must be found by the process of elimination. That is not difficult as there are only three and Judge Fletcher dissented. Judge Cook, then, is for error and that position prevails. As the mere mention of general deterrence is enough to run afoul of his *Mosely* opinion, that is no surprise. But what is Judge Perry doing way over there with Judge Cook? That is where he was before he changed his mind in *McCree*. Perhaps he finds that the argument in *Ludlow* contains a much heavier dosage of general deterrence than was present in *McCree* and *Whitehead*. But that is not likely as those facts would have brought Chief Judge Fletcher into the fold.<sup>25</sup> A more telling item of evidence which argues against that conclusion is that the principal opinion by Judges Cook and Perry cites dissent in *McCree*.<sup>26</sup> Obviously, clarification was in order; after a government request for reconsideration was denied<sup>27</sup> the court had still another go at it.

#### United States v. Milliken<sup>28</sup>

Sergeant Milliken was tried three years before *Mosely* was decided by the Court of Military Appeals. His appeal was not decided by the Court until February 20, 1979, three years after *Mosely* and a year after *Varacalle*. Judge

Cook wrote the principal opinion indicating that the trial counsel had "made several references to the deterrence of 'others'."<sup>29</sup> He opined that this was improper and predictably cited *Mosely* for that proposition. He also cited his dissent in *McCree* and *Varacalle* without further comment. He further decided that the effects of the error had been dissipated by earlier remission of part of the sentence and no corrective action was required.

Chief Judge Fletcher concurred in disposition of the argument issue while expressing the view that *Varacalle* was dispositive, rather than *Mosely*. Likewise, Judge Perry concurred in the result but he did not mention the deterrence argument issue at all.

Does this mean that *Mosely* and *Varacalle* are both valid precedent? Does Judge Perry agree with Judge Cook that general deterrence can't be argued by the trial counsel? Does he at the same time agree with Chief Judge Fletcher that general deterrence is a valid sentencing consideration? This much seems clear. . .

The trial judge observed, rather bitterly, to himself that the arguments of counsel on the argument of counsel could go on all night. He then announced that he was prepared to rule. He told counsel and the accused that he would *average* the Court of Military Appeals' decisions and adopt the position that general deterrence could be alluded to by trial counsel but not to the extent of inviting court members to ignore instructions on sentence.

#### FOOTNOTES

<sup>1</sup> H. F. Stone to Felix Frankfurter, February 17, 1936 (The Stone Papers). See Mason, *The Supreme Court From Taft to Warren* 105 (1958). In context:

I can hardly see the use of writing judicial opinions unless they are to embody methods of analysis and of exposition which will serve the profession as a guide to the decisions of future

cases. If they are not better than an excursion ticket, good for this day and trip only, they do not serve even as protective coloration for the writer of the opinions and would much better be left unsaid.

<sup>2</sup> For an early view of such matters: "I went out to Charing Cross to see Major-general Harrison hanged, drawn, and quartered; which was done there, he looking as cheerful as any man could do in that condition." Samuel Pepys, *Diary*, October 13, 1660.

<sup>3</sup> *United States v. Hill*, 2 C.M.A. 203, 44 C.M.R. 257 (1972).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 44 C.M.R. 260.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 261.

<sup>8</sup> *United States v. Mosely*, 1 M.J. 350 (C.M.A. 1976).

<sup>9</sup> *Id.* at 351.

<sup>10</sup> *Id.* at 351.

<sup>11</sup> *United States v. Varacalle*, 4 M.J. 181 (C.M.A. 1978).

<sup>12</sup> *Id.*, at 184.

<sup>13</sup> *Id.* at 184.

<sup>14</sup> *Id.* at 182, n.2.

<sup>15</sup> *Id.* at 185.

<sup>16</sup> *Id.* at 181.

<sup>17</sup> *Id.* at 187.

<sup>18</sup> *United States v. McCree*, 4 M.J. 278 (C.M.A. 1978).

<sup>19</sup> *United States v. Whitehead*, 5 M.J. 294 (C.M.A. 1978).

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 294, n.1.

<sup>22</sup> *Id.* at 298.

<sup>23</sup> *United States v. Ludlow*, 5 M.J. 411 (C.M.A. 1978).

<sup>24</sup> *Id.* at 411.

<sup>25</sup> In his dissent, Chief Judge Fletcher cited only *Varacalle*.

<sup>26</sup> "A per curiam opinion is one where we agree to pool our weaknesses." Manley, *Nonpareil Among Judges*, 34 *Corn. L.Q.* 52 (1948), quoting "a judge of the New York Court of Appeals."

<sup>27</sup> Petition for reconsideration denied. 6 M.J. 129 (C.M.A. 1978).

<sup>28</sup> *United States v. Milliken*, 6 M.J. 210 (C.M.A. 1979).

<sup>29</sup> *Id.* at 212.

## Report From San Remo

*Major James A. Burger, Chief, International Law Division, TJAGSA<sup>1</sup>*

The deep blue waters of the Mediterranean seem almost to caress the rocky shores of the Ligurian coast. Soft winds blow in from the sea bringing coolness and rain for the neat rows of gardens which line the hills. There are greenhouses it seems almost everywhere in which the flowers are grown which give this area its name, "the Riviera of Flowers." At the turn of the century San Remo was the resort of kings. It is said to have been the favorite retreat of Kaiser Wilhelm. While some of the city has become rather neglected there are still traces of former opulence. Palatial mansions line the shore although they are now separated from the beach by the railroad which follows the undulating coast.

One of these houses, typical of the others, is constructed of pale orange cement, or of bricks covered by such cement, and it is decorated ornately with seashells and stones taken apparently from the nearby beach. A small sign indicates that it was formerly the residence of Alfredo Nobel, the donor of the famed Nobel prizes. In the garden there is, rather incongruously, a cannon which it is said he designed, and in the basement the replica of a laboratory in which it is said that he invented dynamite. His invention made him rich. Later in his life he looked back at all the destruction his invention had caused, and he decided to leave his money to found the Nobel prizes. There is a room overlooking the sea with a desk which is identified as the place where Alfredo Nobel wrote his last testament leaving his fortune to promote peace and the betterment of mankind.

It is rather a paradox that Nobel should have left his money to found a peace prize, and it is also a paradox that one of the purposes to which his home is put today is to run a course on the law of war for military officers.<sup>1</sup> Nobel's home now belongs to the local Italian government, and the government loans it for the use of what is called the International Institute of Humanitarian Law. The Institute in turn sponsors the course, and its purpose is to acquaint

military officers with the legal rules limiting warfare and to give them practical knowledge on how the rules can be implemented. The course has been given five times so far, twice in French, once in Italian, once in Spanish, and most recently in English. Officers have come to attend the course from Europe, from Africa, from Asia, and from America.

To a large extent those persons who are sponsoring the course have also been involved in the effort at Geneva to expand and modernize the Geneva Conventions of 1949 on the law of war. One of the important aspects of the new Additional Protocols to the Geneva Conventions is the emphasis placed upon dissemination or teaching and also upon making the rules practical, giving guidance on how they can be applied. The International Committee of the Red Cross which proposed the updating of the Conventions is now making a serious effort to encourage the implementation of this aspect of the new Protocols. The Director of the San Remo course is Lieutenant Colonel Frederic de Mulinen, an officer in the Swiss Army (Reserve) who works full-time for the ICRC, but who now spends most of his days organizing the San Remo program and teaching at the Villa Nobel.

Lieutenant Colonel de Mulinen has visited The Judge Advocate General's School at Charlottesville to teach at its own law of war course as a visiting lecturer. I knew about his course and was interested in comparing his course with ours. The TJAGSA Course had originally been designed to train the teaching teams which are required under AR 350-216, but it is now more generally serving to give intensive instruction on the law of war and on law of war implementation to both JAG officers and officers from other branches who are involved in the work in law of war matters.<sup>2</sup> The San Remo course is, as already noted, designed to teach officers the law of war and to demonstrate the practicality of law of war rules. There is thus an affinity between the two courses although

each has developed separately. This past September I was able to attend the San Remo Course and to participate in its presentation.

It was surprising to learn that Lieutenant Colonel de Mulinen works without a standing faculty. The Institute is not a school. Also, each course offering has to be developed and styled for the students to whom it will be presented and in the language in which it will be given. For the most recent course which was offered in English Lieutenant Colonel de Mulinen recruited a line officer from the Swiss Army who is in Switzerland's active forces and who attended the U.S. Armed Forces Staff College at Leavenworth. He invited Professor Fritz Karlshoven from the University of Leyden in the Netherlands. From the course participants he asked Colonel Michael Gill, the Deputy Judge Advocate of the Irish Army, and a judge advocate, or as they are called a "Lecturer on the Law," from the West German Ministry of Defense. Finally, he invited myself and Major Hays Parks from the United States Marine Corps. This diverse organization takes place each time the course is offered, and it works well thanks to the careful organization of the program.

The course commences with lectures to give all the students a common background, but they are quickly broken up into small groups for purposes of discussion and participation in exercises. Emphasis is placed upon the practical.<sup>3</sup> In the seminars the students are asked to share their military experience and relate it to problems presented. In the exercises the students are assigned roles which may vary from commander of a division, aviation unit, or fire support unit, to a member of the staff such as a medical officer or judge advocate. There are two kinds of exercises. In the main exercise which is carried over during most of the length of the 7 day program the students are asked to plan the attack or defense of a fixed area. They are supposed to win the war. Then, law of war problems arise as the fighting proceeds. The students must solve these problems but at the same time their main task is to accomplish their military mission.

I was surprised to learn that the line officers present had little difficulty accepting law of war concepts. And, I note that there were some very experienced officers present. The Dutch general had commanded troops in World War II and in Korea. Colonel Gill had been with the Irish forces on UN missions. The commanders of the units created during the course intended to accomplish their mission, but at the same time they felt that the rules of warfare could be observed and that these rules would not interfere with their mission. For example, if there was an urban area between your unit and your objective would it be necessary to pass through the area with resultant damage to civilian life and property? The commander's answer was that you should try to avoid urban areas anyway. The unit would make better time in the open and would probably take less casualties. On the other hand if it was necessary to go through the urban area it would have to be done. The commander would then just have to try to limit incidental damage through strict enforcement of rules of engagement.

Some of the problems discussed seemed alien to someone accustomed to American training programs. There was an emphasis on the protection of cultural property. Most of the participants were from European states, and not only are there more cultural monuments or buildings to be found in Europe, but most of the European states are parties to the Hague Convention on the Protection of Cultural Property.<sup>4</sup> In the exercises participants found themselves confronted with buildings and even whole towns marked with the blue and white shield of the Hague Cultural Property Convention. These places had to be identified and spared if at all possible. Artillery fire might be withheld, or permission to fire might be required from higher levels of command. But, there were times when destruction of such places, was necessary. All the exercise commanders agreed that an old bridge marked with the Hague shield was in itself military in nature and would be destroyed because it served a military purpose.

At the end of the course another type of

exercise was conducted with all the students brought together into one room. Lieutenant Colonel de Mulinen led the class in what he calls a "dual action" exercise. In this exercise the teacher leads the class step by step through a continuing problem. Members of the class are called upon to give answers to specific questions. They are again playing the parts of commanders, lawyers, or other staff officers. Lieutenant Colonel de Mulinen is before the class in almost continuous action himself. He uses two viewgraph machines, one showing the general military situation and the other the particular problem being raised. Discussion is animated. The instructor raises the problem. A company commander is told to destroy an enemy unit entrenched within a city. He balks at calling in artillery. His brigade commander tells him to use it. He refuses. He is relieved. Lieutenant Colonel de Mulinen never tries to influence the decisions of the participants. Answers to law of war questions are not always clear. However, the participants are required to know and to consider the rules.

I think that the most valuable part of the Sanremo Course are the exercises. They are a demonstration of the method of teaching which Lieutenant Colonel de Mulinen calls "training to convince."<sup>5</sup> The student not only is taught what the rules are, but he applies the rules to real life situations. The outcome is that he is convinced that the rules do work. This is something which we are presently experimenting with at The Judge Advocate General's School. More time is being spent in small group seminars. We have prepared an exercise similar to Lieutenant Colonel de Mulinen's dual action exercise which will be used with the Graduate Class and during the Law of War courses. It is a type of instruction which requires full involvement on the part of the student. He or she must solve the problems himself or herself, and is less able to be sceptical about what the teacher has to say because he or she arrives at his or her own answer.

Something else which became apparent at the San Remo Course was that emphasis was being given to other areas of the law which we do not stress here in the United States. We can

learn something from this. I have already mentioned the emphasis placed upon the Hague Cultural Convention. The United States is not a party to this Convention, but most of its NATO Allies are, and the application of this Convention is something which must be considered in planning for any joint operation on the European continent. Very few U.S. troops or even commanders in Europe would recognize the blue and white shield of the Hague Convention or know what to do if they did. There was also a heavy emphasis put upon the new Protocols. Lieutenant Colonel de Mulinen stated at the beginning of the course that as of December the Protocols would be in effect (at least between the two countries which have ratified them) and that from that time forward they must be looked upon as part of the existing body of the law of war.<sup>6</sup>

The Protocols specifically stipulate that "those who plan or decide upon an attack" must do everything feasible to verify that their objectives are actually military objectives, and that steps are taken to minimize the incidental destruction of civilian property and the killing of civilians.<sup>7</sup> This practical aspect of the Protocols was stressed throughout the course. Another matter stressed was the importance of the Red Cross. This was only natural since the International Committee of the Red Cross is involved in running the Sanremo program. An excellent presentation was given on what the ICRC is and what it does. This was thought provoking in terms of how much U.S. commanders or even judge advocates as well know about the ICRC and the part it might play in conflict situations.

Attendees were also that particular countries had their particular interests in law of war matters. The Swiss were concerned with their neutrality. What if there is firing over their border or an incursion on their territory? Should they intern soldiers from another state who during wartime having strayed or fled onto their territory? Colonel Gill was concerned with the problems which would confront a U.N. peacekeeping mission. He pointed out that the U.N. flag was now given recognition under the Protocols. He also said that a judge advocate

would always be sent with Irish forces dispatched on a peacekeeping mission no matter how small the unit or how long they were to be gone. The Philippine General was concerned with how all of the law of war rules apply to a situation where martial law has been imposed.

Looking back San Remo proved to be a very educational experience, not only from learning what was taught since there are always new things to be learned, but also from the point of view of seeing how the rules can be put into effect and how different people with different backgrounds will put them into effect. The attendee of such a course realizes that others are concerned with the rules, and that, if war comes about, there will be other persons in other countries who are concerned about how well the rules are followed. The rules are there. The problem is to figure out how to apply the rules. Implementation must be a matter of concern, and there must be a great deal of effort placed into it. I came back convinced that more must be done and that I had learned a few more methods to help us do it here in the United States.

#### FOOTNOTES

\* JAGC, U.S. Army. Former deputy judge advocate, NATO/SHAPE Support Group (U.S.), HQ, SHAPE, Belgium 1970-1974. B.A., St. Peter's College, 1965; J.D., Villanova University School of Law, 1968; M.A., Boston University, 1974; LL.M., University of Virginia School of Law, 1978.

<sup>1</sup> The First International Course on the Law of War for Officers held at San Remo from 16-23 June 1976 was published in its entirety in the *Revue de Droit Penal Militaire et de Droit de la Guerre. 1er Cours International sur le Droit de la Guerre pour Officers*, 15 REVUE DE DROIT PENAL MILITAIRE ET DE DROIT DE LA GUERRE XVI-1 (1977). The course was given in French and the text is also in French.

<sup>2</sup> The current TJAGSA Course is described in *Law of War Workshop* (5f-F42), THE ARMY LAWYER, Sep. 1978, at 54.

<sup>3</sup> F. de Mulinen, *The Law of War and the Armed Forces*, 202 INTERNATIONAL REVIEW OF THE RED CROSS 18 (Feb. 1978). This article was also commented on in Burger, *International Law—The Role of the Legal Advisor, and Law of War Instruction*, THE ARMY LAWYER, Sep. 1978 at 22.

<sup>4</sup> Convention on the Protection of Cultural Property in the Event of Armed Conflict, 249 U.N.T.S. 271 (14 May 1974). The Treaty also known as the Hague-Treaty on the Protection of Cultural Property was concluded at the Hague on 14 May 1974. It was signed by the United States but has not been ratified by this country. The treaty went into effect on 9 September 1964. There are presently 29 states which have ratified the convention.

<sup>5</sup> de Mulinen *supra* n. 3 at 28.

<sup>6</sup> The two countries which have ratified the 1977 Protocols are Ghana and Libya. The Protocols take effect six months after any two nations have acceded to them. This will mean that they will be in effect between Ghana and Libya on December 7, 1978. 30 INTERNATIONAL COMMITTEE OF THE RED CROSS BULLETIN 4 (5 Jul. 1978).

<sup>7</sup> Art. 57 of Protocol I, Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflict: Protocols I and II to the Geneva Conventions, 16 INTERNATIONAL LEGAL MATERIALS 1391 (Vol. 6, Nov. 1977).

## Guilty Pleas in the Absence of Jurisdiction— An Unanswered Question

Major Charles L. Schwabe, JAGC  
27th Graduate Course, TJAGSA

A crime has been committed by a man in Army green. It is a crime cognizable in military and civilian courts. Court-martial charges have been initiated and referred for trial. In preparation for trial, the military defense counsel has discovered that the Army does not have authority to try the accused because of a lack of

jurisdiction over his person (no military status) and over the offense (inadequate service connection). The situation would be the defense counsel's dream if a civilian court was not ready, able, and quite willing to try the client and if evidence of the client's guilt was not entirely overwhelming and credible. The client

wants no part of the civilian court's justice. He wants the best he can get out of a court-martial. He understands from his counsel's well-considered advice that the best will probably include a trip to Leavenworth, far from the place of his crime, and ultimately having his conviction overturned by an appellate court. Under the facts and current law, the counsel and his client recognize it would be best for the client not to raise the lack of jurisdiction, but to plead guilty, with a pretrial agreement if it can be obtained, and let the appellate defense counsel shine later in the proceedings. But can a trial defense counsel ethically always do what is in his client's best interest?

In Ethics Case 78-1<sup>1</sup> the Judge Advocate General's Professional Responsibility Advisory Committee addressed the situation above but did not answer the following important question: May a defense counsel ethically participate in a client's guilty plea in a case where the attorney knows jurisdiction is lacking but chooses not to raise the issue for tactical reasons? Unfortunately, the answers to other questions addressed by the Committee in that case can easily give the impression that the Committee has answered that question in the affirmative. It was stated in the opinion that a defense counsel has no duty to raise a jurisdictional issue at trial.<sup>2</sup> It was also stated that silence on jurisdictional matters does not constitute presentation of false evidence or perpetration of a fraud on the court.<sup>3</sup> In the context of the opinion, "silence" refers to the intentional failure of the defense counsel to raise the trial court's lack of jurisdiction. The opinion did not discuss what is presented to the court by a guilty plea. It did not take a position on whether a guilty plea in the known absence of jurisdiction might constitute misrepresentation or a fraud on the court. The opinion stated that the Committee found it difficult to perceive any reason to question the attorney's ethics in cases where he or she chooses not to raise a jurisdictional issue at trial for tactical reasons.<sup>4</sup> It stated that the problem is the rule of law that jurisdiction is never waived,<sup>5</sup> implying that there can be no problem related to professional responsibility in participating in a

client's trial, regardless of the plea, without raising known jurisdictional issues.

It is suggested that the Committee's failure to address the question of guilty pleas in the absence of jurisdiction is the cause of its difficulty in perception of an ethical dilemma. Even though the question was not specifically presented to the Committee, it is so inextricably a part of the overall problem of defending a case in the absence of jurisdiction that it should have been addressed. This paper suggests an answer to that question.

The question of an attorney's participation in his client's pleas of guilty when he knows jurisdiction is lacking and does not raise the issue is one of the fundamental honesty of such a tactic. Does it involve the attorney in misrepresentation or perpetration of a fraud on the court? In an earlier opinion, Ethics Case 76-7,<sup>6</sup> the Committee found that an attorney knowingly misrepresented a fact to a trial court in the following circumstances. An accused pleaded guilty to the charge and specifications he was facing. The defense counsel did not raise an issue of lack of jurisdiction. In a presentencing session, out of the panel's hearing, the defense counsel was asked by the judge if the data on the first page of the charge sheet were correct. The counsel answered, "Yes, sir, your honor, the data are correct."<sup>7</sup> Later, after those data were read by the trial counsel to the court members, the judge again asked the defense counsel if the data were correct. He responded, "Yes, your honor, they were read correctly."<sup>8</sup> The accused was sentenced and the issue of lack of jurisdiction over the person of the accused was raised on appeal, based on a question concerning his age at the time of enlistment. It was determined during appellate proceedings that the accused was born three years later than the date reflected on the charge sheet, he was underage when he enlisted, and the defense counsel was aware of that discrepancy at the time he confirmed the accuracy of the data on the charge sheet.<sup>9</sup> The defense counsel had consciously determined not to raise the matter of his client's age because he did not want to implicate him in other offenses and for practical reasons. The Committee found such actions to

constitute knowing misrepresentation of the client's age. It stated that the counsel's duty to protect the confidences and secrets of his client did not entail affirmative misrepresentation to a court *under any circumstances*<sup>10</sup> (emphasis added). It stated that neither a counsel nor his client has a legal obligation to confirm the accuracy of information presented to the court by the Government, and noted the right of counsel to decline to verify such information.<sup>11</sup>

In 76-7, the Committee stated its position regarding misrepresentation of a specific fact essential to jurisdiction. Could a different position be taken regarding admission of all facts essential to jurisdiction in a given case?

It might be reasoned that a guilty plea is not an admission of jurisdiction because jurisdiction is never waived. The rule of nonwaiver, however, simply means that actions taken by courts-martial which exceed their authority may be corrected at any time.

The Manual for Courts-Martial specifies that a plea admits nothing as to the jurisdiction of the court, except those matters covered by a plea of guilty.<sup>12</sup> It provides that a plea of guilty admits every element charged.<sup>13</sup> The Court of Military Appeals requires allegation of facts supporting jurisdiction over the accused and the offense.<sup>14</sup> Together, those authorities stand for the proposition that the facts upon which jurisdiction is based are admitted to a court during a guilty plea. Jurisdiction is a conclusion to be drawn from facts. Depending on the facts, jurisdiction either exists or it does not. A guilty plea relieves the Government of its burden of proving all facts. Therefore, it is the accused, with the assistance of counsel, who presents all the facts necessary for his conviction. The accused and his counsel must convince the court of its jurisdiction and the providency of the accused's plea through representations of fact. Unquestionably, if the trial misled, either through honest mistake on the part of the accused and his counsel, or through their intentional misrepresentation of facts, the erroneous conclusion that jurisdiction existed must be reversed when revealed at the appellate level. However, the rule of nonwaiver is not a license

to participate in fraud. There is no way to justify the unsavory picture of an attorney's involvement in knowing misrepresentation merely because the law allows the erroneous result of misrepresentation to be changed when the truth is revealed.

It might be suggested that the defense counsel does not present matters of fact to the court during a client's guilty plea. In other words, it could be said that it is the client who pleads guilty and the client is not subject to a lawyer's ethical standards. The common experience of every lawyer who has been involved in courts-martial must, however, speak against such a suggestion. The defense counsel guides the client's actions and statements before and during trial. The counsel advises the client on the plea to be made and at times may even assist the accused in expressing himself during the providency inquiry. It is a rare situation in which an accused pleads guilty contrary to the court during guilty plea proceedings as a result of the lawyer's advice and assistance are very much the responsibility of the defense counsel. Even if it were possible to divorce the defense counsel from in-court participation in the client's guilty plea representations, is not the attorney nonetheless counseling or assisting his client in conduct known to be fraudulent?<sup>15</sup> And is the lawyer not doing through the client what the lawyer cannot personally do?<sup>16</sup>

The Committee's statement in 78-1 that the law of nonwaiver is the problem reflects a misperception of the problem. In the context of professional responsibility, the problem is not the state of the law. It is how ethically to represent one's client within the bounds of the law. When there is a conflict between the client's best interest and the lawyer's professional responsibility, which must be pursued?

The Committee stated in both 78-1 and 76-7 that silence, in the absence of a duty to reveal, is not misrepresentation. It stated in the former that there is no duty to reveal the absence of jurisdiction. It is the opinion of the writer that both of those propositions are correct, but that a guilty plea is not silence on the facts relating to jurisdiction. It is believed that,

as an officer of the court, the defense counsel bears direct responsibility for the truthfulness of matters presented to the court which are within his knowledge. It is urged that a defense counsel may not ethically counsel a client to plead guilty in a case, or participate in a guilty plea by a client, in a case in which the lawyer knows jurisdiction is lacking without raising the issue of jurisdiction. The only means of remaining silent on jurisdictional facts are to advise the client to plead not guilty or to stand mute before the court.

If a defense counsel is allowed to knowingly participate in his client's plea of guilty without raising the issue of jurisdiction when jurisdiction is known to be lacking, there is an anomaly in our professional standards. On one hand, as in 76-7, an attorney could be disciplined for personally presenting or confirming erroneous information relevant to jurisdiction of the trial court. On the other, the same attorney would be immune from disciplinary action if the attorney counseled a client to confirm erroneous jurisdictional allegations in a specification by pleading guilty thereto. This would be so, notwithstanding that the defense counsel took both actions for tactical reasons that were in the best interests of the client.

A decision that the Code of Professional Responsibility precludes a defense counsel from participating in a client's guilty plea in the known absence of jurisdiction, without raising the issue of jurisdiction, would not affect the rule of nonwaiver. The law of jurisdiction will not be changed through application of professional standards of conduct. Nor would such a decision require the trial defense counsel to raise jurisdictional issues when it is in the client's best interest not to do so. It would mean only that if a defense counsel elects not to raise known jurisdictional defects at trial, that counsel may not use the perception of jurisdiction to obtain the sentencing benefits of a guilty plea at trial and subsequently cause jurisdiction to be attacked on the basis of knowledge the attorney held at the time of the plea.

The degree of factual knowledge a defense counsel can have concerning lack of jurisdiction will vary from case to case. It can range from certainty to none. This paper addresses only the circumstances of certain knowledge, recognizing that such cases are rare. A more difficult dilemma exists in cases where knowledge is less than absolute. However, before it can be possible to attempt a line drawing exercise in less than certain cases, a clear statement from an authoritative source concerning cases of absolute knowledge must be forthcoming. It is hoped this article might prompt such a statement from the Professional Responsibility Advisory Committee, in clarification of Ethics Case 78-1.

### Footnotes

1. DAJA-CL, report in *Professional Responsibility*, The Army Lawyer, June 1978, at 11.
2. *Id.* at 12.
3. *Id.* at 13; ABA Code of Professional Responsibility, as amended Aug. 1976., DR 1-102(A)(4): "A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."
4. *Supra*, n. 1, at 13.
5. *Id.*
6. DAJA-CL, reported in *Professional Responsibility*, The Army Lawyer, Jan. 1977, at 4.
7. *Id.*
8. *Id.*
9. *Id.* at 5.
10. *Id.*
11. *Id.*
12. Para. 70a, MCM, 1969 (Rev. Ed.).
13. *Id.*, para. 70b.
14. *United States v. Alef*, 3 M.J. 414 (C.M.A. 1977).
15. ABA Code of Professional Responsibility, as amended Aug. 1976, DR 7-102(A)(7): "In his representation of a client, a lawyer shall not counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent."
16. *Id.* DR 1-102(A)(2): "A lawyer shall not circumvent a Disciplinary Rule through actions of another."

### Professional Responsibility and the Legal Assistance Officer

In recent years The Judge Advocate General has received several complaints alleging violations of the Code of Professional Responsibility by legal assistance officers. These ethical violations display excessive zeal and lack of professional objectivity on the part of legal assistance officers. They also reveal insufficient supervision of legal assistance officers by staff judge advocates, command judge advocates, and other supervisory personnel.

The Judge Advocate General has reiterated his prior guidance that legal assistance operations be monitored closely. All legal assistance correspondence should be read by an officer in

a supervisory position to ensure compliance with the Code of Professional Responsibility and the high professional standards of conduct expected of all officers of The Judge Advocate General's Corps. Further, all new legal assistance officers should be required to read *The Army Lawyer* reports of actions recommended by The Judge Advocate General's Professional Responsibility Advisory Committee and actions taken by The Judge Advocate General or other JAGC general officers. Additional guidance should be provided as determined necessary and appropriate by supervisory judge advocates.

### Labor Law Item

*Labor and Civilian Personnel Law Office, OTJAG*

**ON-POST PICKETING BY LABOR UNIONS.** All staff judge advocates should maintain a reference copy of DA Message 240857Z FEB 79, from DA WASH DC, DAPE-CPL, to AIG 9150, Subject: Clarification of Department of the Army Policy on Informational Picketing. This message restates the Department of the Army policy prohibiting any form of picketing on a military installation. Steps should be taken to insure that close coordi-

nation is maintained with civilian personnel officers and contracting officers to insure that both the private sector and Federal employee labor organizations are not given authorization to conduct any type of picketing on an installation. This prohibition includes on-post informational picketing by Federal employees, even when they are on leave or in any other non-duty status.

### Judiciary Notes

*U.S. Army Judiciary*

#### NON-JUDICIAL PUNISHMENT QUARTERLY COURT-MARTIAL RATES PER 1000 AVERAGE STRENGTH

October-December 1978

	<i>Quarterly Rates</i>
ARMY-WIDE	45.03
CONUS Army commands	44.56
OVERSEAS Army commands	45.79
USAREUR and Seventh Army commands	44.56
Eighth US Army	63.91
US Army Japan	14.97
Units in Hawaii	54.31
Units in Thailand	—
Units in Alaska	22.88
Units in Panama/Canal Zone	30.11

#### QUARTERLY COURT-MARTIAL RATES PER 1000 AVERAGE STRENGTH

October-December 1978

	<i>General CM</i>	<i>Special CM</i>	<i>Summary CM</i>	
		BCD	NON-BCD	
ARMY-WIDE	.30	.24	1.07	.65
CONUS Army commands	.19	.22	.96	.63
OVERSEAS Army commands	.48	.27	1.26	.67
UAAREUR and Seventh Army commands	.61	.26	1.21	.57
Eighth US Army	.06	.38	1.98	.79
US Army Japan	—	—	—	—
Units in Hawaii	.10	.47	1.26	1.63
Units in Thailand	—	—	—	—
Units in Alaska	.30	.10	.70	.60
Units in Panama/Canal Zone	.14	—	.83	1.24

## Legal Assistance Items

*Major F. John Wagner, Jr., Developments, Doctrine and Literature Department, Major Joseph C. Fowler, and Major Steven F. Lancaster, Administrative and Civil Law Division, TJAGSA.*

### ITEMS OF INTEREST

**ADMINISTRATION—PREVENTIVE LAW.** *Fedders Agrees to Fix More Than 40,000 Defective Heat Pumps, Reimburse for Past Repairs. Agreement Provides for Direct Notice to Owners.*

Fedders Corps. has agreed to fix more than 40,000 defective "split-system" heat pumps and reimburse owners for the cost of past repairs resulting from the defect, the FTC announced.

The consent agreement also provides for an extension of the warranty on the repaired pumps to May 1, 1980.

It incorporates a procedure for directly notifying current and former owners by mail and, if necessary, by paid advertising. The procedure aims to reach at least 90 percent of heat-pump owners.

Covered by the agreement are all split-system pumps manufactured by Fededers between November 1975 and June 1, 1978. They were sold under the Fedders and Climatrol brand names, with the Fedders units designated as model CKH.

FTC staff investigators estimate the cost of each compressor replacement at \$250 to \$400. Some owners have had multiple compressor failures, they note.

Under the terms of the agreement, Fedders would have to contact 90 percent of the pump owners by mail or, failing that, would have to supplement its mail notifications with an advertising campaign in several national magazines.

This marks the first time the FTC has obtained a consent agreement involving, in effect, a "recall" of defective products that caused economic injury to consumers. The agreement is also the first to provide restitution for defects occurring after expiration of a warranty.

The original Fedders warranty covered parts

and labor on the entire unit for one year and parts only on the compressor for five years.

The FTC staff began its investigation as a result of a letter from Air Force Major Arthur J. Doherty of Woodbridge, VA, reporting that his pump, costing approximately \$3,000 had failed after 18 months. Major Doherty also said he had surveyed other homes with Fedders heat pumps and had found an unusually high failure rate. [Ref: Ch. 2, DA Pam 27-12.]

**Family Law—Domestic Relations—Alimony And Child Support.** *In New York, By Judicial Decision And Now By Legislation, Custodial Parents Risk The Loss Of Alimony And Child Support When They Interfere With Visitation Rights. Hudson v. Hudson, 5 Fam. L. Rep. 2173 (N.Y. Sup. Ct. New York City, 1978).* A father who had fallen \$10,000 in arrears on child support and alimony payments was relieved from paying the arrearages when the court found that the children's mother had deliberately interfered with the father's visitation rights. The court also held that future support payments would be suspended while the mother continued to interfere with the visitation agreement.

The appellate court examined prior New York case law and determined that child support as well as alimony was subject to termination or suspension. Further, the court decided that section 241 of the recently enacted New York Domestic Relations Law was a codification of existing case law on this subject and concluded, therefore, that, whether the support obligation was created by court order or private agreement, it is subject to modification when the visitation aspects are violated.

In New Mexico, on the other hand, a denial of visitation rights cannot be used to relieve the noncustodial party of arrearages in support obligations. Future payments, though, may be

terminated [*Gomey v. Gomey*, 5 Fam. L. Rep. 2205 (N.M. Sup. Ct., 1978)].

[Ref: Ch 20, DA Pam 27-12.]

### Recently Enacted Legislation

**Family Law—Domestic Relations—Divorce.** *Alabama and Hawaii Have Recently Enacted Changes to Their Divorce Laws Which Should be of Interest to Servicemembers.* Alabama has added a provision that alimony shall be terminated upon petition of a party to the decree and proof that the spouse receiving alimony has remarried or is living openly or cohabiting with a member of the opposite sex. (Ala. Code Tit. 34 § 40).

Hawaii has reduced its residency requirement for a party seeking a divorce from one year to six months (Haw. Rev. Stat. § 580-1) and has provided for court orders requiring one spouse to pay the attorney's fee for the other spouse (Haw. Rev. Stat. § 580-9).

[Ref: Ch 20, DA Pam 27-12.]

**DECEDENT'S ESTATES AND SURVIVOR'S BENEFITS—SURVIVOR'S BENEFITS.** Pay and allowances due the designated beneficiary of a deceased servicemember, who is a cash basis taxpayer, are treated as income in respect of decedents under § 691 of the Internal Revenue Code. They are therefore treated as income to the beneficiary and not included in the decedent's estate for federal estate tax purposes as was incorrectly stated in the article, *Survivor Benefits: A*

*Checklist, The Army Lawyer*, September 1977, at 3.

[Ref: Ch. 16, DA Pam 27-12.]

**TAXATION—FEDERAL INCOME TAX—TAX TREATMENT EXTENSION ACT OF 1977.** The Tax Treatment Extension Act of 1977 (Public Law 95-615, 8 November 1978) delays until after tax year 1977 the effective date of the changes made by the Tax Reform Act of 1976 to the Section 911 exclusion for income earned abroad. Therefore the \$20,000/\$25,000 exclusion levels apply for the 1977 tax year. Section 204 of the Act amends Section 217 (moving expenses) of the Internal Revenue Code as relates to foreign moves by:

1. Increasing the 30-day limitation on the cost of temporary quarters to 90 days;
2. Increasing the limit on the costs of meals and lodging incurred while searching for a new residence and the costs of meals and lodging while occupying temporary quarters from 1,500 to \$4,500.
3. Increasing the overall limit on the deduction for expenses incurred incident to the sale, purchase, and lease of a residence from \$3,000 to \$6,000.

For purposes of section 217 a foreign move means "the commencement of work by the taxpayer at a new principal place of work located outside the United States." Thus, a move from a foreign country to the United States is not a foreign move.

—[Ref: Ch. 41, DA Pam 27-12.]

### Reserve Affairs Items

*Reserve Affairs Department, TJAGSA*

#### 1. Special Legal Assistance Program

A judge advocate commissioned in the United States Army Reserve and who is not serving on active duty may request to be designated by The Judge Advocate General as "Special Legal Assistance Officer" for the pur-

pose of rendering legal assistance in accordance with paragraph 5b(2), AR 608-50. The program allows designated attorneys to render legal assistance to members of the active Army and their dependents assigned to units not having reasonable access to a legal assistance office of the Army, Navy, Air Force or Coast

Guard. The roster printed below, listing state and city locations, contains the names of reserve officers currently designated on orders as Special Legal Assistance Officers. If you are interested in being designated as Special Legal Assistance Officer and you are a resident of a state not listed on the roster, please forward your request to Director, Reserve Affairs Department, The Judge Advocate General's School, Charlottesville, Virginia 22901.

Officers so designated receive no military pay and are not allowed to accept any fee for their services. They are, however, entitled to

receive retirement points which are creditable towards their reserve requirements. To request the award of retirement points for work performed in accordance with this program, officers should prepare and forward to the Director, Reserve Affairs Department, The Judge Advocate General's School, Charlottesville, Virginia 22901, a copy of Record of Individual Performance of Reserve Duty Training (DA Form 1380). The form will be reviewed and then forwarded to the Reserve Components Personnel and Administration Center, St. Louis, Missouri, for granting of appropriate credit.

**ROSTER OF RESERVE JUDGE ADVOCATES DESIGNATED  
AS SPECIAL LEGAL ASSISTANCE OFFICERS  
PURSUANT TO PARAGRAPH 5b(2), AR 608-50**

<i>State and City</i>	<i>Name</i>	<i>Business Address</i>	<i>Telephone Number</i>
<i>Arizona</i>			
Sierra Vista	Shull, Charles J., MAJ, USAR RCPAC Control Gp (MOB DES) (SO #115, 18 Dec 73)	25 El Camino Real Sierra Vista, AZ 85635	(602) 458-0808
<i>California</i>			
Sacramento	Verzyl, Edwin, COL, ARNG, HQ 79th Support Center, CA ARNG (SO #56, 18 Jun 73)	2642 El Paseo Lane Sacramento, CA 95821	(916) 483-3202
San Francisco	Najarian, Melvin K., MAJ, USAR (SO #26, 14 Apr 75)	530 Jackson Street San Francisco, CA 94133	(415) 788-6330
<i>District of Columbia</i>	George, W. Peyton, LTC, USAR SJA, 352d Civil Affairs Command (SO #2, 10 Jan 75)	Suite 350, 1701 Penn. Ave. NW Washington, D. C. 20006	(202) 338-7800
<i>Florida</i>			
Fort Lauderdale	Graham, Thomas A. III, CPT, USAR 174th JAG Detachment (SO #15, 10 Mar 75)	P. O. Drawer 14128 Fort Lauderdale, FL 33302	(305) 462-1505

<i>State and City</i>	<i>Name</i>	<i>Business Address</i>	<i>Telephone Number</i>
Hialeah	Holden, Francis E., Jr., CPT, USAR 168th JAG Detachment (SO #15, 10 Mar 75)	116 Hialeah Drive Hialeah, FL 33010	(305) 885-1475
Miami	Chait, Jere N., LTC, USAR 174th JAG Detachment (SO dated 20 Jun 77)	1481 N.W. 7th Street Miami, FL 33125	(305) 541-2595
	Lilly, Lawrence G., LTC, USAR 109th JAG Detachment (SO #15, 10 Mar 75)	8541 S.W. 152d Street Miami, FL 33157	(305) 253-9450
Miami: (cont'd)	Raattama, Henry H., Jr., CPT, USAR 168th JAG Detachment (SO #15, 10 Mar 75)	1600 S.E. 1st National Bank Building Miami, FL 33131	(305) 358-5100
	Rennella, Cosme E., CPT, USAR 172d JAG Detachment (SO dated 20 Jun 77)	2280 S.W. 23rd Terrace Miami, FL 33155	(305) 856-7810
Miami Beach	Durcker, Alden N., LTC, USAR 174th JAG Detachment (SO dated 20 Jun 77)	420 Lincoln Road, Suite 6 Miami Beach, FL 33139	(305) 538-1401
Palm Beach	Caldwell, Manley P., Jr., LTC, USAR RCPAC Control Group (Reinf) (SO dated 9 Dec 76)	P. O. Box 2775 324 Royal Palm Way Palm Beach, FL 33480	(305) 655-0620
Pompano Beach	Sullivan, William F., CPT, USAR 169th JAG Detachment (SO #15, 10 Mar 75)	2401 East Atlantic Blvd. Pompano Beach, FL 33062	(305) 781-7600
<i>Ohio</i>			
Cincinnati	Jennewein, Jacquelson A., LTC, USAR RCPAC Control Group (Retired) (SO #63, 30 Sep 75)	3826 Middleton Avenue Cincinnati, OH 45220	(513) 421-4420
Dayton	Hunt, Carroll E., COL, USAR 146th JAG Detachment (SO #26m 14 Apr 75)	Suite 1520, Hulamn Bldg 120 West 2d Street Dayton, OH 45402	(513) 223-0808

<i>State and City</i>	<i>Name</i>	<i>Business Address</i>	<i>Telephone Number</i>
<i>Oklahoma</i>			
McAlester	Cornish, Richard P., CPT, USAR RCPAC Control Group (Reinf) (SO # May 78)	P. O. Box 1106 McAlester, OK 74501	(918) 423-5070
<i>Pennsylvania</i>			
Philadelphia	Cohen, Gene D., CPT, USAR 153d JAG Detachment (SO #115, 18 Dec 73)	1201 Chestnut Street Philadelphia, PA 19107	(215) 564-1880
	Jaffee, Jerome, LTC, USAR 157th JAG Detachment (SO #56, 18 Jun 73)	1201 Chestnut Street Philadelphia, PA 19107	(215) 563-1288
<i>Texas</i>			
Amarillo	Hill, Edward H., COL, USAR RCPAC Control Group (Reinf) (SO #26, 14 Apr 75)	1500 Amarillo National Bank Building Amarillo, TX 79116	(806) 376-5613
Dallas	Thomas, Evan E., CPT, USAR SJA, 493th Engineer Group	Headquarters Army and Air Force Exchange Service Office of the General Counsel Dallas, Texas 75222	(214) 330-2174
El Paso	Boyaki, Walter L., CPT, USAR 22d JAG Detachment (SO # Jul 76)	4621 Pershing Drive El Paso, TX 79925	(915) 566-8688
	Miranda, Ralph G., MAJ, USAR 22d JAG Detachment (SO #74, 19 Nov 74)	4621 Pershing Drive El Paso, TX 79912	(915) 544-3022
	Shelton, Glen H., CPT, USAR RCPAC Control Group (Reinf) (SO #33, 29 May 75)	Suite 920 109 North Oregon Street El Paso, TX 79901	(915) 533.1691
	Weinert, William E., LTC, USAR 22 JAG Detachment (SO #74, 19 Nov 74)	Room 307, U. S. Court House P. O. Box 0309 El Paso, TX 79984	(915) 543-7612

<i>State and City</i>	<i>Name</i>	<i>Business Address</i>	<i>Telephone Number</i>
<i>Tennessee</i>			
Union City	Warner, John L., Jr., CPT, USAR RCPAC Control Group (Standby) (SO #56, 18 Jun 73)	306 West Church Street Union City, TN 38261	(901) 885-2430
<i>Vermont</i>			
South Royalton	Burstein, Richard I., MAJ, USAR HQ 167th Support Group (SO #115, 18 Dec 73)	Box 28 Randolph, Vermont 05060	(802) 728-9788
<i>Virginia</i>			
Norfolk	Cloud, John M., LTC, USAR 300th Support Group (SO #56, 18 Jun 73)	214 Executive Building Janaf Shopping Center Norfolk, VA 23502	(804) 461-6803
	Furr, Carter B. S., LTC, USAR 300th Support Group (SO #56, 18 Jun 73)	333 West Freemason Street Norfolk, VA 23510	(804) 622-3239
<i>Washington</i>			
Redman	Diesen, Charles F., MAJ, USAR 226th JAG Detachment (SO #56, 18 Jun 73)	16275 N.E. 85th Street Redmond, WA 98052	(206) 885-2640
<i>Wisconsin</i>			
Milwaukee	Lukoff, Mark, 1LT, USAR 407th Civil Affairs Company (SO #63, 30 Sep 75)	230 West Wells Street Room 500 Milwaukee, WI 53203	(414) 224-4805

**2. Mobilization Designee Vacancies**

A number of installations have recently had new mobilization designee positions approved and applications may be made for these and other vacancies which now exist. Interested JA Reservists should submit Application for

Mobilization Designation Assignment (DA Form 2976) to The Judge Advocate General's School, ATTN: Lieutenant Colonel William Carew, Reserve Affairs Department, Charlottesville, Virginia 22901. Current Positions available are as follows:

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	03A	02	01	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	04	04	Trial Counsel	5th Inf	Ft Polk
CPT	03B	05	02	Defense Counsel	USA Garrison	Ft Devens
CPT	03C	02	01	Asst SJA	101st ABN Div	Ft Campbell
CPT	03D	01	01	Asst JA Claims Officer	USA Garrison	Ft Devens

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	03B	01	04	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	02	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	01	02	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	04	03	Trial Counsel	5th Inf	Ft Polk
CPT	03B	04	02	Trial Counsel	5th Inf	Ft Polk
CPT	03B	03	02	Trial Counsel	USA Garrison	Ft Devens
CPT	03B	03	02	Def Counsel	5th Inf	Ft Polk
CPT	03B	03	03	Def Counsel	5th Inf	Ft Polk
CPT	03B	02	04	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	01	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	04	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03A	02	03	Trial Counsel	101st ABN Div	Ft Campbell
CPT	03B	03	01	Defense Counsel	5th Inf	Ft Polk
CPT	03B	01	03	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03C	06	01	Admin Law Off	USA Garrison	Ft Devens
CPT	03D	05	01	Asst SJA—DC	USA Garrison	Ft Stewart
CPT	03B	02	03	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03E	03	01	Asst SJA	USA Garrison	Ft Stewart
CPT	52B	03	01	Asst SJA—DC	USA Garrison	Ft Stewart
CPT	03B	02	02	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03D	05	02	Asst SJA—DC	USA Garrison	Ft Stewart
CPT	03B	04	01	Trial Counsel	5th Inf	Ft Polk
CPT	52C	01	01	Asst SJA	USA Garrison	Ft Stewart
CPT	62B	05	01	Asst Admin Law Off	USA Forces Cmd	Ft McPherson
CPT	62C	05	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson
CPT	03B	03	04	Def Counsel	5th Inf	Ft Polk
CPT	50C	04	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson
LTC	62F	03	01	Labor Rel Atty	USA Forces Cmd	Ft McPherson
LTC	03	01	01	Staff JA	101st ABN Div	Ft Campbell
LTC	03	02	01	SJA	5th Inf	Ft Polk
MAJ	03A	01	01	Ch Trial Counsel	101st ABN Div	Ft Campbell
MAJ	03C	01	01	Asst SJA	5th Inf	Ft Polk
MAJ	03C	01	02	Asst SJA	5th Inf	Ft Polk
MAJ	03B	02	01	Ch Trial Counsel	5th Inf	Ft Polk
MAJ	03B	01	01	Ch Def Counsel	5th Inf	Ft Polk
MAJ	03B	01	01	Ch Def Counsel	101st ABN Div	Ft Campbell
MAJ	03E	01	01	Chief	USA Garrison	Ft Stewart
MAJ	03C	01	01	Ch Admin Law Br	101st ABN Div	Ft Campbell
MAJ	03C	02	01	Ch Admin Law Off	USA Garrison	Ft Devens
MAJ	62E	03	01	Asst Res Aff Off	USA Forces Cmd	Ft McPherson
MAJ	03C	01	01	Ch Leg Asst Off	USA Garrison	Ft Devens
MAJ	03B	01	01	Ch Mil Justice Br	USA Garrison	Ft Devens
MAJ	62D	04	01	Fiscal Law Off	USA Forces Cmd	Ft McPherson
MAJ	62C	04	01	Asst Crim Law Off	USA Forces Cmd	Ft McPherson

Additional positions will be approved in the near future. Judge Advocates wishing to be considered for *any* available Mob Des position should so annotate DA Form 2976.

### 3. Enlisted Reserve MOS Training

The U.S. Army Administration Center at Fort Benjamin Harrison, Indiana, has approved The Judge Advocate General's School's request that the Administration Center conduct enlisted Reserve MOS training for Legal Clerks (71D) and Court Reporters (71E) this summer, for enlisted personnel assigned to JAGSO court martial trial teams in the First Army and Fifth Army areas, *only*. The Legal Clerks course will be offered from 16-27 July, and again from 30 July-10 August. The Court Reporters course will be offered from 16 July-27 July, again from 30 July-10 August, and from 13 August to 24 August.

It must be emphasized that personnel to be trained as Court Reporters *must be qualified*

as Legal Clerks and be able to type at least 40 net words per minute. If personnel do not have these qualifications, it will be virtually impossible for them to successfully complete the Court Reporter training.

A training course of two weeks duration is not sufficient to award the students MOS 71D or 71E. Accordingly, students will be issued a Certificate of Attendance in lieu of a diploma.

Coordination for attendance at these courses should be accomplished through the Commanding General, U.S. Army Administration Center and Fort Benjamin Harrison, ATTN: ATSG-CT (CW3 Hall), Fort Benjamin Harrison, Indiana 46216, phone (317) 542-3450 or Autovon 699-3450.

### Library High Density Shelving

*CW4 D.A. Gaffney, Legal Admin Officer, Office of the Staff Judge Advocate, TRADOC*

Are you running out of shelf space for your ever-increasing library? It might be to your advantage to take a look at high density shelving, also known as compressed or mobile shelving.

The mobile shelving concept is designed to provide the highest density of book storage in a given amount of floor space. A group of two single face shelves (fixed) on each side of the module, and several double face shelf ranges (mobile) form the module. A common aisle is created where needed by moving the ranges which are fitted on rollers. In some systems the movable ranges are operated electrically while others are mechanically assisted. A single range in the mechanical system can be moved with as little as 6-7 pounds of pressure.

The high density concept permits central location of the law library, can increase shelving capacity by 10-15%, and permits more efficient utilization of space. The benefits and increased efficiency gained make it cost effective; so, if you want to improve your current system, high density shelving may be the answer.

There are a number of manufacturers of high density shelving and none is clearly superior to the others. Therefore, you may wish to consult the ABA Journal and select several vendors who will gladly furnish you informational material and/or visit your office to perform an on-site study to determine your needs. Some of the systems are on GSA contract, so you should visit your local procurement office for assistance.

### Videocassettes Available from TJAGSA

*Television Operations of The Judge Advocate General's School announces that the videocassettes listed below are available, in color, to the field. If you desire any of these programs, please send a blank 3/4 inch videocassette of the appropriate length to The Judge Advocate General's School, U.S. Army, ATTN: Television Operations, Charlottesville, Virginia 22901.*

## CONTRACT LAW

## 9TH CONTRACT ATTORNEYS' ADVANCED COURSE (8-12 JANUARY 1979)

TAPE #	TITLE	RUNNING TIME
JA-117-	THE FEDERAL ACQUISITION REGULATION: ITS DEVELOPMENT, PART I Guest Speaker: Colonel John D. Slinkard, FAR Project Office, Rosslyn, Virginia.	55:00
JA-117-2	THE FEDERAL ACQUISITION REGULATION: ITS DEVELOPMENT, PART II A continuation of JA-117-1.	33:??
JA-117-3	THE FEDERAL ACQUISITION REGULATION: AN ANALYSIS, PART I Guest Speaker: Professor Ralph C. Nash, Jr., The George Washington University, National Law Center, Washington, DC.	53:00
JA-117-4	THE FEDERAL ACQUISITION REGULATION: AN ANALYSIS, PART II A continuation of JA-117-3.	38:00
JA-117-5	SMALL BUSINESS ADMINISTRATION PROGRAMS FOR WOMEN AND MINORITIES, PART I Guest Speaker: Mr. Carl T. Horton, Small Business Administration, Washington, DC.	55:00
JA-117-6	SMALL BUSINESS ADMINISTRATION PROGRAMS FOR WOMEN AND MINORITIES, PART II A continuation of JA-117-5.	27:00
JA-117-7	DEPARTMENT OF DEFENSE IMPLEMENTATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAMS, PART I Guest Speaker: Captain Huston Ratcliff, USAF detailed to the Staff Advisor for Socially and Economically Disadvantaged Business Opportunities, Department of Defense, Washington, DC.	59:00
JA-117-8	DEPARTMENT OF DEFENSE IMPLEMENTATION OF THE MINORITY BUSINESS ENTERPRISE PROGRAMS, PART II A continuation of JA-117-7.	21:00
JA-117-9	PANEL DISCUSSION: MINORITY BUSINESS ENTERPRISE PROGRAMS Guest Speakers: Mr. Carl T. Horton and Captain Hutson Ratcliff, USAF.	55:00
JA-117-10	LABOR SURPLUS SET ASIDES AND THE MAYBANK AMENDMENT, PART I Speaker: Major John S. Miller, III, USAR, General Services Administration, Washington, DC.	56:00
JA-117-11	LABOR SURPLUS SET ASIDES AND THE MAYBANK AMENDMENT, PART II A continuation of JA-117-10.	31:00

TAPE #	TITLE	RUNNING TIME
JA-117-12	CONTRACTING FOR COMMERCIAL AND INDUSTRIAL TYPE ACTIVITIES, PART I Speaker: Lieutenant Colonel Robert M. Nutt, Chief Contract Law Division, TJAGSA.	62:00
JA-117-13	CONTRACTING FOR COMMERCIAL AND INDUSTRIAL TYPE ACTIVITIES, PART II A continuation of JA-117-12.	30:00
JA-117-14	USE OF FEDERAL CONTRACTS TO IMPLEMENT ENVIRONMENTAL POLICIES Speaker: Major Gary L. Hopkins, Senior Instructor, Contract Law Division, TJAGSA.	54:00
JA-117-15	AFFIRMATIVE ACTION AFTER BAKKE, PART I Guest Speaker: Professor A.E. Dick Howard, University of Virginia, School of Law, Charlottesville, Virginia.	60:00
JA-117-16	AFFIRMATIVE ACTION AFTER BAKKE, PART II A continuation of JA-117-15.	8:00
JA-117-17	AFFIRMATIVE ACTION: THE CONTRACTOR'S VIEW, PART I Guest Speakers: Mr. Frank Claybough, Barokas and Martin, Seattle, Washington, and Ms. Claudia James, Kirlin, Campbell and Keating, Washington, DC.	56:00
JA-117-18	AFFIRMATIVE ACTION: THE CONTRACTOR'S VIEW, PART II A continuation of JA-117-17.	9:00
JA-117-19	ENFORCEMENT OF THE AFFIRMATIVE ACTION PROGRAMS UNDER FEDERAL CONTRACTS, PART I Guest Speaker: Mr. Gary Buff, Office of the Solicitor, Department of Labor, Washington, DC.	58:00
JA-117-20	ENFORCEMENT OF THE AFFIRMATIVE ACTION PROGRAMS UNDER FEDERAL CONTRACTS, PART II A continuation of JA-117-19.	30:00
JA-117-21	PANEL DISCUSSION: AFFIRMATIVE ACTION Guest Speakers: Mr. Frank Claybough, Ms. Claudia James, and Mr. Gary Buff.	28:00
JA-117-22	ANALYSIS OF THE CONTRACT DISPUTES ACT OF 1978: A VIEW FROM THE PRIVATE BAR, PART I Guest Speaker: Mr. Eldon Crowell, Partner, Jones, Day, Reavis and Pogue.	54:00
JA-117-23	ANALYSIS OF THE CONTRACT DISPUTES ACT OF 1978: A VIEW FROM THE PRIVATE BAR, PART II A continuation of JA-117-22.	46:00

TAPE #	TITLE	RUNNING TIME
JA-117-24	ANALYSIS OF THE CONTRACT DISPUTES ACT OF 1978: A GOVERNMENT POINT OF VIEW, PART I Speaker: Lieutenant Colonel Robert M. Nutt, Chief, Contract Law Division, TJAGSA.	57:00
JA-117-25	ANALYSIS OF THE CONTRACT DISPUTES ACT OF 1978: A GOVERNMENT POINT OF VIEW, PART II A continuation of JA-117-24.	25:00

**ADMINISTRATIVE AND CIVIL LAW DIVISION***18TH FEDERAL LABOR RELATIONS COURSE (29 JANUARY-2 FEBRUARY 1979)*

TAPE #	TITLE	RUNNING TIME
JA-256-1	EMPLOYMENT IN THE FEDERAL CIVIL SERVICE, PART I Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	42:00
JA-256-2	EMPLOYMENT IN THE FEDERAL CIVIL SERVICE, PART II A continuation of JA-256-1.	48:00
JA-256-3	EMPLOYMENT IN THE FEDERAL CIVIL SERVICE, PART III A continuation of JA-256-1 and JA-256-2.	57:00
JA-256-4	INTRODUCTION TO FEDERAL LABOR-MANAGEMENT RELATIONS, PART I Speaker: Major Dennis F. Coupe, Instructor, Administrative and Civil Law Division, TJAGSA.	58:00
JA-256-5	INTRODUCTION TO FEDERAL LABOR-MANAGEMENT RELATIONS PART II (A continuation of JA-256-4). THE REPRESENTATION PROCESS, PART I Speaker: Major Dennis F. Coupe, Instructor, Administrative and Civil Law Division, TJAGSA.	43:00
JA-256-6	THE REPRESENTATION PROCESS, PART II A continuation of JA-256-5.	35:00
JA-256-7	THE REPRESENTATION PROCESS, PART III A continuation of JA-256-5 and JA-256-6.	62:00
JA-256-8	EMPLOYEE DISCIPLINARY PROCEDURES, PART I Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	46:00
JA-256-9	EMPLOYEE DISCIPLINARY PROCEDURES, PART II A continuation of JA-256-8.	49:00
JA-256-10	SUBSTANTIVE REASONS FOR ADVERSE ACTIONS, PART I Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	46:00

TAPE #	TITLE	RUNNING TIME
JA-256-11	SUBSTANTIVE REASONS FOR ADVERSE ACTIONS, PART II A continuation of JA-256-10.	53:00
JA-256-12	SCOPE OF BARGAINING, PART I Speaker: Major Dennis F. Coupe, Instructor, Administrative and Civil Law Division, TJAGSA.	56:00
JA-256-13	SCOPE OF BARGAINING, PART II A continuation of JA-256-12.	59:00
JA-256-14	SCOPE OF BARGAINING, PART III A continuation of JA-256-12 and JA-256-13.	13:00
JA-256-15	THE ROLE OF THE LABOR AND CIVILIAN PERSONNEL OFFICE, OTJAG, AND ARMY IMPLEMENTATION OF THE 1978 CIVIL SERVICE REFORM ACT Guest Speaker: Lieutenant Colonel (P) Carroll J. Tichenor, Chief, Labor and Civilian Personnel Law Office, OTJAG.	46:00
JA-256-16	THE ROLE OF THE MERIT SYSTEMS PROTECTION BOARD AND THE COURTS (CURRENT DEVELOPMENTS), PART I Guest Speaker: Mrs. Sandra Shapiro, Deputy Assistant General Counsel for Litigation, Office of the General Counsel, Office of Personnel Management.	44:00
JA-256-17	THE ROLE OF THE MERIT SYSTEMS PROTECTION BOARD AND THE COURTS (CURRENT DEVELOPMENTS), PART II A continuation of JA-256-16.	41:00
JA-256-18	UNFAIR LABOR PRACTICES Speaker: Major Dennis F. Coupe, Instructor, Administrative and Civil Law Division, TGAGSA.	53:00
JA-256-19	NEGOTIATED GRIEVANCE PROCEDURES AND ARBITRATION Speaker: Major Dennis F. Coupe, Instructor, Administrative and Civil Law Division, TJAGSA.	48:00
JA-256-20	EQUAL EMPLOYMENT OPPORTUNITY, PART I Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	43:00
JA-256-21	EQUAL EMPLOYMENT OPPORTUNITY, PART II A continuation of JA-256-20.	52:00
JA-256-22	THE UNION VIEW OF LABOR-MANAGEMENT RELATIONS, PART I Guest Speaker: Mr. Robert J. Canavan, Chief Counsel, National Association of Government Employees.	54:00
JA-256-23	THE UNION VIEW OF LABOR-MANAGEMENT RELATIONS, PART II A continuation of JA-256-22.	38:00

TAPE #	TITLE	RUNNING TIME
JA-256-24	REDUCTIONS-IN-FORCE Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	48:00
JA-256-25	FEDERAL CONTRACTOR-EMPLOYEE RELATIONS AND CONTRACTOR LABOR STANDARDS, PART I Speaker: Major R.L. Wilks, Instructor, Contract Law Division, TJAGSA.	44:00
JA-256-26	FEDERAL CONTRACTOR-EMPLOYEE RELATIONS AND CONTRACTOR LABOR STANDARDS A continuation of JA-256-25.	58:00

*8TH ENVIRONMENTAL LAW COURSE (5-8 FEBRUARY 1979)*

TAPE #	TITLE	RUNNING TIME
JA-257-1	THE STATE OF THE ENVIRONMENT, PART I Guest Speaker: Professor Dennis W. Barnes, Associate Provost for Research and Associate Professor of Environmental Sciences, University of Virginia.	39:00
JAZ-257-2	THE STATE OF THE ENVIRONMENT, PART II A continuation of JA-257-1.	37:00
JA-257-3	THE NATIONAL ENVIRONMENTAL POLICY ACT, PART I Speaker: Captain Joyce E. Plaut, Instructor, Administrative and Civil Law Division, TJAGSA.	36:00
JA-257-4	THE NATIONAL ENVIRONMENTAL POLICY ACT, PART II A continuation of JA-257-3.	52:00
JA-257-5	THE NATIONAL ENVIRONMENTAL POLICY ACT, PART III A continuation of JA-257-3 and JA-257-4.	52:00
JA-257-6	THE NATIONAL ENVIRONMENTAL POLICY ACT, PART IV A continuation of JA-257-3, JA-257-4 and JA-257-5.	51:00
JA-257-7	POLLUTION ABATEMENT, PART I Speaker: Major Brian H. Schempf, Instructor Administrative and Civil Law Division, TJAGSA.	53:00
JA-257-8	POLLUTION ABATEMENT, PART II A continuation of JA-257-7.	39:00
JA-257-9	POLLUTION ABATEMENT, PART III A continuation of JA-257-7 and JA-257-8.	46:00
JA-257-10	POLLUTION ABATEMENT, PART IV A continuation of JA-257-7, JA-257-8, and JA-257-9.	25:00

TAPE #	TITLE	RUNNING TIME
JA-257-11	MISCELLANEOUS ENVIRONMENTAL LAWS AND REGULATIONS, PART I Speakers: Major Brian H. Schempf and Raptain Joyce E. Plaut, Instructors, Administrative and Civil Law Division, TJAGSA.	51:00
JA-257-12	MISCELLANEOUS ENVIRONMENTAL LAWS AND REGULATIONS, PART II A continuation of JA-257-11.	40:00
JA-257-13	THE INTERACTION OF FEDERAL CONTRACT LAW AND ENVIRONMENTAL REGULATION Speaker: Lieutenant Colonel Robert M. Nutt, Chief, Contract Law Division, TJAGSA.	53:00

**INTERNATIONAL LAW**

JA-429 Sep 78	INTERNATIONAL LAW UNDER CONTEMPORARY PRESSURES, PART I (7th Annual Ham Young Lecture) Guest Speaker: Professor John N. Hazard, Professor of Law Emeritus, Columbia University School of Law. International law is viewed from the major perspectives currently prevalent in international relations. Viewed historically, traditional international law is portrayed as non-statis, responsive to the pressure of new demands and international change. Professor Hazard identifies an irreducible core for traditional international law and suggests measures by which the integrity of this core might be preserved.	59:00
JA-430 Sep 78	INTERNATIONAL LAW UNDER CONTEMPORARY PRESSURES, PART II A continuation of JA-429.  Note: JA-431 and JA-432 comprise a two hour series developed for Reserve Component On-Site Technical Training.	36:00
JA-431 Oct 78	STATUS OF FORCES AGREEMENTS—AN OVERVIEW, PART I This tape briefly traces the historical origins of and the need for Status of Forces Arrangements and discusses generally the major provisions of the NATO SOFA. Speaker: Captain (P) David R. Dowell, Instructor, International Law Division, TJAGSA.	50:00
JA-432 Oct 78	STATUS OF FORCES AGREEMENTS—AN OVERVIEW, PART II This tape examines contemporary problems for judge advocates in implementing AR 27-50, Status of Forces Policies, Procedures and Information, as well as generally discussing problems for judge advocates and commanders in overseas assignments.  Note: JA-433 through JA-439 are designed as a series presenting an in-depth discussion of Status of Forces Arrangements and	57:00

TAPE #	TITLE	RUNNING TIME
	<p>problems encountered by judge advocates and commanders in implementing such arrangements or agreement. Each of the tapes may be used by itself for a discussion of the particular area or the series may be used in its entirety for a broad discussion of the entire spectrum of problems encountered in dealing with SOFAs. The material presented parallels the material in JA Subcourse 143, SPECIAL INTERNATIONAL ASPECTS OF JUDGE ADVOCATE OPERATIONS OVERSEAS. The tapes are, therefore, excellent supplemental material for those students enrolled in the subcourse with access to video tape equipment.</p>	
JA-433 Feb 78	SOFA, PART 1: INTRODUCTION AND NECESSITY FOR JURISDICTIONAL ARRANGEMENTS OVERSEAS Speaker: Major James A. Burger, Chief, International Law Division, TJAGSA.	50:00
JA-434 Nov 78	SOFA, PART 2: THE CIVIL LAW SYSTEM Speaker: Major James A. Burger, Chief, International Law Division, TJAGSA.	46:00
JA-435 Nov 78	SOFA, PART 3: CRIMINAL LAW ASPECTS OF THE CIVIL LAW SYSTEM Speaker: Major James A. Burger, Chief, International Law Division, TJAGSA.	57:00
JA-436 Nov 78	SOFA, PART 4: THE REQUIREMENTS OF AR 27-50 Speaker: Major James A. Burger, Chief, International Law Division, TJAGSA.	49:00
JA-437 Nov 78	SOFA, PART 5: THE FOREIGN JUDICIAL LIAISON SYSTEM Speaker: Captain (P) Eugene D. Fryer, Instructor, International Law Division, TJAGSA.	45:00
JA-438 Nov 78	SOFA, PART 6: IMPACT OF FOREIGN LAW ON MILITARY LAW Speaker: Captain (P) David R. Dowell, Instructor, International Law Division, TJAGSA.	51:00
JA-439 Nov 78	SOFA, PART 7: THE FOREIGN CLAIMS ACT AND NATO CLAIMS Speaker: Captain (P) David R. Dowell, Instructor, International Law Division, TJAGSA.	43:00
JA-440	THE LEGAL ASPECTS OF TERRORISM, PART I Guest Speaker: Mr. Louis G. Fields, Jr., Assistant Legal Advisor, Department of State. This discussion examines the phenomenon of international terrorism, surveys the existing domestic and international legal framework for countering terrorism and offers proposals for a better anti-terrorism legal regime.	50:00

TAPE #	TITLE	RUNNING TIME
JA-441	THE LEGAL ASPECTS OF TERRORISM, PART II A continuation of JA-440.	48:00
JA-442 Nov 78	LEGAL ASPECTS OF UNCONVENTIONAL WARFARE Captain Eugene D. Fryer, International Law Division, TJAGSA, deals with the international law relevant to unconventional warfare (UW). The presentation, at the U.S. Air Force Special Operations School, Hurlbert Field, Florida, on 13 Nov 78, applies the principles of international law relevant to conventional operations to the unconventional mission. Beyond the discussion of general legal standards, the presentation covers special UW legal problems, e.g., assassination, management and control of friendly indigenous combat forces, escape and evasion and current international law trends affecting UW.	60:00
JA-443 Nov 78	LEGAL ASPECTS OF UNCONVENTIONAL WARFARE A continuation of JA-442.	60:00

**Obsolete Tapes.** The video tapes listed below have been determined obsolete and released from the October 1978 Video and Audio Tape Catalog.

TAPE #	TITLE	PAGE
<i>CONTRACT LAW</i>		
JA-103-1 through JA-103-38	6TH ADVANCED PROCUREMENT ATTORNEYS' COURSE (5-9 Jan 76)	1-4
JA-109-1 through JA-109-27	7TH ADVANCED PROCUREMENT ATTORNEYS' COURSE (3-7 Jan 77)	5-7
<i>ADMINISTRATIVE AND CIVIL LAW</i>		
JA-249-1 through JA-249-24	17TH FEDERAL LABOR RELATIONS COURSE (3-7 Apr 78)—Replaced by 18TH FEDERAL LABOR RELATIONS COURSE (29 Jan-2 Feb 79)—JA-256-1 through JA-256-26	24-26
JA-242-1 through JA-242-19	5th ENVIRONMENTAL LAW COURSE (January 1977)—Replaced by 8th ENVIRONMENTAL LAW COURSE (5-8 January 1979)—JA-257-1 through JA-257-13.	21-22

## CLE News

**1. Trial Advocacy Seminar.** The Judge Advocate General's School and the Military Law institute will jointly host a continuing legal education seminar on trial advocacy. The seminar is to be held at The Judge Advocate General's School in Charlottesville, Virginia, on 21 through 23 June 1979. The course is designed for active duty members of The Judge Advocate General's Corps who prosecute or defend courts-martial. Enrollment is limited to 45 and members of all services are encouraged to attend. Space can be reserved on a first come, first served basis, by calling Mrs. Kathryn Head, TJAGSA, Autovon 274-7110, extension 293-6286, or commercial (8040 293-6286).

**2. Civilian Sponsored CLE Courses.**

For further information on civilian courses, please contact the institution offering the course, as listed below:

AAJE: American Academy of Judicial Education, Suite 539, 1426 H Street NW, Washington, DC 20005. Phone: (202) 783-5151.

ALI-ABA: Donald M. Maclay, Director, Office of Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104. Phone: (215) 387-3000.

FBA (FBA-BNA): Conference Secretary, Federal Bar Association, Suite 420, 1815 H Street NW, Washington, DC 20006. Phone: (202) 638-0252.

FPI: Federal Publications, Inc., Seminar Division Office, Suite 500, 1725 K Street NW, Washington, DC 20006. Phone: (202) 337-7000.

GWU: Government Contracts Program, George Washington University, 2000 H Street NW, Rm. 303 D2, Washington DC 20052. Phone: (202) 676-6815.

ICM: Institute for Court Management, Suite 210, 1624 Market St., Denver, CO 80202. Phone: (303) 543-3063.

NCAJ: National Center for Administration of Justice, 1776 Massachusetts Ave., NW, Washington, DC 20036. Phone: (202) 466-3920.

NCDA: National College of District Attorneys, College of Law, University of Houston, Houston, TX 77004. Phone: (713) 749-1571.

NJC: National Judicial College, Reno, NV 89557. Phone: (702) 784-6747.

NPI: National Practice Institute, 861 West Butler Square, Minneapolis, MN 55403. Phone: 1-800-328-4444 (In MN call (612) 338-1977).

PLI: Practicing Law Institute, 810 Seventh Avenue, New York, NY 10019. Phone: (212) 765-5700.

## MAY

30-2 May: FBA, Tax Law Conference, Mayflower Hotel, Washington, DC.

30-2 May: FPI, Government Contract Costs, Sheraton National Hotel, Washington, DC. Cost: \$525-550.

30-4 May: FPI, Patents and Technical Data, GWU Library, Washington, DC. Cost: \$425.

2-4: PLI, Fundamental Concepts of Estate Planning, Hyatt Union Square Hotel, San Francisco, CA. Cost: \$250.

3-4: PLI, Secured Creditors and Lessors Under the Bankruptcy Act of 1978, The Ambassador West Hotel, Chicago, IL. Cost: \$200.

3-5: PLI, Advanced Will Drafting, Beverly Hilton Hotel, Los Angeles, CA. Cost: \$200.

6-24: NJC, General Jurisdiction (for judges), University of Nevada, Reno, NV. Cost: \$600.

6-11: NJC, Sentencing Felons (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

7-8: FPI, Terminations of Government Contracts, Sheraton National, Arlington, VA. Phone: (703) 521-1900. Cost: \$450.

7-8: FPI, Terminations of Government Contracts, Sheraton National, Arlington, VA. Phone: (703) 521-1900. Cost: \$450.

10-11: PLI, Equipment Leasing 1979, Atlanta Hilton Hotel, Atlanta, GA. Cost: \$200.

10-11: PLI, Land Use Planning and Litigation, New York Sheraton Hotel, New York City. Cost: \$185.

10-11: PLI, Law Office Management, Ambassador West Hotel, New York City. Cost: \$175.

10-11: PLI, Use of Trusts in Estate Planning, Olympic Hotel, Seattle, WA. Cost: \$185.

14-16: FPI, Changes In Government Contracts, Sheraton Hotel, Arlington, VA. Cost: \$525.

14-15: PLI, Federal Civil Rights Litigation, Fairmont Hotel, New Orleans, LA. Cost: \$160.

16: NCAJ, Litigation in the U.S. Court of Claims, The Internation Club, Washington, DC.

17-18: PLI, FTC Trade Regulations-Advertising, Rulemaking and Consumer Protection, Hotel St. Francis, San Francisco, CA. Cost: \$185.

17-18: PLI, Risk Management for Hospitals and Health Care Institutions, Marriott Hotel, New Orleans, LA. Cost: \$200.

17-18: PLI, Secured Creditors and Lessors Under the Bankruptcy Act of 1978, The Ambassador West Hotel, Chicago, IL. Cost: \$200.

18-19: PLI, Product Liability Update, Hyatt Regency Hotel, Phoenix, AZ. Cost: \$185.

20-25: NJC, Criminal Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

21-22: FPI, Terminations of Government Contracts, Marriott Inn/Berkeley, Marina, San Francisco, CA. Phone: (415) 548-7920. Cost: \$450.

24-25: FBA, Openness in Government V, The Mayflower Hotel, Washington, DC.

24-26: PLI, Advanced Will Drafting, Biltmore Hotel, New York City. Cost: \$200.

31-2 June: ALI-ABA, Energy Law, Washington, DC.

31-June 1: PLI, Secured Creditors and Lessors Under the Bankruptcy Act, of 1978, New York Hilton Hotel, New York, NY.

31-June 1: PLI, Use of Trusts in Estate Planning, Olympic Hotel, Seattle, WA. Cost: \$185.

### JUNE

1-2: ALI-ABA, Taiwan: Legal Fallout of Derecognition, Washington, DC.

1-2: FBA, Conference on Federal Trial Practice, Washington, DC.

May 31-June 1: PLI, Secured Creditors and Lessors Under the Bankruptcy Act of 1978, New York Hilton Hotel, New York, NY.

8-9: PLI, Product Liability Update, The Ambassador West Hotel, Chicago, IL.

10-16: NCDA, Executive Prosecutor Course, Houston, TX.

14-16: ALI-ABA, The New Federal Bankruptcy Code, San Francisco, CA.

17-22: ALI-ABA, Modern Real Estate Transactions, Villanova, PA.

17-23: NJC, General Jurisdiction (for judges), University of Nevada, Reno, NV. Cost: \$750.

17-29: NJC, The Judge and the Trial (graduate, for judges), University of Nevada, Reno, NV. Cost: \$450.

18-22: AAJE, Practicalities of Judging, Jurisprudence and the Humanities, Cambridge, MA.

18-27: AAJE, Seminar on the British Justice System, Birmingham, England.

24-29: NJC, Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

24-29: ALI-ABA, Estate Planning in Depth, Madison, WI.

24-29: ALI-ABA, Trial Evidence in Federal and State Courts: A Clinical Study of Recent Developments, Madison, WI.

24-29: NJC, Evidence (graduate, for judges), University of Nevada, Reno, NV. Cost: \$300.

25-27: FPI, Changes In Government Contracts, Tropicana Hotel, Las Vega, NV. Cost: \$525.

### JULY

1-6: NJC, Criminal Lag (graduate, for judges) University of Nevada, Reno, NV.

8-13: ALI-ABA, Environmental Litigation, University of Colorado School of Law, Boulder, CO.

8-13: NJC, Sentencing, Corrections and Prisoner's Rights (graduate, for judges), University of Nevada, Reno, NV.

9-20: NJC, Trial Judges Academy, University of Nevada, Reno, NV.

22-27: ALI-ABA, The New Federal Bankruptcy Code—In Depth, Stanford Law School, Stanford, CA.

### 3. TJAGSA CLE Courses.

May 7-10: 6th Legal Assistance (5F-F23).

May 14-16: 3d Negotiations (5F-F14).

May 21-June 8: 18th Military Judge (5F-F33).

May 30-June 1: Legal Aspects of Terrorism.

June 11-15: 47th Senior Officer Legal Orientation (5F-F1).

June 18-29: JAGSO (CM Trial).

June 21-23: Military Law Institute Seminar.

July 9-13 (Contract Law) and July 16-20 (Int. Law): JAOGC/CGSC (Phase VI Contract Law) Int. Law.

July 9-20: 2d Military Administrative Law (5F-F20).

July 16-August 3: 19th Military Judge (5F-F33).

July 23-August 3: 81st Contract Attorneys' Course (5F-F10).

August 6-October 5: 90th Judge Advocate Officer Basic (5-27-C20).

August 13-17: 48th Senior Officer Legal Orientation (5F-F1).

September 17-21: 12th Law of War Workshop (5F-F42).

August 20-May 24, 1980: 28th Judge Advocate Officer Graduate (5-27-C22).

September 28-28: 49th Senior Officer Legal Orientation (5F-F1).

August 27-31: 9th Law Office Management (7A-713A).

## JAGC Personnel Section

### PP&TO, OTJAG

#### Reassignments.

NAME	FROM	TO
<i>LIEUTENANT COLONELS</i>		
Suter, William	Pentagon	Ft. McNair, DC
Tichenor, Carroll	Pentagon	USAWC
White, Charles	FT Hood, TX	USAWC
<i>MAJORS</i>		
Arkow, Richard	FT Lewis, WA	FT Leavenworth, KS
Burger, James A.	TJAGSA	USAC&GS
Cooper, Norman	TJAGSA	USAC&GS
Coupe, Dennis F.	TJAGSA	USAC&GS
Gordon, Jonathan	Pentagon	USAC&GS
Kennett, Michael	USALSA	USAC&GS
Kirchner, John	FT Carson, CO	USAC&GS
Magers, Malcolm	FT Leavenworth, KS	OTJAG, WASH, DC
Miller, Joe	USALSA	AFSC, Norfolk, VA
Sims, Benjamin	USALSA	USAC&GS
<i>CAPTAINS</i>		
Haendel, Dan	FT Belvoir, VA	OTJAG
<i>WARRANT OFFICERS</i>		
Burbank, Ronald	USAREUR	FT Gordon, GA
Camire, Walter	FT McNair, DC	2d Inf Div, APO SF
Cross, Arthur	USAREUR	FT McNair, DC
Hall, William	FT Sill, OK	32d AADCOM APO NY
Haynes, Calvin	USAREUR	FT Huachuca, AZ
Iwanski, Ronald	FT Riley, KS	21st Repl Bn, APO NY
Lindogan, Rosau	Korea	Presidio of SF, CA
Maloney, Frank	USAREUR	FT Riley, KS
Marsh, Robert F.	FT Polk, LA	21st Repl Bn, APO NY
Rauschenberg, R.	FT Rucker, AL	FT Benning, GA
Topp, John	USAREUR	FT Dix, NJ
Tucker, Larry	FT Huachuca, AZ	1st Armd Div, APO NY
Wade, George	FT Riley, KS	FT Knox, KY

**CURRENT MATERIALS OF  
INTEREST**

Note, "Free Speech and the Armed Forces: The Case Against Judicial Deference-*Culver v. Secretary of the Air Force*," 53 New York University Law Review 1102 (November 1978).

Note, "A Coast Guard Reservist Cannot Stipulate to UCMJ Jurisdiction When None

Exists," Coast Guard Law Bulletin, No. 417, p. 1, January 1979.

Note, "Inordinate Delay in (Supervisory) Review Results in Denial of Due Process," Coast Guard Law Bulletin, No. 417, p. 2, January 1979.