



IronHorse Legal Ledger

Volume II



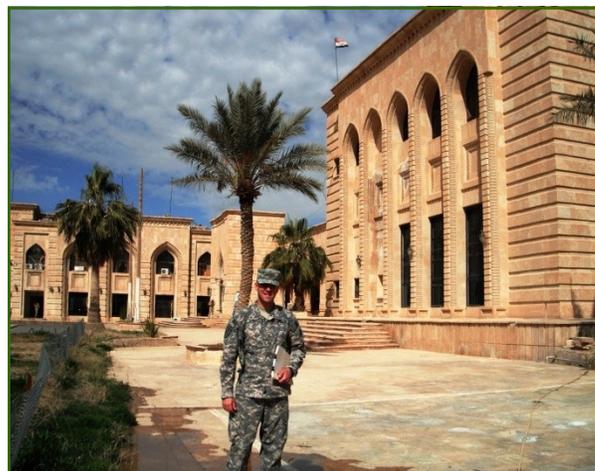
Editor: MAJ Sabra Janko

Operation New Dawn—The Last Chapter

United States Division North JAGs are still doing great things to support Operation New Dawn as U.S. plans to continue transition to Department of State lead and withdraw most military forces continue. The JAG Corps has a long history with contingency operations and it is appropriate to look back at our proud history as we complete the last chapter in Iraq as part of Operation New Dawn. General George Washington founded the U.S. Army JAG Corps in 1775. The first Judge Advocate of the Army (TJAG) was Colonel William Tudor, a 25-year-old graduate of Harvard Law School. Military JAGs have been involved in a variety of high-profile cases to include those involving General Benedict Arnold; who conspired with a British General to surrender West Point, John Wilkes Booth, and Nazi war crimes. JAGs have been involved in many combat and contingency operations starting during The Revolutionary War in 1775.

The JAG Corps greatly expanded in size during World War II to meet the Army's combat support needs. The first JAG school was started at the University of Michigan in Ann Arbor, Michigan in 1942. The Uniform Code of Military Justice was created in 1951 and greatly impacted JAG Corps criminal law practice. During Vietnam the JAG Corps become heavily involved in operational law aiding military commanders and planners with legal support to combat operations and expanded this operational expertise during the Persian Gulf War. Currently the JAG Corps is heavily engaged in Afghanistan as well as Iraq and we also provide legal support in many other areas of the world. Below is a photograph of MAJ Javier Rivera, Chief of Military Justice, as he conducts a key leader engagement at the 4th Iraqi Army Division Headquarters.

Plans are still in motion for U.S. forces to depart Iraq by December 31, 2011. JAGs will be here with the rest of the team until the end. Many service members are looking forward to going back home to see their families, friends and loved ones. Vice President Joseph Biden Jr. visited Iraq in mid January and according to the January 14, 2011 New York Times said that the United States government is committed to "bringing you home within a time certain, but leaving behind a country that is worthy of the sacrifices that so many of your brothers and sisters have made." Operation New Dawn evolves as JAGs help finish the last chapter.



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SJA NOTE:

By USD-N SJA, COL Randy Kirkvold

Welcome to our second newsletter.

Earlier, we decided to highlight the great work the 4th Infantry Division Soldiers were doing while assigned to the Office of the Staff Judge Advocate, United States Division – North, Tikrit, Iraq (OSJA, USD-N). The prior newsletter was sent off to our friends and family and the feedback we received was tremendous. Many did not realize the many things Judge Advocates and legal personnel do in a combat environment. I received many emails thanking us for what we were doing and requesting additional newsletter updates.

Well, here is our second newsletter, which, once again provides a sampling of the great work being done by the Judge Advocates, paralegals, and legal personnel in Iraq. This issue covers the period from January 2011 through mid-March 2011. As we look back, once again we saw that quite a lot occurred.



You'll read about the great work being done by the OSJA, USD-N and Brigade Judge Advocates and paralegals situated throughout Northern Iraq. They are doing a tremendous job and making a huge difference -- despite some of the most challenging of circumstances.

All of the Judge Advocates and paralegals are working hard. I am very proud of the work being done by them throughout Northern Iraq. I believe you will be impressed as well.

I would also like to note that in this installment of the newsletter, we included some pages honoring those from the "Homefront." I can say that everyone's thoughts here are continuously turning home. I know deployments are not easy on those back home, and I want to personally thank everyone for their continued support. Your support goes noticed every day we serve in this combat zone. Thank you.

I hope you enjoy our newsletter!



**Iraqi desert fox that lives outside our CHU in our LSA.
A "CHU" is the metal container we sleep in and the
"LSA" means living support area.**



Military Justice Initiative on Advise, Train and Assist Missions

By MAJ Javier Rivera

It is no coincidence that the preamble of our Manual for Courts-Martial stresses the importance of military justice in our Army, and these principles are true for any Army in the world, including the new Iraqi Army. As we all remember, after the invasion in 2003 the Iraqi Army pretty much disappeared into the population and disbanded. It had to be rebuilt from scratch, and fostering a strong and fair military justice system is essential in keeping it together. When George Washington took command of a disorganized army back in 1775, composed of people from different backgrounds, and lacking good order and discipline, he once said, "Discipline is the soul of an army; it makes small numbers formidable; procures success to the weak and esteem to all." He clearly understood the importance of having a well disciplined army, and you cannot have discipline without a sound and fair military justice system. In my years practicing military justice, I have discovered that it is military justice that safeguards and fosters military discipline and, in turn enables an army to be strong and formidable. I have seen that the inability of a commander to administer swift military justice will deprive him of a means vital to maintaining an effective, well-disciplined force.

With all these thoughts in mind, on 6 February 2011, I set out on a journey to advise and assist Iraqi Army military lawyers in Salah ad Din Province, and met with the 4th Iraqi Army Division military lawyer, LTC Mu'ayad Musa Jasim Muhammed, for an initial meeting in order to plan training initiatives on military justice. After a long exchange of pleasantries in which both of us extensively discussed our backgrounds and experience, we explained the role of military lawyers in our respective Armies, with an emphasis on military justice. During this initial meeting we also made a comparison analysis between US and Iraqi Army disciplinary procedures, and discussed the importance of having a strong military justice system and its effect on discipline. Finally, we discussed some current areas of concern expressed by LTC Mu'ayad during the meeting, such as due process, false accusations, commanders' impressions of the lawyer's role in the Army, and criminal investigations, with an emphasis on forensic evidence. My intent is to focus future advise and training initiatives on the areas of concern. LTC Mu'ayad agreed to conduct more Advise, Train and Assist (ATA) meetings with me, including training and advice in the areas of concern. He also agreed to visit our legal office at COB Speicher in the near future with his brigade lawyers for ATA meetings and training on military justice, including a visit and training at the Joint Expeditionary Forensics Facility Laboratory to see how DNA, ballistic, and fingerprint forensic analysis is conducted, and how they can be used in military investigations and courts. This first meeting was very positive and productive. LTC Mu'ayad proved to be an intelligent and understanding partner, a true "brother-in-arms." I look forward to learning more from him. *(Photograph of MAJ Rivera with LTC Muhammed on following page)*

Key Leader Engagements



Above: CPT Matthew Firing participates in a key leader engagement with Judge Selman Mohammad

Below: MAJ Javier Rivera with LTC Muayad Muhammed and interpreter "Saad"



Key leader engagements are conducted to allow USDN attorneys to meet and develop relationships with prominent people in the Iraqi legal and judicial system

Judge Michael Hargis Presides

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By MAJ Sabra Janko

Judge Michael Hargis presides over Contingency Operating Base (COB) Speicher courts-martial as well as those in the entire Central Command area of operations. He is the Chief Circuit Judge of the 5th Judicial Circuit and presided over his first case in the new COB Speicher courtroom on December 23, 2010. He has had a long and distinguished Army career, and will have been an active duty Judge Advocate for 23 years this summer. Not only is he a JAG but he has also been a combat arms officer. Prior to becoming a Judge Advocate he served as an Armor Officer in the Oregon Army National Guard.



Judge Hargis knew that he wanted to be an Army Judge during his first tour when he was a Trial Defense Service Attorney. He enjoyed the practice of criminal law and admired the Judges he observed who taught counsel how to develop their advocacy skills.

It was then that he decided to become a Judge and help develop Judge Advocates as well. He believes that he has an obligation to develop trial and defense counsel because they are the JAG Corps' future Judges. He especially enjoys seeing a trial advocate's face light up when the advocate masters a skill such as refreshing a witness's recollection.

Judge Hargis feels that Judge Advocates generally come to the bar with a high level of enthusiasm and impressive academic credentials. When counsel would like to improve their effectiveness, he recommends that they focus closely on trial preparation and attention to detail. His career advice to junior JAG Officers is the same advice provided by senior JAGs to him: "Saw the wood in front of you and the future will take care of itself."

He advises defense counsel to serve as prosecutors first if possible and explains that if a prosecutor makes a mistake, the worst thing that can happen is that an accused might be acquitted. However, if a defense counsel makes a mistake, the stakes are higher because someone could go to jail who might not have otherwise. He says that his biggest challenge as a Judge comes when "I close the door behind me in a Judge-alone trial and I have the responsibility to make a determination that will substantially affect another person's entire future." He finds that each such decision weighs heavily on him and is difficult to make. He further feels that such a decision never will or should ever be easy.

His favorite military assignment is his current one as a deployed Judge because he feels that he is helping to push justice as far forward as possible and ensure that justice occurs not just in garrison, but also in contingency areas. He wants commanders and soldiers to understand that the UCMJ applies everywhere and that an accused will receive the same procedural protections and fundamental fairness in a deployed environment as back home. It is a small world for Judge Hargis, as it is for other JAGs. He went to the Judge Advocate Officer Basic and Graduate Courses with the United States Division North (USDN) Staff Judge Advocate, Colonel Randy Kirkvold. Additionally, his Chief Paralegal at the United States Army Special Forces Command was Master Sergeant Gregory Morton, who is currently the USDN Sergeant Major.

Judge Hargis *continued*

Judge Hargis has a Baccalureate from Montana State University, a Juris Doctorate from the University of Oregon School of Law, and a Master of Laws from The Judge Advocate General's School. He has a family history of military service. His father served one tour in the military and one of his Uncles was a Brigadier General in the Idaho National Guard. Judge Hargis first entered the military by enlisting in the Montana National Guard as a Tank Crewman in 1976. He then served as an enlisted soldier for seven years before attending the Oregon National Guard Officer Candidate School Program through which he was commissioned in 1983. Following that he attended the Armor Officer Basic Course and became a Platoon Leader in the 82nd Armored Cavalry of the Oregon Army National Guard.

Prior to entering the JAG Corps, Judge Hargis was in private practice at a small firm in Portland, Oregon for five years where he practiced a variety of areas of the law to include: real estate, domestic relations and securities fraud. He felt that a move at this point into military legal service would offer him the best opportunity to uphold high ethical obligations in the practice of law and he has not been disappointed. He says, "In my experience, the ethical standards in the Army JAG Corps far exceed those often found in private practice."

Thus in 1988, he accessed onto active duty as a Judge Advocate. He has spent most of his military assignments involved in the practice of criminal law. He started his criminal law track during his first assignment where he served as a Trial Defense Counsel for the 2nd Armored Division at Fort Hood, Texas capitalizing on his experience as a former Armor Officer. Next he served as an Administrative Law Attorney for III Corps at Fort Hood. He then returned to criminal law as the Chief of Military Justice at Fort Wainright, Alaska. Next he attended the Judge Advocate Graduate Course and immediately following that he returned to Fort Hood to be the Senior Defense Counsel.

After practicing criminal law for so many years he next taught it to others at the Judge Advocate General's Legal Center and School. He was then selected to attend the prestigious resident Command and General Staff Officer Course. From there he entered the judiciary as a Circuit Judge for the 1st Judicial Circuit. Following that he was selected to be the Staff Judge Advocate at the Special Forces Command at Fort Bragg, N.C. Next he returned to the judiciary at Fort Carson, taking a break after two years there to attend the resident Army War College. He again returned to the judiciary at Fort Bliss, where he worked his way up to be the Chief Circuit Judge of the 4th Judicial Circuit and from which he deployed to his current assignment as the Chief Circuit Judge of the 5th Judicial Circuit. He is a member of the Oregon State Bar and is admitted to practice before the U.S. Supreme Court, the U.S. District Court for the District of Oregon, the U.S. Court of Appeals for the Armed Forces, and the U.S. Army Court of Criminal Appeals.

Judge Hargis stated, "Entering the JAG Corps was the best decision that I ever made behind marrying my wife." He has been married to his wife Maridee for 33 years and they have two children Jennifer Grimm and Jeremy Hargis and three grandchildren; Sarah, Hannah and Ella Grimm. His son has followed in his military footsteps by becoming a Quartermaster Officer in the Montana National Guard.



Task Force Iron Horse Tax Program



By CPT Todd Wayne

The USDN & COB Speicher Volunteer Income Tax Assistance Tax Center opened on January 31, 2011. So far we have prepared and e-filed approximately 40 tax returns for Soldiers serving in the USDN Area of operations. I and SSG Robert Love have been seeing tax clients every Monday and Friday since the tax center opened, and I am in the process of traveling to outlying brigades to prepare and file returns. This service is a great way to help Soldiers and to put money back into their pockets. For many Soldiers it is beneficial to have the opportunity to have taxes prepared here in theater rather than having to wait until they return home.



Above: CPT Todd Wayne prepares an income tax return for his paralegal, SPC Matthew Anderson

Left: The COB Speicher tax preparation team - CPT Todd Wayne and SSG Robert Love

“I’m Still Having a Good Time in This Job!”

SSG Robert Love reenlists at the COB Speicher Dining Facility VIP Room on December 29, 2010. LTC Michael Mierau gives him the oath of enlistment and quotes from Gaius Marius’s Recruiting Speech from the Jugurthine War,

“The lessons I have learnt are such as best enable me to serve my country - to strike down an enemy, to mount guard, to fear nothing but disgrace, to endure winter’s cold and summer’s heat with equal patience, to sleep on the bare ground, and to work hard on an empty stomach. These are the lessons I shall teach my soldiers. And I shall not make them go short while enjoying the best of everything myself, not steal all the glory and leave them the toil...I therefore call upon all men of military age to cooperate with me in the service of our country.”



LTC Michael Mierau gives
SSG Robert Love the Oath of
Enlistment



SSG Robert Love talks
about his time in the Army
and how he is still enjoying
what he does



Reserve Augmentees - SSG Jaclyn Gutierrez - Rule of Law NCOIC

USDN is fortunate to have four reserve augmentees to be a part of the OSJA. They are LTC Silas DeRoma - Chief Rule of Law, LTC John Coughlin – Chief, Administrative Law, SSG Jaclyn Gutierrez – Rule of Law NCOIC and SGT Eva McBride – Trial Defense Service NCOIC. SSG Gutierrez grew up in Lubbock, Texas with two sisters and two brothers. She has been activated several times, most recently here at COB Speicher as the Rule of Law NCOIC. This is the second time that she has been at COB Speicher. She was also here with the 101st Airborne Division in 2005-2006 performing as a TDS Paralegal. She says, “the most important things to me are my faith, family, education and the military.”

SSG Gutierrez attributes her success in life to the example that her parents set as she was growing up. She describes them as “more than just role models; but also the best examples of faith and family.” Her father is an Operating Room Technician and her mother is a Nurse who homeschooled all of her children. SSG Gutierrez has a Baccalaureate in Criminal Justice from West Texas A&M University and began her graduate degree in Sports Health and Exercise at Texas Tech University. She would like to continue on to obtain a Doctor of Philosophy in Exercise Physiology and become a personal athletic trainer.

Right after she graduated from college she became a Juvenile Probation Officer for two years. She



said that the job was challenging but there were times where she felt like she made a big difference in people’s lives describing a teenage boy with whom she worked who had been involved with drugs, but with her help was finally able to graduate from high school. She felt good that she had helped him accomplish something that would allow him to have better opportunities in life. She moved away from the job because she found that she had a tendency to become emotionally involved in her cases. While in graduate school she continued on a criminal justice track and worked as a Corrections Officer in the control

center at the Dalby Federal Correctional Facility.

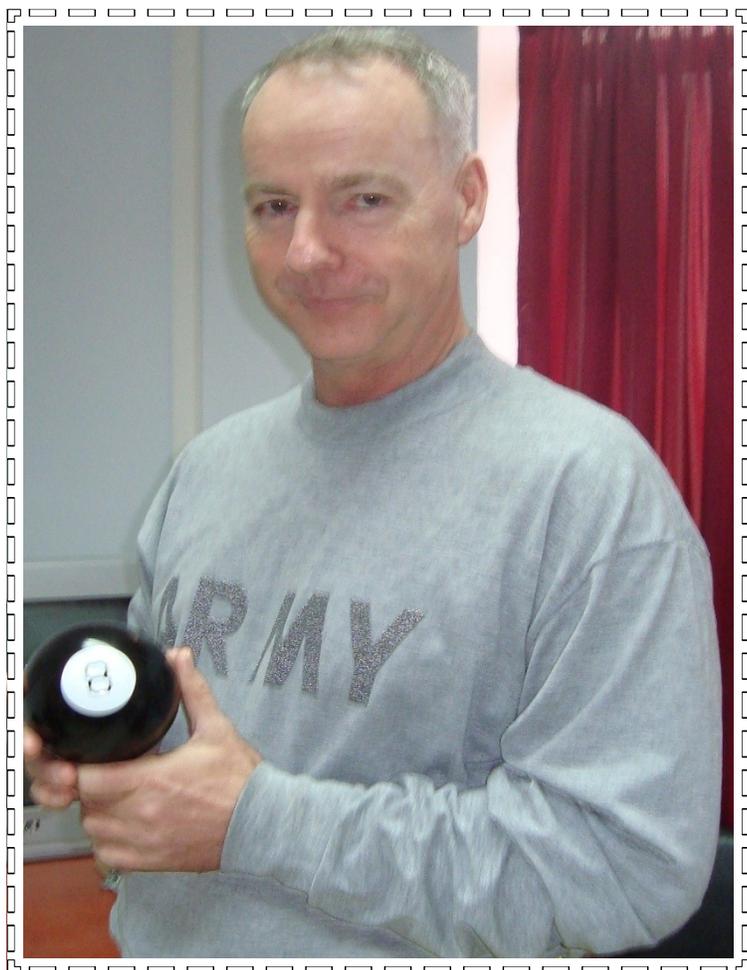
She has mobilized several times in addition to her COB Speicher deployments. She was with III Corps where she provided Soldier Readiness Point legal assistance services to include drafting many wills and powers of attorney. She spent 18 months in Hawaii as the Pretrial and Legal Assistance NCOIC. She was also mobilized at OTJAG, where she worked in Criminal Law as the Operations NCOIC before coming to COB Speicher the second time. It is a small JAG world and she has worked with SGT Eva McBride at other assignments, who is also now activated here at COB Speicher and is the Trial Defense Service NCOIC. While performing as an NCOIC SSG Gutierrez feels that respect is not automatic but earned. She anticipates she will have to earn her Soldiers’ respect just as they will

SSG Jaclyn Gutierrez *continued*

have to earn hers. She also feels that to be a great leader she must learn not only from her superiors but her subordinates as well.

When she is not working she enjoys playing sports to include basketball, as well as spending time with her family and friends. She had an adventure in 2001 when she won free tickets to attend the 2001 Grammy award ceremony through a radio station contest and travelled free of charge having the opportunity to stand on the Red Carpet and see various movie stars to include: Jennifer Lopez, Sir Elton John and Christina Aguilera.

In July 2003, SSG Gutierrez joined the military. It was always her dream to be a soldier and serve her country. She enjoys the structure of the military and feels as though she has an important place here where she has the opportunity to make substantial contributions. She enjoys the job security and attributes her ability to buy a house, car and motorcycle to her military service. Her next activation will again be at OTJAG where she will go after her departure from Iraq in April. She would like to spend a couple of years at OTJAG and is looking forward to the assignment and going back to the Washington, D.C. area with her battle buddy, SGT McBride, who will also perform her next activated tour there.



Another reserve augmentee that USDN is fortunate to have is LTC John Coughlin, Chief of Administrative Law. LTC Coughlin is a New Hampshire Judge and has previous deployment experience in the Rule of Law area. Here he consults with the 8 Ball during the Legal Service Center Move to the “DVD Building”

Out and About COB Speicher Operation New Dawn



Top Left: Iraqi fountain at client services

Top Right: Personnel presented "day off" certificates for superior performance. From left to right— SPC Matthew Anderson, CPT Andrea Normile, SSG Jaclyn Gutierrez, SGT Eva McBride, and SGT Brandon Brookhart



Middle: COL Randy Kirkvold presents SGM Tamara Barber-Kamer with a USDN shirt to thank her for supporting the JAG Corps through her volunteer work with the United Through Reading Program

Bottom Left: CPT Chris Rich modeling Iraqi scarf given to him by a client services interpreter

Bottom Right : SFC Charles Cooper, Criminal law NCOIC, in his office



Reserve Augmentees - SGT Eva McBride - TDS NCOIC

SGT Eva McBride is the Trial Defense Service NCOIC here at COB Speicher and one of our reserve augmentees. She started out in the active duty Army as a Chaplain's Assistant for two years. As a Chaplain's Assistant, she provided logistical support for religious services and guarded unarmed chaplains. After transitioning into the reserves and deploying once, she decided that she wanted to have more occupational variety and leadership opportunities so reclassified as a paralegal. She comes from a small hometown in Flomaton, Alabama where her high school graduating class was comprised of 52 students. Her first deployment was to Camp Arifjan, Kuwait where she worked with SSG Jaclyn Gutierrez, the USDN Rule of Law NCOIC.

SGT McBride is working on completing her bachelor's degree in Multidisciplinary Studies with the goal of becoming a middle school English Teacher. She plans to continue classes through Central Texas College while mobilized. She has had several reserve activations, to include working in administrative law for the 8th Theater Sustainment Command in Hawaii where she also worked with SSG Gutierrez. There she was in charge of financial disclosure tracking and reviewing financial liability investigations. She enjoyed Hawaii and especially liked the beaches and whale watching on the North Shore.



She has also worked at The Office of the Judge Advocate General in Washington, D.C. where she was a case investigator for the Central Criminal Courts for Iraq section. There she coordinated witness testimony for Iraqi cases for which American Soldiers were asked to testify by videoteleconference. Many of her cases involved weapons caches where Soldiers found weapons caches and Iraqis. The Judges wanted to hear directly from the Soldiers about the circumstances of the discovery so she arranged witness testimony by video teleconference. So far her favorite assignment was her Washington D.C. assignment. She said that she really enjoyed the

area and plans to return for another activation there after departing COB Speicher.

In her free time she enjoys playing sports, camping and fishing as well as landscaping. She also enjoys spending time with her family and participating in church activities. She owns two homes and has plans to renovate them. She initially came into the military to explore the world since she came from a small town and also to earn money for college. She enjoys the stability that the military offers her and likes the "small world" feeling. She says that she runs into the same people from time to time during her activations. She also believes that serving in the military is the best way that citizens can serve their country. One of the people she most admires in the JAG Corps is BG Thomas Ayres, who she says leads by example and is very good at balancing professional requirements with family. She

SGT Eva McBride *continued*

plans to continue enjoying her military service as a paralegal where she says, “there is always an opportunity to learn and do new things.”



USDN also greatly appreciates having LTC Silas DeRoma as our Rule of Law OIC. He and SSG Jaclyn Gutierrez implement the USDN Rule of Law Program. LTC DeRoma enjoys an avocado and hat sent from the United States



COL Randy Kirkvold congratulates Mr. Raad Amin on his excellent service to the USDN JAG Office

CPT John Swords Receives Bronze Star Award for Service

By MAJ Sabra Janko

CPT John Swords received the Bronze Star award from COL Mark Cremin on January 16, 2011 in the COB Speicher Courtroom for his one year of service in Iraq as a Trial Defense Service (TDS) Attorney. Prior to becoming a TDS Attorney, he served in private practice where he focused primarily on civil law but handled some criminal cases as well. After serving in private practice for one year, he decided to enter the JAG Corps because he was looking for the ability to practice law in a highly ethical environment and has not been disappointed. He says “I enjoy working in TDS and having the ability to work with clients to help them through the difficult times in their lives.”



He contrasts the military practice of law with civilian practice by pointing out that the caliber of clients in the military is higher than what he observed in the civilian sector. Often the client has redeeming qualities but simply made a bad decision. He did not always find that to be the case with his civilian criminal clients. He also likes the speedier justice than can be found in the civilian community. He thinks that JAG attorneys are easy to work with and says that they are all good people. His biggest challenge has been convincing commanders that they should sometimes give Soldiers a second chance and that Soldiers can be rehabilitated.

He married his wife Laura prior to deployment and they will have a second ceremony in Ohio after he returns. Laura is a Jeweler and Diamond Buyer whom he describes as talented and creative. He met her through his law school roommate who shared a coin collecting interest with her. Laura still teaches engraving once a year at the American Numismatic Association Summer Seminar. When they are not working, they enjoy bicycling, attending sporting events, and watching House Hunters International. CPT Swords will be returning soon to Fort Campbell, where he will transition from TDS to the 101st Airborne Division. He plans to stay in the JAG Corps and would like to work towards becoming a SJA or a military Judge but has not yet decided which one.

“I enjoy helping my clients through the difficult times in their lives.”

USDN Professional Reading Program

Members of USDN are busy reading books for the professional reading program. The diversity in book titles will provide a basis for group discussion of leadership and military history. Titles are as follows:

COL Randy Kirkvold

Invisible Nation, How the Kurd's Quest for Statehood is Shaping Iraq and the Middle East - Quil Lawrence/Dress Your Family in Corduroy and Denim - David Sedaris

LTC Michael Mierau

Strategy - B.H. Liddell Hart/The Bourne Identity - Robert Ludlum

LTC John Coughlin

The Art of War - Sun Tzu/To Hell and Back - Audie Murphy

LTC Silas DeRoma

How Wars End - Gideon Rose/Playing for Pizza - John Grisham

MAJ Sabra Janko

On Becoming a Leader - Warren Bennis/Willful Blindness - Margaret Heffernan

MAJ Javier Rivera

Manual for Courts Martial/A County of Vast Designs - Robert Merry

CPT Matthew Firing

To Hell and Back - Audie Murphy/Crosscurrent - Paul Kemp

CPT Kurt Gurka

Decline and Fall of the Roman Empire - Edward Gibbon/Irrational Exuberance, Difficult Conversations/Undaunted Courage - Robert Shiller

CPT Ian Klinkhamer

Trial Techniques - Thomas Mauet/Nudge - Richard Thaler

CPT Andrea Normile

Justice at Dachau: The Trials of an American Prosecutor - Joshua Greene/The Imperfections - Tom Rachman

CPT William Rothstein

Three Cups of Tea - Greg Mortenson/The Personal Memoirs of Ulysses S. Grant - Ulysses S. Grant

CPT Christopher Rich

A Country of Vast Designs - Robert Merry/The Name of the Rose - Umberto Eco

CPT Todd Wayne

On War - Carl von Clausewitz/Love and Respect - Emerson Eggerichs

CW4 Carl Bourland

Scapegoats of the Empire: The True Story of Breaker Morant's Bushveldt Carbineers - George Witton/Extreme Justice - Vincent Green

MSG Gregory Morton

Decision Points - George Bush/Atlas Shrugged - Ayn Rand

SSG Larry Sanders

Reposition Yourself: Living Life Without Limits - T.D. Jakes/Reminiscences of a Stock Operator - Edwin Lefevre

SGT Brandon Brookhart

Good to Great - Jim Collins/Anthology of World Scriptures and Living Religions - Robert Vanvoorst

Monthly Celebration



Left: COL Randy Kirkvold presents CPT Sean Safdi and SSG Robert Love with a day off certificate for great work in support of Operation New Dawn criminal law

Bottom Left: The OSJA welcomes our new Trial Defense Service Attorney CPT Samuel Kim second from left

Bottom Right: SFC Charles Cooper cuts the monthly celebration cake



The United States-Iraq Security Agreement

By CPT Matthew Firing, Chief of Operational Law

Prior to January 1, 2009, United States forces were in Iraq pursuant to a United Nations mandate; the United Nations Security Council Resolution 1790. This mandate allowed the United States to take all reasonable and necessary measures to ensure security and stability in Iraq. The United Nations mandate that authorized the United States presence in Iraq expired on December 31, 2008. As a result, the United States and the Government of Iraq negotiated a security agreement entitled the “Agreement Between the United States of America and the Republic of Iraq On the Withdrawal of United States Forces from Iraq and the Organization of Their Activities during Their Temporary Presence in Iraq,” commonly and hereinafter referred to as the “Security Agreement.”

The Security Agreement is the legal basis for the current United States forces presence in Iraq. It lays out the parameters by which the United States conducts activities in and withdraws from Iraq. The United States is in Iraq because the “Government of Iraq requests the temporary assistance of the United States Forces for the purposes of supporting Iraq in its efforts to maintain security and stability in Iraq, including cooperation in the conduct of operations against al-Qaeda and other terrorist groups...”. While conducting our activities and supporting this mission, the United States and the Government of Iraq must have full respect for the sovereignty of each nation. The United States must respect “Iraqi laws, customs, traditions, and conventions” and “refrain from any activities that are inconsistent” with the Security Agreement.

The Security Agreement is fundamentally different than other security agreements such as those with Korea, Germany, and Italy, etc. in that this security agreement grants United States forces the authority to conduct combat and detention operations in a foreign country. Most of the other security agreements that the United States is part of merely provide protections and rules applicable to the peacetime presence of United States forces in a foreign country. Unlike other security agreements, the United States-Iraq Security Agreement gives a date for when United States combat forces will withdraw from Iraq. This coveted date is December 31, 2011.

There are 30 articles contained in the Security Agreement. These articles govern United States Forces and their daily activities in the host nation of Iraq. Judge Advocates play a key role in helping commanders and their staffs understand the different provisions of the Security Agreement. For example, one key provision is Article 4. Article 4 states that “All such military operations that are carried out pursuant to this Agreement shall be conducted with the agreement of the Government of Iraq.” Furthermore, all military operations “shall be conducted with full respect for the Iraqi Constitution and the law of Iraq” and not impede on the sovereignty or national interests of the Government of Iraq. Despite this restraint, United States forces retain the right to self defense. Self-defense actions do not require Government of Iraq coordination.

Numerous other articles are specifically relevant to Judge Advocates. For example, the Security Agreement contains several provisions discussing the United States forces’ ability to move in and around Iraq. Article 9 addresses the movement of vehicles and provides that vehicles operated by or for the exclusive use of United States forces may enter, exit, or move within the territory of Iraq. Article 14 discusses the entry and exit of United States forces into and out of Iraq. Article 17

The United States-Iraq Agreement *continued*

recognizes that United States drivers' licenses are acceptable in Iraq. Article 18 provides that United States vehicles must display license plates or be marked accordingly.

Another key provision of the Security Agreement that Judge Advocates must tackle is Article 12, Jurisdiction. In recognizing Iraq's sovereignty, the Security Agreement provides that Iraq shall have the primary right to exercise jurisdiction over members of the United States forces and civilian employees for grave premeditated felonies that take place outside United States bases and while off duty. Fortunately, the United States determines whether an alleged offense occurred on or off duty. The United States has primary jurisdiction over members of the United States forces and the civilian component when on duty. If Iraq arrests a United States forces member, it must immediately notify United States forces and turn over the individual within 24 hours. A significant provision of the jurisdiction portion of the Security Agreement is that Iraq has the primary right to exercise jurisdiction over United States contractors and United States contractor employees.

Judge Advocates also play a significant role in analyzing issues surrounding Article 22, Detention. Article 22 states that Iraqi Security Forces are in the lead for detention operations. The United States has agreed with the Government of Iraq that United States forces will not detain or arrest suspected criminals except through an Iraqi decision issued in accordance with Iraqi law and the Security Agreement. In the event that United States forces detain or arrest persons authorized by the Security Agreement or Iraqi law, i.e. United States forces witness someone committing a crime or engaging in combat activity, such persons must be handed over to Iraqi authorities within 24 hours from the time of their detention or arrest.

Although United States forces' activities are limited by the Security Agreement, the Security Agreement has fostered in a new era where the government of Iraq is to take charge of its country. The government of Iraq has taken on significant responsibilities. For example, among many things, it has assumed full responsibility for the security of its provinces, airspace, and territorial sea. The government of Iraq has also taken charge of its property, assets, land, and criminal justice system. The Security Agreement is a relatively concise document; however, its brevity has created opportunities for interpretation. As such, Judge Advocates play a vital role in accurately advising commanders on the specific provisions of this important document.



COB Speicher, Iraq on left and SFC Charles Cooper's gear ready to go on right. On left, MAJ Sabra Janko, CPT William Rothstein, COL Randy Kirkvold and LTC Silas DeRoma.

Foreign Assistance in Iraq

By CPT Kurt Gurka, Chief of Contract and Fiscal Law

Many of you likely know that Operation Iraqi Freedom ended last August and Operation New Dawn began September 1st. Defense Secretary Robert Gates endorsed the name change because it reflected the change in mission from combat operations to advise, train, and assist operations. This change in name might be misleading, however, when it comes to our foreign assistance efforts, because although the name has changed, the foreign assistance efforts continue almost unchanged.

The US has a long history of providing foreign assistance, with recipients such as Columbia, Haiti, Pakistan, and Haiti dominating many of the headlines. The type of assistance varies widely, from simply providing aid money, to training host nations to fight drug cartels in Columbia or the Islamist terrorist group Abu Sayyaf in the Philippines. Not surprisingly, our aid efforts often reflect US priorities in areas of common interest with host nations. Abu Sayyaf, for example, has been a destabilizing force in the Southern Philippines as it terrorized locals and undermined Philippine Government authority. With links to Al Qaeda, it became a target of opportunity for the US, and a possible area of cooperation with the Philippine Government. When it comes to training Iraqi Security Forces and building civil capacity, the US is hardly entering new territory.

Traditionally the Department of State funds foreign assistance, and the Department of Defense only funds foreign assistance pursuant to specific Congressional authorization. Many of you might be surprised to learn that the Department of State (DOS) provides many types of foreign military assistance that you are likely familiar with. Foreign military sales, for instance, are conducted by the DOS. Sometimes you might also hear of military personnel assigned to an Office of Security Cooperation. These personnel, despite wearing an Army uniform, also are often assigned to the DOS. And then there is the traditional foreign assistance, for which the DOS runs a host of programs. State fights international drug trafficking through its Bureau of International Narcotics and Law and Enforcement Affairs. State also encourages international development through the US Agency for International Development, often referred to as USAID.

As opposed to the traditional role of the DOS funding foreign assistance, here in Iraq the Department of Defense (DOD) funds significant foreign assistance programs. The United States Division North (USDN) OSJA faces foreign assistance funding issues most every day. Congress has provided two types of funds to the DOD that pay for the bulk of foreign assistance: Commanders' Emergency Response Program (CERP) funds and Iraqi Security Forces (ISF) funds. Congress provided the former to provide for urgent humanitarian relief and reconstruction needs that immediately assist the Iraqi people. The ISF funds were provided to train and equip the Iraqi military and police.

Commanders' Emergency Response Program funds have been used extensively to pacify communities and build civil capacity. In the USDN area of operations, units have undertaken myriad projects. Some examples include repairing schools, freshwater well pumps, canals, hospitals, judicial buildings, and parks; providing trash collection trucks, textbooks, food, winter clothing, and starter seeds for farmers; and restoring power generation capacity, freshwater production capacity, and agricultural capacity. As of the time of this writing, since the start of the fiscal year on 1 Octo-

Foreign Assistance in Iraq *continued*

ber 2010, USDN and its subordinate units have undertaken about \$9,000,000.00 in CERP projects.

As opposed to building civil capacity, ISF funds have been used to build the capacity of the Iraqi Army, Iraqi police, Kurdish Regional Brigades, and other national law enforcement entities. Commanders have used ISF funds to provide a range of support, from basic supplies such as refined petroleum products, to major military end items such as weapon systems and vehicles. The major goal of the ISF fund is to train and equip the ISF to be able to defeat Iraq's enemies, both foreign and domestic. Here attorneys review all CERP and ISF expenditures originating from both the Division and subordinate units; however, the vast majority of these projects originate from USDN's subordinate units.

Before actual work ever begins on a CERP project, USDN subordinate units spend a lot of time planning and coordinating the project. When it comes to even the most simple CERP projects, they must be coordinated with the local provincial reconstruction team – a team of State Department and other government experts – and with the local Iraqi government to ensure that the most beneficial projects are funded. Gaining buy in from these different groups often requires patience and negotiation. Then, the project will be fleshed out by planners in the unit and sent to USDN for approval.

At the USDN OSJA, projects are reviewed for compliance with legal requirements. These requirements come from several sources, including temporary requirements in authorization and appropriation acts, statutory requirements, and implementing guidance from the President, the Secretary of Defense, the Department of Army, and any other higher headquarters. As an example, Congress, in the 2009 National Defense Authorization Act, prohibited using ISF funds for the acquisition, conversion, rehabilitation, or installation of facilities in Iraq for use of the Government of Iraq or any of its entities, including the ISF. Essentially Congress did not want ISF funds to be used for facilities, an enterprise Congress ostensibly felt the Iraqis should fund themselves.

A closer look at this seemingly simple prohibition reveals how tricky some funding issues can become. Take a joint base with both ISF and US Forces: if both forces share a dining facility, can the US Forces renovate the facility? Or is renovation prohibited, since facilities may not be rehabilitated for use by the ISF? A similar dilemma occurs if US Forces want to renovate facilities in this, our last, year in Iraq. If US Forces seek to renovate an airfield control tower in June, and the same US forces plan to leave Iraq in August, is the renovation for US use or Iraqi use?

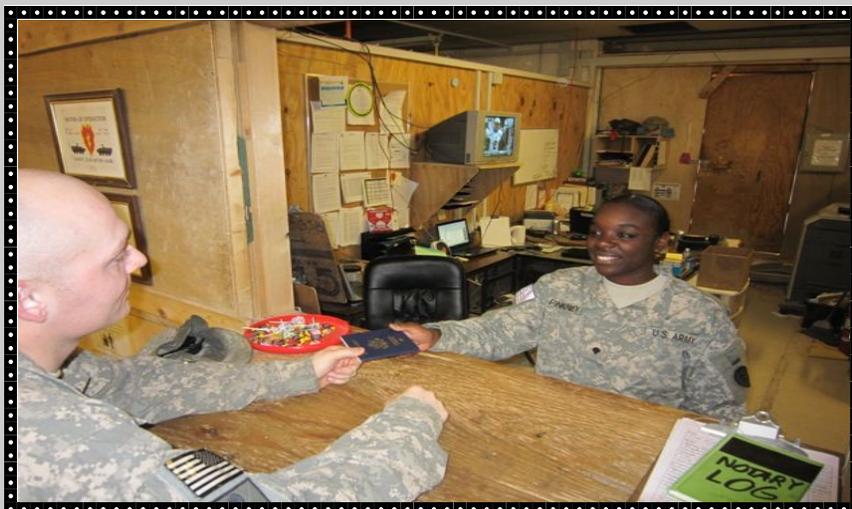
Funding issues have always been at the forefront of popular interest, and that is all the more so today with the exploding US federal deficit. Congress and the public expect the DOD to execute its budget adhering to the limitations Congress has placed on its funds. The USDN OSJA office assists in the execution of this duty through its input into planning efforts and its review of specific CERP and ISF funding requests. As the US presence in Iraq draws down, the office remains mindful that the public will look back and ask what all the billions allotted for Iraqi reconstruction actually went towards. By providing timely, accurate, and concise legal reviews of projects, the USDN OSJA hopes that regardless of the outcome, projects will have been designed and executed in accordance with Congressional requirements.

2-25 Advise and Assist Brigade



(Left to Right) MAJ Michael French and CPT Jeffrey Sherman at the Diyala Governance Center

Below: SPC Jacole Pinkney assists a legal assistance client with a passport matter



“Justice Served”

By SPC Benjamin Norman

Most products disseminated by the JAG office usually involve tax information, separation benefits, or wills. So, when my boss, SFC Doralo Fuller, asked me to do this assignment, I was enthralled. SFC Fuller said, “Hey Norman, I need you to take the most interesting and most common UCMJ actions of the last 3 months and put them on a handout.” I developed the rough draft through PowerPoint and after several . . . (hundred) . . . edits and reviews by SFC Fuller, MAJ Mike Friess, and the Brigade Commander, “Justice Served” came to life.

The focal point of “Justice Served” was an enlarged poster hung at the exit of the Contingency Operating Station (COS) Marez Dining Facility. The poster lists recent offenses and related UCMJ and adverse administrative actions without mentioning Soldier’s names. Once we hung the poster up, we immediately noticed an impact. While we were still stapling the poster to a corkboard, people began to crowd around. Lines formed, crowding the DFAC exit. “Justice Served” became the talk of the town.

The Brigade Commander ordered us to hang copies of “Justice Served” in even more locations. Smaller versions of “Justice Served” were soon seen at every troop/company/battery command post on COS Marez, at MWR facilities, and at all bus stops. Soon, if you walked into any office in the brigade area, you would see a “Justice Served” sign. We even broadcast “Justice Served” on the local AFN channel.

In drafting “Justice Served,” we were very careful to protect the identities of those Soldiers involved. The idea behind “Justice Served” was not to embarrass or degrade, but rather to show Soldiers of all ranks that there are consequences for misconduct. When the Soldiers see the punishment they might receive for certain offenses, it is an amazing tool. When someone realizes, “I can get 14 days of extra duty just for sleeping on guard duty,” they tend to think twice before committing an offense.

I chose to write this article about “Justice Served” because I have seen the significant impact it had on the Soldiers of the Long Knife Brigade. It has worked, and since broadcasting “Justice Served” across COS Marez, we have seen a significant decrease in common offenses.



Soldiers line up to take a look at the “Justice Served” list. Hopefully the list contributes to prevention of future offenses

 Justice Served OCT / NOV / DEC		
Who	Offense	Punishment
Major	Sexual Harassment	General Officer Article 15; General Officer Memorandum of Reprimand; Loss of \$3,378 pay for 2 months; Arrest in quarters for 30 days; Pending Elimination Board
Staff Sergeant	Assault	Reduction to Sergeant; Loss of \$1462 pay; Extra Duty and Restriction
Sergeant	Huffing Canned Air, Driving without a TC	Reduction to Specialist; Loss of \$844 pay for 2 months; Extra Duty and Restriction for 45 days; Separation with a General Discharge
Specialist	Spending the Night in the Living Quarters of Opposite Sex	Reduction to PFC; Loss of \$488 pay; Extra Duty for 14 days
Specialist	Leaving Assigned Weapon in the DFAC	Loss of \$180 pay; Extra Duty for 7 days
Specialist	Fell Asleep on Guard Duty	Reduction to PFC; Loss of \$823 pay; Restriction for 14 days
Specialist	Negligent Discharge	Loss of \$300 pay; Extra Duty/Restriction for 14 days
Private First Class	Huffing Canned Air	Reduction to Private (E1); Loss of \$723 pay for 2 months; Extra Duty and Restriction for 45 days; Separation with a General Discharge
Private (E2)	Possessing "Spice"	Reduction to Private (E1); Loss of \$723 pay for 2 months; Extra Duty and Restriction for 45 days; Separation with a General Discharge
Private (E2)	Disrespect to an NCO x 3; Communicate a Threat x 2	Reduction to Private (E1); Loss of \$864 pay; Summary Court-Martial Conviction; Other than Honorable Discharge

NOTE: WITH A GENERAL DISCHARGE YOU MAY NOT BE ELIGIBLE FOR THE MONTGOMERY G.I. BILL, VA EDUCATIONAL ASSISTANCE, AND CIVIL SERVICE RETIREMENT CREDIT



MAJ Michael Friess—Brigade Judge Advocate—"Justice Served"

MIDTOUR LEAVE TO AUSTRALIA

by SPC Jennifer Pedersen

Imagine blue water, fine dining, shopping, and lots and lots of sun. I am not describing Mosul, Iraq, but rather Sydney, Australia, where I and two other Soldiers from 4BCT were lucky enough to spend our 2 weeks of R&R in January. With all the talk of the flooding in northern Australia in December, we were slightly concerned, but it turned out to be beautiful 90-degree sunny weather the entire trip. We spent countless hours soaking up the sun on the numerous beaches of Sydney. If we weren't at the beach, we were most likely shopping or chatting at one of fabulous cafes scattered across the city. We were even lucky enough to get seats at the famous Sydney Opera House, where we saw the opera "Carmen."

Eventually it came time to pack our bags, which were much fuller than when we left Iraq! Now I am back in Mosul, ready to finish out this deployment, which has been full of first experiences for me. I am very pleased to add Sydney, Australia to that list.

At right: SPC Pedersen in Australia with friends



PFC Wells Becomes an American Citizen



Above: SFC Doralo Fuller, PFC Patrick Wells and MAJ Sue Bickford

Below: Al Faw Palace, Camp Victory, Baghdad, Iraq



From the Homefront

The support provided to us by families, friends and significant others is what sustains us and allows us to succeed. We could not do what we do without the support that we receive from back home.



SSG Gutierrez holding her nephew above. Her family assembled below



“My parents, Javier and Esperansa Gutierrez and my sibling’s love, support and prayers help give me strength to power through every day and to pursue my dreams and passions in life.” SSG Jaelyn Gutierrez



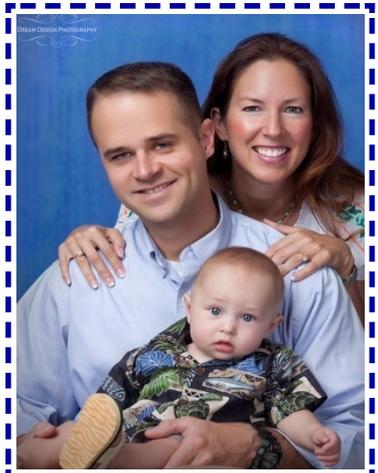
“I have been blessed with wonderful family and friends who have surrounded me with love and support in all that I have done.” SGT Eva McBride



I miss my wife Carmen, my two daughters Isabelle and Gabriela, and my dog Mozart.. I believe that the love of family is a necessity of life; it is the meaning of life itself. MAJ Javier Rivera above and left.



SGT Eva McBride above and with her parents Melvin and Eva McBride left



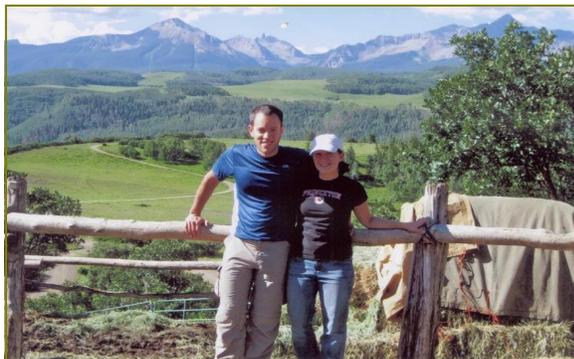
Steve, Sabra and Scottie Janko above
“I’m so lucky to have so much support from my guys.” MAJ Sabra Janko





"My wife has always been there for me. For two deployments she has taken care of me from afar and remained loving and supportive, which I know can be difficult at times. I will never be able to thank her enough for all she does to support me. I am very lucky to have such a supportive and beautiful wife, and I can't wait to be back with her soon."

Kurt and Rachel
Thanks for hanging in there
- see you soon.
Thanks,
Kspg
CPT Kurt Gurka



"I would like to thank my wife, Rhonda, and my cat, Jersey, for all of their support during my deployment. Rhonda has been sending me weekly care packages to make sure I am stocked up on food and supplies. Jersey has been sending me weekly pictures to make sure that my office wall is covered with cute cat photos."

Sean and Rhonda Safdi above



"Thanks for putting up with me for all these years. You and the Lovelets are loved and missed very much."

SSG Robert Love



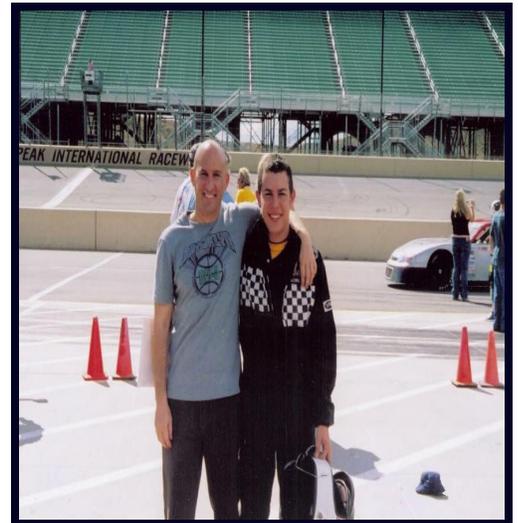
My Family photo taken at Christmas, from L to R Sean 23; John 27; Katie 20, and William 17. LTC John Coughlin

The KIRKVOLDS! Above is Alexandra (age 12), Henry (age 2), Natalie (age 6), Colonel Kirkvold, Nick (age 14), Louise Kirkvold, Clara (age 12), and John (age 11). This photo is the weekend before Colonel Kirkvold deployed to Iraq in October 2010.

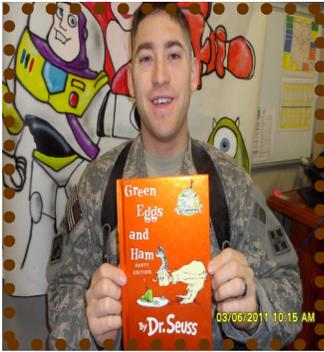
“Thanks Louise for all your support during my recent deployments. I miss you and the children and am looking forward to being back home soon.”



LTC Mierau's wife Samantha wins the prize for Best Dressed at the Octoberfest event with the Fort Carson Officer's Spouse Club and his daughters, Darian (L) and Ashleigh (R) make the best of the situation during a December cruise to the western Caribbean.



My son, Charles, is always there for me...this was a day he and I enjoyed at the track..



SGT Brandon Brookhart continues to read books to send to his daughter Addisyn.

From the Homefront



Gavin (2 1/2) and Brendan (4) DeRoma



In memory of my brother, Samuel Eugene O'Neil (March 13, 1984 - February 17, 2011). I miss you and love you! Your sister, SPC Catherine O'Neil



The newly-promoted MAJ Thueme with CPT Normile after she pinned on his new rank on New Year's Eve at Al Faw Palace in Baghdad. Thanks to both the Normile and Thueme families for all your support!



I'll be home soon beautiful. Remember... you love me and you miss me (in case you forgot).-Matt CPT Matthew Firing



I love my family and my wife dearly and want to thank them for all they do to support me. This is my wife Abigail attending a conference with her mother in Nashville. CPT Christopher Rich