

# MILITARY LAW REVIEW VOL. 96

Professional Writing Award for 1981

The Army Judge Advocate General's  
Corps, 1975-1982

Finding Aids for "The Army Lawyer: A  
History of the Judge Advocate General's  
Corps, 1775-1975" (1975)

Cumulative Index, Vols. 92-96



Pamphlet

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## MILITARY LAW REVIEW

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*The Judge Advocate General of the Army*

MAJOR GENERAL HUGH R. OVERHOLT

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## MILITARY LAW REVIEW

**SUBMISSION OF WRITINGS:** Articles, comments, recent development notes, and book reviews should be submitted typed in duplicate, double spaced, to the Editor, *Military Law Review*, The Judge Advocate General's School, U.S. Army, Charlottesville, Virginia 22901.

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## PROFESSIONAL WRITING AWARD FOR 1981

by Major Percival D. Park

### I. INTRODUCTION

Each year, the Alumni Association of The Judge Advocate General's School, Charlottesville, Virginia, gives an award to the author of the best article published in the *Military Law Review* during the previous calendar year. The purposes of this award are to recognize outstanding scholarly achievements in military legal writing and to encourage further writing.

The award was first given for an article published in 1963, in the sixth year of the *Review's* existence. It consists of a citation signed by The Judge Advocate General and an engraved plaque. Selection of a winning article is based upon the article's usefulness to judge advocates in the field, its long-term value as an addition to military legal literature, and the quality of its writing, organization, analysis, and research.<sup>1</sup>

### II. THE AWARD FOR 1981

The award for 1981 was presented to Captain Edward D. Holmes, JAGC, USAR, for his article entitled, "The Residual Hearsay Exceptions: A Primer for Military Use."<sup>2</sup> This article was published in volume 94, the fall 1981 issue of the *Military Law Review*. Captain Holmes is a member of the 109th USAR JAG Detachment (International Law), at Kansas City, Missouri. In civilian life he works as a prosecutor for the United States Department of Justice, in the Organized Crime and Racketeering Section, also at Kansas City.<sup>3</sup> Cap-

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<sup>1</sup>A more complete account of the history of the award and a detailed description of applicable selection criteria and procedures appears at 87 Mil. L. Rev. 1 (winter 1979). See also TJAGSA Reg. No. 10-2, Organization and Functions: Policies and Procedures, the "School SOP," at Annex DDL-11 to Appendix C (1 Jan. 1982). A discussion of the award for 1979 appears at 90 Mil. L. Rev. 1 (fall 1980); that for 1980 is discussed at 93 Mil. L. Rev. 1 (summer 1981).

<sup>2</sup>94 Mil. L. Rev. 15 (fall 1981).

<sup>3</sup>Captain Holmes has been with the Department of Justice since April 1977. Previously he served on active duty as a captain in the U.S. Army J.A.G. Corps from 1973 to 1976, and was assigned to the Office of the Staff Judge Advocate, U.S. Army Air Defense Center, Fort Bliss, Texas. At Fort Bliss, Captain Holmes served as trial counsel, administrative law officer, and labor law advisor. He worked briefly in private practice at El Paso, Texas, early in 1977. Captain

tain Holmes has previously published articles in *The Army Lawyer*<sup>4</sup> and the *Urban Law Annual*.<sup>5</sup>

In his award-winning article, Captain Holmes discusses Rules 803(24) and 804(b)(5) of the Military Rules of Evidence.<sup>6</sup> These provisions deal with hearsay exceptions not otherwise specified, or residual exceptions. The Military Rules were promulgated by executive order in 1980.<sup>7</sup> Most of the Military Rules, including the residual exceptions, are derived with little or no substantive change from the civilian Federal Rules of Evidence, enacted by Congress in 1975.<sup>8</sup>

Captain Holmes reveals the purposes of Congress in approving the residual exceptions through examination of the legislative history of the Federal Rules. Notice requirements, the discretion of the trial court in admitting or excluding proffered hearsay evidence, the use of a pretrial hearing under Article 39(a), U.C.M.J.,<sup>9</sup> to litigate such questions, and related matters are discussed. Substantive standards for admission are reviewed, and the relevance of the sixth amendment right to confrontation is examined. Extensive discussion of federal and military case law is provided.

Captain Holmes concludes with suggestions to military prosecutors and defense counsel concerning the residual exceptions and their use. The article is partly based on his experience successfully arguing for the Government in *United States v. Balano*,<sup>10</sup> a civilian criminal case involving a residual hearsay issue.

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Holmes earned a B.A. in English at Virginia Military Institute, Lexington, Va., in 1970, and a J.D. at Washington University School of Law, St. Louis, Mo., in 1973. He completed the Judge Advocate Officer Basic Course at TJAGSA, Charlottesville, Va., in December of 1973, and is a member of the Missouri and Texas bars.

<sup>4</sup>The *Army Lawyer*, Aug. 1975, at 6; *id.*, Dec. 1975, at 1 (with LTC Dennis F. Coupe); and *id.*, Apr. 1976, at 17 (with Mr. Robert M. Banks, Jr.). The *Army Lawyer* is the monthly companion to the *Military Law Review*.

<sup>5</sup>1973 *Urb. L. Ann.* 267; 1974 *Urb. L. Ann.* 141. The *Urban Law Annual* is published by the Washington University School of Law, Kansas City, Mo.

<sup>6</sup>Exec. Order No. 12,198 (1980), reprinted in *Manual for Courts-Martial, United States*, 1969 (Rev. ed.), App. 18, and in *West's Military Justice Reporter*, at 8 M.J. XLVII-CCXXXIX (1980).

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

<sup>8</sup>Pub. L. No. 93-575, 88 Stat. 1926 *et seq.* (1975), codified in 18 U.S.C. appendix.

<sup>9</sup>10 U.S.C. 839(a) (1976).

<sup>10</sup>618 F.2d 624 (10th Cir. 1979), *cert. denied*, 449 U.S. 840 (1980).



The article helps greatly to clarify and to disseminate information about a complex area of the law of evidence. This type of article can be especially helpful to the judge advocate trying courts-martial in the field, where research materials, as well as the time to utilize them fully, are often lacking.

### III. CONCLUSION

The award for 1981 is the nineteenth presented since the TJAGSA Alumni Association Professional Writing Award was initiated. The 1981 award is the first presented to a reservist not on active duty when the article was written. Captain Holmes' article was originally a thesis submitted in 1981 in partial fulfillment of the requirements of the Judge Advocate Officer Advanced Correspondence Course. Ten previous awards have been given for theses written by students in the resident graduate (advanced) course.<sup>11</sup> This is the first given for work done in the nonresident course. It is the seventh for an article dealing primarily with a criminal law or military justice topic.<sup>12</sup>

With deep satisfaction, the *Military Law Review* congratulates Captain Holmes on his achievement. His excellent work has helped earn the respect of the military legal community for the *Review* and for The Judge Advocate General's School.

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<sup>11</sup>The nine-month resident course of career judge advocates was called the Judge Advocate Officer Advanced Course, from its fifteenth offering in academic year 1966-67, through its twenty-sixth offering, 1977-78. Since then it has been called the Graduate Course. From its first offering in 1951-52 through its fourteenth, 1965-66, it was called the Career Course. The nonresident version is still called "Advanced." For students in the resident course, the writing of theses, which had been mandatory, was made optional beginning with academic year 1976-77, the 25th Advanced Course. Thesis writing is still mandatory for students in the nonresident course.

<sup>12</sup>Criminal law or military justice articles were the subjects of the awards for 1965, 1970, 1972, 1973, 1974, and 1977. Not included in this listing is the article selected for the 1976 award which, though it has implications for criminal law or military justice, deals primarily with international law.



# THE ARMY JUDGE ADVOCATE GENERAL'S CORPS, 1975-1982 \*

By Major Percival D. Park\*\*

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\*The opinions and conclusions expressed in this article are those of the author and do not necessarily represent the views of The Judge Advocate General's School, the Department of the Army, or any other governmental agency.

\*\*Judge Advocate General's Corps, United States Army. Assigned to Contract Law Div., OSJA, HQ, U.S. Army Forces Command, Ft. McPherson, Georgia, 1982 to present. Editor, *The Military Law Review*, TJAGSA, Charlottesville, Va., 1977-1982. B.A., 1966, Allegheny College, Meadville, Pa.; B.S., 1976, Univ. of Maryland; M.A., 1975, Boston Univ.; J.D., 1969, Harvard Univ.; LL.M., 1980, Univ. of Virginia. Member of the Bars of the U.S. Supreme Court, the U.S. Court of Military Appeals, Pennsylvania, and the District of Columbia. Author, "Settlement of Claims Arising from Irregular Procurements," 80 Mil. L. Rev. 220 (spring 1978), and book reviews at 84 Mil. L. Rev. 121 (spring 1979), 88 Mil. L. Rev. 137 (spring 1980), and 94 (Mil. L. Rev. 173 (fall 1981)).

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## THE ARMY JUDGE ADVOCATE GENERAL'S CORPS, 1975-1982

### I. INTRODUCTION

The first two hundred years of the history of the United States Army Judge Advocate General's Corps have been described in an official history published in 1975<sup>1</sup> as part of America's bicentennial observation. Many writers and editors contributed to that work, tracing the development of American military law from its British origins in the American Revolution,<sup>2</sup> through all the succeeding wars of the United States, to the end of the Vietnam era. The present article brings that official history up to date, describing significant events in the life of the Corps from 1975 to 1982. Additionally, an index and other finding aids are provided for the history published in 1975.

The present historical update discusses changes in the organization, mission, and personnel of the Army JAG Corps, in its active, reserve, and national guard components. Some mention is made of substantive changes and developments in military law, but for the most part such matters are considered beyond the scope of this article, and are adequately covered in many other articles in the *Military Law Review*, *The Army Lawyer*, and other periodicals. Events and developments of all sorts prior to 1975 are mentioned only where necessary to provide background information.

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<sup>1</sup>Dep't of the Army, *The Army Lawyer: A History of the Judge Advocate General's Corps, 1775-1975* (1975) (hereinafter cited as the *Army Lawyer History*).

<sup>2</sup>*Id.* at 7.

## II. GENERAL OFFICERS ON ACTIVE DUTY, 1975-1982

The official JAG Corps history published in 1975 provides fulsome biographies of the Army's Judge Advocates General, but little information about other general officers in the Corps. The research and writing required would doubtless have consumed much more time than was available, and would have necessitated a much larger volume.<sup>1</sup> Yet the service records of the Corps' top ranking officers are properly part of the history of the Corps, and have value as examples to less senior officers. Accordingly, biographical information is provided concerning all JAGC general officers who retired or who were promoted from 1975 through 1981, with two exceptions. Major General George S. Prugh,<sup>2</sup> who retired in 1975, and Major General Wilton B. Persons, Jr.,<sup>3</sup> who took office as TJAG in that year, both have biographies in the 1975 history.

Sixteen general officers have served with the Corps during the past six years. Biographies of fourteen are set forth below.<sup>4</sup> A brief overview of general officer personnel changes may be helpful to readers. In the position of The Judge Advocate General,<sup>5</sup> Major

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<sup>1</sup>A beginning of such a compilation was made in an appendix to an article by Colonel William F. Fratcher, *History of the Judge Advocate General's Corps, United States Army*, published at 4 Mil. L. Rev. 89 (1 Mar. 1959). Appendix 1(b), entitled "Other General Officers of the Corps," lists the names of twenty-four JAGC Generals, with their degrees and the dates of their promotions. 4 Mil. L. Rev. at 115-116. Two of them, General Decker and General McCaw, subsequently became the twenty-fifth and twenty-sixth The Judge Advocates General.

General officers' biographies are set forth in the text in order of precedence of their position (TJAG, TAJAG, etc.) and in chronological order in that position.

<sup>2</sup>A biography of Major General Prugh appears at pages 256-257 of Dep't of the Army, *The Army Lawyer: A History of The Judge Advocate General's Corps 1775-1975* (1975) (hereinafter referred to in text and notes as the *Army Lawyer History*).

<sup>3</sup>A biography of Major General Persons appears in the *Army Lawyer History*, note 2, *supra*, at 257-259.

<sup>4</sup>Biographies of Major Generals Prugh and Persons have previously been published. See notes 2, 3, *supra*.

<sup>5</sup>The article "the" has been capitalized when preceding "Judge Advocate General" since it first appeared so in War Department General Order No. 2, dated January 31, 1924. *Army Lawyer History* of 1975, at 139. By extension the same rule of capitalization is applied to The Judge Advocate General's School, and to The Assistant Judge Advocate General.

General Persons retired in 1979 and was succeeded by Major General Alton H. Harvey (1979-1981), and he in turn by Major General Hugh J. Clausen (1981 to present).

The Assistant Judge Advocate General during Major General Prugh's tenure (1971-1975) was Major General Harold E. Parker. He was succeeded in the second position by Major General Lawrence H. Williams (1975-1979), Major General Clausen (1979-1981), and Major General Hugh R. Overholt (1981 to present).

The Assistant Judge Advocate General during Major General Prugh's tenure (1971-1975) was Major General Harold E. Parker. He was succeeded in the second position by Major General Lawrence H. Williams (1975-1979), Major General Clausen (1979-1981), and Major General Hugh R. Overholt (1981 to present).

The position of Judge Advocate, U.S. Army Europe and Seventh Army, was vacated by Major General Persons in 1975, and was filled until 1978 by Brigadier General Victor A. DeFiori. General DeFiori was succeeded by Brigadier General Wayne E. Alley (1978-1981), and by Brigadier General Richard J. Bednar (1981 to present).

The position of Assistant Judge Advocate General for Military Law was filled by Brigadier General Lawrence H. Williams until 1975. He was succeeded by Brigadier General Joseph N. Tenhet (1975-1978), Brigadier General Hugh J. Clausen (1978-1979), and Brigadier General Hugh R. Overholt (1979-1981). General Overholt was followed by Brigadier General Lloyd K. Rector (1981 to present).

Brigadier General Bruce T. Coggins served as Assistant Judge Advocate General for Civil Law from 1973 until his retirement in 1976. He was followed by Brigadier General Harvey (1976-1979), Brigadier General Bednar (1979-1981), and Brigadier General Ronald M. Holdaway (1981 to present).

Brigadier General Emory M. Sneed served as Chief Judge of the U.S. Army Court of Military Review and as Chief, U.S. Army Legal Services Agency, from 1975 to 1976. General Sneed was followed in this dual post by Brigadier General Clausen (1976-1978) and by Brigadier General DeFiori (1978-1979). Thereafter the title of the head of USALSA was changed from "Chief" to "Command-

er." Brigadier General Rector served as Chief Judge and Commander, USALSA, from 1979 to 1981, and was succeeded by Brigadier General Donald Wayne Hansen (1981 to present).

Individual biographies follow.

### A. MAJOR GENERAL ALTON H. HARVEY

Major General Alton H. Harvey, The Judge Advocate General, retired from the Army on 31 July 1981. He held the position from 1 July 1979, succeeding Major General Wilton B. Persons, Jr. General Harvey was succeeded by Major General Hugh J. Clausen, previously The Assistant Judge Advocate General.

General Harvey became Assistant Judge Advocate General for Civil Law at the end of 1976, succeeding Brigadier General Bruce T. Coggins, who had retired during the summer. He was promoted to brigadier general in 1977. From July 1975 to December 1976, he served as Chief, Defense Appellate Division, U.S. Army Legal Services Agency, at Falls Church, Virginia.<sup>6</sup>

Among his other achievements, Major General Harvey worked successfully to bring into being a separate defense counsel organization, the Trial Defense Service. Also, during 1976, he headed the legal team which worked on the honor code investigation which took place at the U.S. Military Academy, West Point, New York.<sup>7</sup>

Major General Harvey's previous duty assignments include service as Chief, Military Justice (later, Criminal Law) Division, Office of The Judge Advocate General from April 1972 to August 1974; Staff Judge Advocate of the 101st Airborne Division, in Vietnam and later of the United States Army Support Command, Cam Rahn Bay, Vietnam, from August 1971 to April 1972; Staff Judge Advocate, U.S. Military Assistance Command/Joint United States Military Advisory Group, Thailand, from July 1968 to August 1971; Staff Judge Advocate, 6th Infantry Division, Fort Campbell, Kentucky, from January 1968 to July 1968; and Staff Judge Advocate, Army John F. Kennedy Center for Special Warfare, and later

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<sup>6</sup>Harvey named TJAG, Clausen Assistant, 10 TJAGSA Alum. Assn. News, 1 (Apr. 1979).

<sup>7</sup>Remarks by Colonel William K. Suter, introducing Major General Harvey, speaker at graduation of 29th Judge Advocate Officer Graduate Class, TJAGSA, Charlottesville, Va. (22 May 1981).



XVIII Airborne Corps, Fort Bragg, North Carolina, from October 1966 to January 1968.<sup>8</sup>

Major General Harvey earned a B.A. in history and an LL.B. from the University of Mississippi, Oxford, Mississippi. During academic year 1961-62, he was a member of the 10th Judge Advocate Officer Career Course, TJAGSA, Charlottesville, Virginia. Other military schools he has attended include the United States Army Command and General Staff College; the Industrial College of the Armed Forces; and the Defense Language Institute.<sup>9</sup>

Major General Harvey's long list of decorations include the Legion of Merit, Bronze Star Medal, Meritorious Service Medal, Air Medal, and Purple Heart.<sup>10</sup> He is a native of McComb, Mississippi.<sup>11</sup> Upon his retirement he became the dean of the Mississippi College of Law, Jackson, Mississippi.

### B. MAJOR GENERAL HUGH J. CLAUSEN

Major General Clausen took office as the thirty-first Judge Advocate General of the United States Army in the summer of 1981. He succeeded Major General Alton H. Harvey. Previously General Clausen served as The Assistant Judge Advocate General from 1 July 1979.<sup>12</sup>

In September 1978, General Clausen succeeded Brigadier General Joseph N. Tenhet, Jr., as Assistant Judge Advocate General for Military Law. General Clausen was in turn succeeded in this post in July 1979 by then-Brigadier General Hugh R. Overholt. Previously, General Clausen served as Chief of the U.S. Army Legal Services Agency and Chief Judge of the Army Court of Military Review from 30 March 1976 to September 1978. He succeeded Brigadier General Emory M. Sneed in that post, and was succeeded by Brigadier General Victor A. DeFiori.<sup>13</sup>

General Clausen was born in Mobile, Alabama, on 25 December 1926. After graduation from McGill High School and a short stint at

<sup>8</sup> Colonel (P) Alton H. Harvey Selected as New Brigadier General, 8 TJAGSA Alum. Assn. Newsl. 4 (1976).

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

<sup>10</sup> Note 6, *supra*.

<sup>11</sup> Note 8, *supra*.

<sup>12</sup> Note 6, *supra*.

<sup>13</sup> Note 6, *supra*; OTJAG, Dep't of the Army, JAGC Personnel and Activity Directory, issues of 1976, 1978, and 1979.

Spring Hill College, he enlisted in the United States Navy. Discharged in June 1946, he re-entered Spring Hill College. He also attended the University of Louisville. Subsequently he graduated from the University of Alabama Law School in 1950, was commissioned as a first lieutenant, JAGC, in the Army Reserve, and was called to active duty in March 1951. General Clausen served as an Assistant Staff Judge Advocate at Fort Bragg, North Carolina.<sup>14</sup>

General Clausen attended the 7th Judge Advocate Officer Basic Course, which was the first basic course held at The Judge Advocate General's School in Charlottesville, Virginia.<sup>15</sup>

Late in 1951, General Clausen was assigned to Germany, and served at Headquarters, U.S. Army Europe, at Headquarters, V Corps, and at Headquarters, Seventh Army. Returning to the United States in January 1955, he served as Judge Advocate of the New Orleans Port of Embarkation, and later as Deputy Staff Judge Advocate of the Gulf Transportation Terminal Command.<sup>16</sup>

General Clausen was a student in the 7th Career (i.e., Graduate) Course, at TJAGSA, from September 1958 to June 1959. The thesis, "Rehearings Today in Military Law," which he wrote for the course, was published at 12 Mil. L. Rev. 145 (1 Apr. 1961). He remained at the School until 1961, working as an instructor in the Military Justice Division.<sup>17</sup>

In 1961, General Clausen studied the Korean language at the U.S. Army Language School at the Presidio of Monterey, California. Thereafter he was assigned to Eighth U.S. Army, Korea, as Chief of the International Affairs Division, Office of the Staff Judge Advocate. Returning to the United States in 1964, General Clausen was assigned to Fort Leavenworth, Kansas, where he served as Judge Advocate for the Disciplinary Barracks, attended the Command and General Staff College, and later served as an instructor in the College's Department of Command. In June 1968, he returned to the Far East, serving for a year as Staff Judge Advocate of the 1st Infantry Division in Vietnam.<sup>18</sup>

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<sup>14</sup>*Hugh J. Clausen Promoted to Brigadier General*, 8 TJAGSA Alum. Assn. Newsl. 5 (1976).

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

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

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

<sup>18</sup>*Id.*

In June 1969, General Clausen returned to the United States, to his first Pentagon assignment, as a plans officer in the Plans and Operations Division, Office of the Chief of Legislative Liaison. He also served as Chief of the Legislation Division, OCLL. General Clausen completed the Nonresident Course of the U.S. Army War College, and the Advanced Management Program of the Harvard University Graduate School of Business Administration in 1970.<sup>19</sup>

From June 1971 to May 1972, General Clausen served as Chief of the Military Justice Division, OTJAG, after which he spent a year as Executive to The Judge Advocate General. In June of 1973 he was assigned as the Staff Judge Advocate, Headquarters, III Corps and Fort Hood, Fort Hood, Texas. He held this post until 30 March 1976. General Clausen was formally sworn in as Chief Judge of the Army Court of Military Review on 6 April 1976 by Major General Lawrence H. Williams, then The Assistant Judge Advocate General.<sup>20</sup>

Among other decorations, General Clausen has been awarded the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal, and the Air Medal.<sup>21</sup>

### C. MAJOR GENERAL HAROLD E. PARKER

Major General Harold E. Parker, formerly The Assistant Judge Advocate General, was born in Canton, New York, on March 25, 1918. He earned a B.A. in economics from Cornell University in 1938. During the same year, he accepted a commission as a second lieutenant in the Field Artillery Reserve. General Parker came on active duty in the field artillery in September, 1941, and held various field command positions with artillery units overseas during the period from 1941 to 1944. After World War II, General Parker served as an instructor at the Military Intelligence School, in 1946. From 1946 to 1948, he was a member of the War Department General Staff.<sup>22</sup>

General Parker entered Stanford Law School, and received his LL.B. degree and was admitted to the California bar in 1951. Now a

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<sup>19</sup>*Id.*

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

<sup>21</sup>Note 6, *supra*.

<sup>22</sup>*The New Assistant Judge Advocate General*, *The Army Lawyer*, Aug. 1971, at 3.

judge advocate, he served as an Assistant Staff Judge Advocate at Seventh Army Headquarters and later at 2d Armored Division, both in Germany. General Parker next served as Staff Judge Advocate for the 1st Infantry Division, also in Germany.<sup>23</sup>

Returning to the United States, General Parker attended the Army Command and General Staff College, Ft. Leavenworth, Kansas, in 1956. Moving to OTJAG, he was Chief of the Opinions Branch, Military Justice (now Criminal Law) Division from 1956 to 1960. He returned to Fort Leavenworth as an instructor at the Command and General Staff College from 1960 to 1963. A student once again, General Parker was at the U.S. Army War College in 1964. Thereafter he returned to Germany for a tour as Staff Judge Advocate, Office of the United States Commander, U.S. Army Berlin.<sup>24</sup>

General Parker was promoted to brigadier general in 1968, and served as Assistant Judge Advocate General for Military Law. On 1 July 1971, he took office as The Assistant Judge Advocate General and was promoted to major general.<sup>25</sup> General Parker was succeeded as Assistant Judge Advocate General for Military Law by then-Brigadier General Lawrence H. Williams (who, four years later, succeeded him as The Assistant Judge Advocate General). General Parker retired on 30 June 1975.<sup>26</sup>

#### D. MAJOR GENERAL LAWRENCE H. WILLIAMS

Major General Lawrence H. Williams took office as The Assistant Judge Advocate General on 1 July 1975, succeeding General Parker. He retired on 30 June 1979 and was followed in office by Major General Hugh J. Clausen.

General Williams was born on 20 May 1922, at Salem, Massachusetts. After two years of pre-law course work at the University of Minnesota, Minneapolis, Minnesota, he volunteered for the U.S. Army Aviation Cadet Program in 1942, and was commissioned a

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<sup>23</sup>*Id.*

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

<sup>25</sup>*Id.*

<sup>26</sup>DA Pam 27-50-31, *The Army Lawyer*, July 1975, at 46. Initially published as a magazine, *The Army Lawyer* became a Department of the Army pamphlet with the March 1973 issue. It is the monthly companion to the quarterly *Military Law Review*, and is similar to a civilian bar journal. It should not be confused with the *Army Lawyer History*, note 2, *supra*.

second lieutenant and rated a navigator in 13 November 1943. General Williams served in North Africa, Italy, England, and France, participating in twenty-six combat missions. He served as deputy lead navigator for the 9th Troop Carrier Command, dropping paratroopers for the D-day invasion of Normandy.<sup>27</sup>

In January, 1946, General Williams left the armed forces and returned to the University of Minnesota, earning his B.S. degree there in 1947. In 1948, he received his J.D. degree from the University of Colorado, Boulder, Colorado.<sup>28</sup>

In 1948, General Williams applied for and was recalled to active duty as a competitive tour officer in the Office of The Judge Advocate General. He received his Regular Army commission one year later. From October 1948 to August 1952, General Williams served in the Military Affairs (now Administrative Law) Division of OTJAG. From 1952 to 1953, he was an instructor in military affairs at the then-new Judge Advocate General's School, Charlottesville, Virginia. General Williams moved to the Canal Zone, where he served as Assistant Staff Judge Advocate, U.S. Army Caribbean, from 1953 to 1956. Thereafter General Williams was assigned as Assistant Legal Advisor in the Office of the Deputy Chief of Staff for Logistics, Department of the Army. In 1957, he returned to the Military Affairs Division, OTJAG, serving as Deputy Chief and Chief, Personnel Law Branch, and as Deputy Chief and Chief, General Law Branch, until 1960. In July of that year he was assigned to the Office of the Assistant Secretary of Defense (Manpower and Reserve Forces), as legal advisor to a personnel task force. On completion of that tour in February 1961, General Williams was reassigned as Chief, Personnel Law Branch, where he remained until July 1961.<sup>29</sup>

General Williams next moved to Frankfurt, Germany, where he served as Staff Judge Advocate, 3d Armored Division, until August 1963. In that month he became Assistant Chief of Staff, G-1, in the 3d Armored Division, until June 1964. Returning once more to OTJAG he served as Assistant Chief and later Acting Chief of the Military Affairs Division until the summer of 1966.<sup>30</sup>

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<sup>27</sup>*Id.* at 1-2.

<sup>28</sup>*Id.* at 2.

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

<sup>30</sup>*Id.*

General Williams attended the Industrial College of the Armed Forces, Ft. McNair, Washington, D.C., from August 1966 to June 1967. He graduated with highest honors. Thereafter he served as Staff Judge Advocate, Headquarters, III Corps and Fort Hood, Texas, from 1967 to 1969. A one-year tour in Vietnam followed next, as Staff Judge Advocate, Headquarters, Military Assistance Command, Vietnam.<sup>31</sup>

In August 1970, General Williams again became Chief of the Military Affairs Division, OTJAG, remaining in that post until 1 July 1971. On the latter date he became Assistant Judge Advocate General for Military Law and was promoted to brigadier general. When he became The Assistant Judge Advocate General on 1 July 1975, he was followed in the military law post by Brigadier General Joseph N. Tenhet, Jr.<sup>32</sup>

General Williams wrote an article, *The Army Board for Correction of Military Records*, which was published in an early issue of the *Military Law Review*.<sup>33</sup>

### E. MAJOR GENERAL HUGH R. OVERHOLT

Major General Hugh R. Overholt became The Assistant Judge Advocate General on 1 August 1981. He succeeded Major General Hugh J. Clausen, who became The Judge Advocate General. From July 1979 until 1981, General Overholt served as Assistant Judge Advocate General for Military Law, succeeding Major General Hugh J. Clausen. General Overholt filled the post of Legal Advisor, U.S. Army Element, Office of the Secretary of Defense, from July 1978 to June 1979. From July 1976 to July 1978, he was Staff Judge Advocate for XVIII Airborne Corps and Fort Bragg, Fort Bragg, North Carolina.<sup>34</sup>

General Overholt's previous assignments include service as Chief of the Criminal Law Division, TJAGSA; Director, Academic Department, TJAGSA; Staff Judge Advocate, 2d Infantry Division, Korea; and Chief, Personnel, Plans, and Training Office, OTJAG.<sup>35</sup>

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<sup>31</sup>*Id.* at 3.

<sup>32</sup>*Id.*

<sup>33</sup>6 Mil. L. Rev. 41 (1 Oct. 1969), reprinted in DA Pam 27-100-1-10, Military Law Review—Selected Reprints, at 257 (1 Oct. 1975).

<sup>34</sup>*Alley, Bednar & Overholt Selected New JAGC Generals*, 10 TJAGSA Alum. Assn. Newsl. 5 (April 1979).

<sup>35</sup>*Id.*

General Overholt received his undergraduate and J.D. degrees from the University of Arkansas, Fayetteville, Arkansas. He is a graduate of the Industrial College of the Armed Forces, Fort McNair, Washington, D.C., and of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas. During academic year 1964-65, General Overholt completed the 13th Judge Advocate Officer Career Course at TJAGSA, Charlottesville, Virginia.<sup>36</sup>

#### F. BRIGADIER GENERAL VICTOR A. DEFIORI

General Persons' successor as Judge Advocate, U.S. Army Europe and Seventh Army, was Victor A. DeFiori, promoted to the grade of Brigadier General on 27 August 1975.<sup>37</sup>

Brigadier General DeFiori served in the Heidelberg post until August 1978 when he returned to the United States and was succeeded as USAREUR Judge Advocate by then-Colonel Wayne E. Alley. Brigadier General DeFiori became Chief of the U.S. Army Legal Services Agency and Chief Judge of the U.S. Army Court of Military Review, succeeding Brigadier General Hugh J. Clausen, who became Assistant Judge Advocate General for Military Law. Brigadier General DeFiori retired from the Army and returned to civilian life in July of 1979. A speech given by him on 13 July 1979 is reprinted in *The Army Lawyer* at 1-2 (Dec. 1979). Brigadier General DeFiori was succeeded in the Falls Church post by Brigadier General Lloyd K. Rector.<sup>38</sup>

From 1966 through 1967, Brigadier General DeFiori served as Staff Judge Advocate, 101st Airborne Division, at Fort Campbell, Kentucky, and held the same position in Vietnam during 1968. He was assigned to the Office of The Judge Advocate General in 1969-70, and joined the Department of Defense Staff in 1971. In 1975 Brigadier General DeFiori returned to the Office of The Judge Advocate General, after serving in the U.S. Army Legal Services Agency during 1974-75.<sup>39</sup>

A native of Brooklyn, New York, Brigadier General DeFiori graduated from the University of Notre Dame in 1951 with the degree Bachelor of Philosophy. The following year he received his

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<sup>36</sup> *Id.*

<sup>37</sup> *DeFiori Selected for BG*, 7 TJAGSA Alum. Assn. Newsl. 8 (1975).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

J.D. from Notre Dame. Brigadier General DeFiori attended the Command and General Staff College in 1966 and the Army War College in 1971. He is also a graduate of the Basic Airborne Course and the Jumpmaster Course, Fort Campbell, Kentucky.

### G. BRIGADIER GENERAL WAYNE E. ALLEY

Brigadier General Wayne E. Alley retired from the Army during July 1981. He had served as Judge Advocate, U.S. Army Europe and Seventh Army, at Heidelberg, Germany, since August 1978. Previously he had served as Chief, Criminal Law Division, OTJAG, Washington, D.C., from September 1975 until his move to Europe. He was promoted to brigadier general in the summer of 1979.<sup>40</sup>

During his career in the JAG Corps, General Alley served as an instructor in the Military Affairs (now Administrative and Civil Law) Division, TJAGSA, and also as an appellate judge on the U.S. Army Court of Military Review, Falls Church, Virginia.<sup>41</sup>

General Alley received his higher education at Stanford University, where he earned a B.A. degree in 1952 and an LL.B. degree in 1957. He was elected to membership in Phi Beta Kappa and the Order of the Coif, and has been admitted to the bars of Oregon and California as well as the U.S. Court of Military Appeals. He was distinguished graduate at the Industrial College of the Armed Forces, Fort McNair, Washington, D.C. General Alley completed the 13th Judge Advocate Officer Career Course, given at TJAGSA during academic year 1964-65. His thesis, *The Overseas Commander's Power to Regulate the Private Life*, was published at 37 Mil. L. Rev. 57 (1 July 1967). A second article, *Determinants of Military Judicial Decisions*, was based upon a research paper completed by General Alley while studying at I.C.A.F. in 1974, and was published at 65 Mil. L. Rev. 85 (summer 1974).<sup>42</sup>

Upon retirement in 1981, General Alley took a position as dean of the University of Oklahoma Law Center, Norman, Oklahoma.<sup>43</sup>

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<sup>40</sup>Note 34, *supra*.

<sup>41</sup>*Id.*

<sup>42</sup>*Id.*

<sup>43</sup>Biographical sheet prepared on occasion of lecture by General Alley at TJAGSA, Charlottesville, Va. (24 Sept. 1981).



### H. BRIGADIER GENERAL RICHARD J. BEDNAR

Brigadier General Richard J. Bednar was promoted and became Assistant Judge Advocate General for Civil Law in June of 1979. He succeeded Major General Alton H. Harvey, who left the post to assume the duties of The Judge Advocate General. In August 1981, General Bednar succeeded Brigadier General Wayne E. Alley as Judge Advocate, U.S. Army Europe and Seventh Army. General Bednar was succeeded in the civil law post by Brigadier General Ronald M. Holdaway.<sup>44</sup>

General Bednar served as Staff Judge Advocate for the Eighth U.S. Army, in Korea, from July 1977 to June 1979. He was Chief of the Litigation Division, OTJAG, from July 1976 to July 1977. Previous assignments include service as Staff Judge Advocate at Fort Leavenworth, Kansas; Executive, OTJAG; and Chief of the Contract Appeals Division, USALSA.<sup>45</sup>

General Bednar received his LL.B. from Creighton University, Omaha, Nebraska, and his LL.M. from George Washington University.<sup>46</sup> He was a student in the 9th Judge Advocate Officer Career Course during academic year 1960-61, and his thesis, *Discharge and Dismissal as Punishment in the Armed Forces*, was published in the *Military Law Review*.<sup>47</sup> General Bednar is a graduate of the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas, and of the Army War College, Carlisle Barracks, Pennsylvania.<sup>48</sup>

### I. BRIGADIER GENERAL JOSEPH N. TENHET

Brigadier General Joseph N. Tenhet served as Assistant Judge Advocate General for Military Law from July 1975 until his retirement in the summer of 1978. In this post he succeeded Major General Lawrence H. Williams, and he was succeeded by then-Brigadier General Hugh J. Clausen. He was promoted from the grade of colonel on 8 July 1975. Previously, General Tenhet served from 1972 to 1975 as Chief of the Administrative Law Division at OTJAG, Washington, D.C.<sup>49</sup>

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<sup>44</sup>Note 34, *supra*.

<sup>45</sup>*Id.*

<sup>46</sup>*Id.*

<sup>47</sup>16 Mil. L. Rev. 1 (1 Apr. 1962).

<sup>48</sup>Note 34, *supra*.

<sup>49</sup>*Tenhet Selected for BG*, 7 TJAGSA Alum. Assn. Newsl. 8 (1975).

Born in Clarksville, Tennessee, General Tenhet received his J.D. from the University of Richmond in 1949, and his LL.M. from Duke University in 1950. He completed resident courses at the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas, in 1963, and the Army War College, Carlisle Barracks, Pennsylvania, in 1972.<sup>50</sup>

In 1969 and 1970, General Tenhet was Staff Judge Advocate of the 8d Infantry Division, Wuerzberg, Germany. Thereafter he was assigned to V Corps, Frankfurt, Germany, as Staff Judge Advocate, 1970-1971. Before coming to Washington, D.C., he was Staff Judge Advocate of USARV/MACV, in Vietnam, 1971-1972.<sup>51</sup>

### *J. BRIGADIER GENERAL LLOYD K. RECTOR*

In August 1981, Brigadier General Lloyd K. Rector became Assistant Judge Advocate General for Military Law, succeeding Major General Hugh R. Overholt, who became The Assistant Judge Advocate General. General Rector was succeeded as Commander of USALSA and as Chief Judge, by Brigadier General Donald Wayne Hansen in October of 1981.<sup>52</sup>

On 30 October 1979, General Rector became Commander, U.S. Army Legal Services Agency, and Chief Judge, U.S. Army Court of Military Review. He succeeded Brigadier General Victor A. DeFiori, who retired in July 1979.<sup>53</sup>

General Rector served as Executive, Office of the Judge Advocate General, from July to October 1979. From July 1977 to June 1979, he was Staff Judge Advocate, US Army Forces Command, at Fort McPherson, Georgia. Other assignments include service as Staff Judge Advocate of the 82nd Airborne Division, Fort Bragg, North Carolina; the U.S. Army Air Defense Center and Fort Bliss, Fort Bliss, Texas; and the XVIII Airborne Corps, Fort Bragg, North Carolina.<sup>54</sup>

General Rector received his J.D. from Wake Forest University, Winston-Salem, North Carolina. During academic year 1962-63, he

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<sup>50</sup>*Id.*

<sup>51</sup>*Id.*

<sup>52</sup>OTJAG, Dep't of the Amy, JAGC Personnel and Activity Directory 1981-1982, at 1, 4 (1981).

<sup>53</sup>11 TJAGSA Alum. Assn. Newsl. 3 (June 1980). General Rector was the first Commander of USALSA; previous heads of the agency held the title of Chief.

<sup>54</sup>*Id.*

completed the 11th Judge Advocate Officer Career Course, TJAGSA, Charlottesville, Virginia. He was a student at the Army War College, Carlisle Barracks, Pennsylvania, 1976-77, and has also studied at the Academy of International Law, The Hague, Netherlands.<sup>55</sup>

General Rector is a native of Drexel, North Carolina.

### K. BRIGADIER GENERAL BRUCE T. COGGINS

Brigadier General Bruce T. Coggins became Assistant Judge Advocate General for Civil Law in August 1973, and remained in this position until his retirement in the summer of 1976. He was succeeded by then-Brigadier General Alton H. Harvey.

Previously, General Coggins served as Staff Judge Advocate, US Army Training Center and Fort Ord, 1967-1968,<sup>56</sup> Deputy Judge Advocate, US Army Europe and Seventh Army, 1968-1971,<sup>57</sup> and Staff Judge Advocate, Eighth United States Army, in Korea, from July 1971 to July 1973.<sup>58</sup>

General Coggins received his LL.B. from Hastings College of Law, San Francisco, in 1949. During academic year 1960-1961, he was a member of the 9th Judge Advocate Career Class, TJAGSA, Charlottesville, Virginia.<sup>59</sup> He graduated from the Armed Forces Staff College in 1965 and the Army War College, Carlisle Barracks, Pennsylvania, in 1967.<sup>60</sup>

### L. BRIGADIER GENERAL RONALD M. HOLDAWAY

In July 1981, General Holdaway succeeded Brigadier General Richard J. Bednar as the Assistant Judge Advocate General for

<sup>55</sup>*Id.*

<sup>56</sup>Biographical sheet prepared by OTJAG, Personnel, Plans and Training Office (Jul. 1982).

<sup>57</sup>*Id.*

<sup>58</sup>OTJAG, Dep't. of the Army, JAGC Personnel and Activity Directory 1972, 1973, 1975, 1976.

<sup>59</sup>The nine-month course for career judge advocates was first offered at TJAGSA during academic year 1951-1952. Through its fourteenth offering in academic year 1965-66, it was called the Career Course. Thereafter the name of the program was changed to Judge Advocate Officer *Advanced* Course. This designation was used through the 26th Advanced Course, given during academic year 1977-78. Beginning with the next year, the course became known as the Judge Advocate Officer *Graduate* Course. Note, *Abstracts of Recent Graduate (Advanced) Class Theses*, 85 Mil. L. Rev. 169, 170 (summer 1979).

<sup>60</sup>Note 56, *supra*.

Civil Law. At that time, General Bednar became Judge Advocate, U.S. Army Europe and Seventh Army. Previously, General Holdaway served for a year as Executive to The Judge Advocate General.<sup>61</sup>

Born 24 November 1934, at Afton, Wyoming, General Holdaway earned his B.A. in history in 1957 and his LL.B. in 1959 from the University of Wyoming, Laramie, Wyoming. Soon thereafter he came on active duty as a first lieutenant and completed the Judge Advocate Officers Basic Course, TJAGSA, Charlottesville, Virginia.<sup>62</sup> During academic year 1966-67, General Holdaway completed the 15th Advanced (i.e., Graduate) Course. His thesis, "Voor Dire—A Neglected Tool of Advocacy," was published in the *Military Law Review*.<sup>63</sup>

From 1967 to 1969, General Holdaway was an instructor in the Military Justice Division, TJAGSA.<sup>64</sup> Thereafter he served for a year in Vietnam as Staff Judge Advocate of the 1st Cavalry Division. Returning to the United States, he was assigned in October 1970 as Executive Officer, and later as Chief, Government Appellate Division, U.S. Army Judiciary, Washington, D.C.<sup>65</sup>

In mid-1975, General Holdaway became Chief of the Personnel, Plans, and Training Office at OTJAG, Washington, D.C. He remained there until July 1977. During academic year 1977-78, he was a student at the Industrial College of the Armed Forces, Fort Lesley J. McNair, Washington, D.C. He next served as Staff Judge Advocate for VII Corps at Stuttgart, Germany, from July 1978 to July 1980. In the latter month he became Executive to The Judge Advocate General.<sup>66</sup>

He has been awarded the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal with Oak Leaf Cluster, the Air Medal, and the Army Commendation Medal.<sup>67</sup>

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<sup>61</sup>*New JAGC Brigadier General Selected*, DA Pam 27-50-98. *The Army Lawyer*, Feb. 1981, at 39.

<sup>62</sup>Resume of Service Career of Ronald Melville Holdaway, Brigadier General, at 1 (1981) (unpublished).

<sup>63</sup>40 Mil. L. Rev. 1 (1 Apr. 1968).

<sup>64</sup>*Id.*

<sup>65</sup>Note 62, *supra*.

<sup>66</sup>*Id.*

<sup>67</sup>*Id.* at 2.

*M. BRIGADIER GENERAL EMORY M. SNEEDEN*

Brigadier General Emory M. Sneeden was promoted from the grade of colonel and was sworn in as Chief Judge, U.S. Army Court of Military Review, and Chief, U.S. Army Legal Services Agency, on 20 June 1974.<sup>68</sup> He was the second general officer to hold this post succeeding Major General Kenneth J. Hodson.<sup>69</sup> General Sneeden retired on 31 December 1975,<sup>70</sup> and was succeeded as Chief Judge and Chief of USALSA by then-Brigadier General Hugh J. Clausen.

General Sneeden earned his B.S. from Wake Forest University, Winston-Salem, North Carolina, in 1949. He was commissioned a second lieutenant of infantry in September 1950, after a period of enlisted service with the 11th Airborne Division in the Far East. In 1953, he earned his LL.B. degree from Wake Forest University School of Law. Before his branch transfer to the Judge Advocate General's Corps in 1955, General Sneeden served with the 82d Airborne Division, the 8th Infantry Division, and the 24th Infantry Division in Korea.<sup>71</sup>

As a judge advocate, General Sneeden served at The Judge Advocate General's School for three years. He was Staff Judge Advocate of the 1st Air Cavalry Division, 1966-1967, and was also Staff Judge Advocate for United States Army Japan. At OTJAG, Washington, D.C., he served as Executive, and as Chief of the Personnel, Plans and Training Office. Before his 1974 promotion to brigadier general, he was Staff Judge Advocate of the XVIII Airborne Corps, Fort Bragg, North Carolina. He completed courses at the Command and General Staff College in 1960, and at the Army War College in 1970.<sup>72</sup>

Following his retirement, General Sneeden went to work as senior legislative assistant and administrative assistant for U.S. Sena-

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<sup>68</sup>*Sneeden Promoted to BG*, 6 TJAGSA Alumni Assn. Newsl. 1 (15 Aug. 1974); Army Lawyer History, 1975, note 1, *supra*, at 248.

<sup>69</sup>General Hodson served as The Judge Advocate General from 1 July 1967 to 30 June 1971. Upon his retirement, he was immediately recalled to serve as Chief Judge of the U.S. Army Court of Military Review, and also Chief of the newly formed U.S. Army Legal Services Agency. General Hodson retired again on 31 March 1974. Army Lawyer History, 1975, note 1, *supra*, at 241-243, 255.

<sup>70</sup>*BG Sneeden Retires*, 7 TJAGSA Alumni Assn. Newsl. 8 (1975).

<sup>71</sup>*Id.*; note 31, *supra*; *BG Sneeden Retires*, DA Pam 27-50-86, The Army Lawyer, Dec. 1975, at 38.

<sup>72</sup>*Id.*

tor Strom Thurmond of South Carolina. He served as minority chief counsel, and staff director, Subcommittee on Antitrust and Monopoly, U.S. Senate, 1976 to 1978, and minority chief counsel, Committee on the Judiciary, U.S. Senate, 1977-78. On 1 October 1978, he was appointed associate dean and lecturer in law at the University of South Carolina School of Law, Columbia, South Carolina.<sup>73</sup>

*N. BRIGADIER GENERAL*  
*DONALD WAYNE HANSEN*

In October 1981, Brigadier General Donald Wayne Hansen succeeded Brigadier General Lloyd K. Rector as Commander of the United States Army Legal Services Agency and as Chief Judge of the U.S. Army Court of Military Review, at Falls Church, Virginia. General Rector became Assistant Judge Advocate General for Military Law in August 1981.<sup>74</sup>

As a colonel, General Hansen served as Executive to The Judge Advocate General from July 1980 to October 1981, and as Chief of the Criminal Law Division, OTJAG, from July 1979 to July 1980, at the Pentagon. He was Staff Judge Advocate for the U.S. Army Training Center and Fort Dix, New Jersey, from 1976 to August 1978.<sup>75</sup>

General Hansen was a student at the U.S. Army War College, Carlisle Barracks, Pennsylvania, during academic year 1978-79. He completed the 14th Judge Advocate Officer Career (Graduate) Course, TJAGSA, during academic year 1965-66.<sup>76</sup>

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<sup>73</sup> *Sneeden Named Law Dean at USC*, 10 TJAGSA Alumni Assn. Newsl. 7 (1979); *Directory of Law Teachers 1980-81* at 118-119, 812 (1981).

<sup>74</sup> *JAGC Key Personnel Changes*, *The Army Lawyer*, Sept. 1981, at 26.

<sup>75</sup> OTJAG, Dep't of the Army, JAGC Personnel and Activity Directory, various years.

<sup>76</sup> *Id.*

### III. PERSONNEL MATTERS

#### A. FIRST JAGC SERGEANT MAJOR

On 26 May 1980, Sergeant Major John Nolan<sup>1</sup> assumed his duties as Senior Staff NCO, Office of The Judge Advocate General. The creation of this new position is part of the continuing effort of the Army JAG Corps to improve enlisted professionalism and career development opportunities for the Army's legal clerks and court reporters.<sup>2</sup>

The responsibilities of the JAGC sergeant major include overall planning and policy-making in the areas of enlisted training and education, and related activities. To collect information and answer questions, SGM Nolan contacts JAGC enlisted members worldwide and visits legal offices at many Army installations.<sup>3</sup>

An important duty performed by the sergeant major is the dissemination of career information to Corps enlisted members. SGM Nolan is the author of the monthly feature, *From the Desk of the Sergeant Major*, in *The Army Lawyer*. In this column, he reports on educational opportunities available and other enlisted personnel matters of general interest.<sup>4</sup>

#### B. WOMEN IN THE JAG CORPS

Until the past few years, female officers on active duty in the JAG Corps were a rarity. As recently as early 1980, there were only 89 women in the Corps. However, the composition of the law school population has changed drastically over the past ten years, so that women have grown to approximately one-third of the law school population. This dramatic shift is slowly being reflected in JAG Corps recruitment.<sup>5</sup>

As of June 1982, there were 143 women on active duty in the Army JAGC.<sup>6</sup> Almost all of them are captains. At present, it takes

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<sup>1</sup> SGM Nolan previously served as Chief Legal Clerk at Eighth U.S. Army, Korea, from 1978 to 1980.

<sup>2</sup> *1st JAGC Sergeant Major*, 12 TJAGSA Alumni Assn. Newsletter 2 (Dec. 1981).

<sup>3</sup> *Id.*

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

<sup>5</sup> *Recruiting and Retention of Women in the Judge Advocate General's Corps*, *The Army Lawyer*, July 1980, at 6.

<sup>6</sup> Interview with Major Wayne R. Johnston, Personnel, Plans, and Training Office, OTJAG (30 June 1982).

over seven years to be promoted from captain to major in the Army JAG Corps.<sup>7</sup> The increase in the number of women in the JAGC has been very recent, and few of them have been on active duty long enough to be promoted in the normal course of events.

### C. ENTRY GRADE FOR JUDGE ADVOCATES

The provisions of the Defense Officer Personnel Management Act (DOPMA)<sup>8</sup> are too varied and complex to be discussed here. Several articles published elsewhere provide an adequate introductory description of this complex act.<sup>9</sup> One special provision, however, is of particular importance for new and future judge advocates. Henceforward, lawyers coming on active duty in the JAG Corps will serve as first lieutenants before being eligible for promotion to captain,<sup>10</sup> instead of being appointed captains immediately upon entry on active duty as has been the case since 1966.

Prior to DOPMA, the military services had wide discretion in fixing the initial active duty entry grade of newly appointed judge advocates and other officers. DOPMA now requires a minimum of three and one-half years of actual or constructive service creditable for promotion before advancement to the pay grade of O-3. This is six months more than the three years of constructive service awarded for law school. Thus new Army judge advocates must wait at least six months for promotion to captain. A "grandfather" clause allowed the Army to appoint as captains all law school graduates who were selected for JAGC commissions before the effective date of DOPMA, 15 September 1981.<sup>11</sup>

The Air Force is affected by DOPMA in the same manner as the Army. The Navy and Marine Corps are unaffected, as O-2 was already the initial entry grade for their judge advocates.<sup>12</sup>

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<sup>7</sup> OTJAG, DA, JAGC Personnel and Activity Directory 1981-1982, at various places.

<sup>8</sup> Pub. L. No. 96-513, 94 Stat. 2895 (1980).

<sup>9</sup> I.e., LTC Leroy F. Foreman, *The Defense Officer Personnel Management Act: New Career Patterns for Military Lawyers*, 29 Fed. B. News & J. 75 (Feb. 1982); MAJ David H. Bent, *DOPMA: An Initial Review*, *The Army Lawyer*, Apr. 1981, at 1; CPT Thomas F. England, *DOPMA Correction: Not A Mere Technicality*, *The Army Lawyer*, Aug. 1981, at 13.

<sup>10</sup> Foreman, note 9, *supra*, at 75.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*



### D. SEPARATE JAGC PROMOTION PLAN

By early 1976, the Secretary of the Army had approved a separate promotion category scheme for officers of the Judge Advocate General's Corps.<sup>13</sup> Previously, judge advocates competed on the Army Promotion List with members of most other branches. Promotions came very slowly after the United States forces were withdrawn from Vietnam and were reduced to their pre-Vietnam strength. The situation was complicated because the personnel retention rate for the JAG Corps was extremely low. After the draft was ended, fewer law school students were interested in entering military service. Young judge advocates seldom remained on active duty much beyond their initial obligated tours of three or four years, beckoned by a prosperous civilian economy. Those who did stay often left the service in mid-career.

The result was a shortage of 45 percent of the field grade officers authorized for the JAG Corps. Many officers were serving in positions higher than their grade. The Office of The Judge Advocate General studied the problem and proposed that a separate promotion category scheme be established, so that qualified judge advocates could be promoted more quickly. The plan called for separate selection board panels for JAGC officers, deeper primary zones of consideration for judge advocates, and higher authorized selection rates for JAGC officers in primary zones. Such a change would permit correction of the undesirable imbalance between grade and responsibility in middle-manager positions throughout the JAG Corps, and it might improve retention as well.<sup>14</sup>

Within OTJAG, it had been anticipated that opposition to the separate JAGC promotion plan would be encountered at higher levels of the Army staff. A number of briefings for senior staff officers were planned in an effort to overcome expected objections. However, the fears of the backers of the proposal in OTJAG were not realized, and the decision paper moved through the Army staff in a couple of weeks. Efforts made in previous years to inform the Army of the seriousness of the shortage of judge advocates were the reason for the success of this proposal.<sup>15</sup>

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<sup>13</sup>Letter from BG Ronald M. Holdaway to COL William K. Suter (Apr. 29, 1981) (discussing JAGC personnel situation in late 1970's); *Separate JAGC Promotion List*, *The Army Lawyer*, Mar. 1976, at 29, col. 2.

<sup>14</sup>*Id.*

<sup>15</sup>Letter from BG Ronald M. Holdaway to COL William K. Suter (Apr. 29, 1981).

The separate promotion plan did not and was not intended to result in the immediate promotion of any judge advocates. However, it did signal the end of the long wait of a number of senior captains who had been on the major promotion list for four or more years. Thereafter, officers were selected and promoted at a reasonable rate.<sup>16</sup>

### E. ARMY JAGC PROFESSIONAL RECRUITING OFFICE

As of 1980, the JAG Corps had been operating at below end strength authorization for two years. The fiscal year 1980 authorized end strength for the Corps was 1647 officers. However, strength reports as of December 1979 showed 1508 officers on active duty, for a shortage of 139 lawyers. To correct this deficiency, Major General Harvey, then The Judge Advocate General, directed that the Corps' recruiting effort be expanded.

On 2 April 1980, the Office of the Chief of Staff of the Army approved the establishment of a JAGC recruiting office. On 1 July 1980, the Army JAGC Professional Recruiting Office became operational. Its first chief was Major Timothy E. Naccarato, who was assisted by two other officers. Co-located in the Nassif Building, Falls Church, Virginia, with the U.S. Army Legal Services Agency, the new office is part of the Personnel, Plans and Training Office, OTJAG. In excess of \$90,000 was budgeted to operate the office for fiscal year 1981.<sup>17</sup>

The recruiting program includes visits to law schools and interview of prospective applicants by active duty judge advocates serving as Field Screening Officers, and by reserve judge advocates who are designated Law School Liaison Officers. Under the Judge Advocate General's Summer Intern Program, by analogy with the clerkship programs of private and governmental civilian legal offices, first- and second-year law students are selected for 90-day intern positions in JAGC offices.<sup>18</sup> The Funded Legal Education Program (FLEP), instituted in 1974, continues to be important to JAGC recruiting. Under this program, twenty-five officers on ac-

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<sup>16</sup>Note 13, *supra*.

<sup>17</sup>*Recruiting*, *The Army Lawyer*, July 1980, at 24.

<sup>18</sup>*JAGC Professional Recruiting Office*, *The Army Lawyer*, Apr. 1981, at 29-30.

tive duty may be assigned to attend law school full time for three years at Government expense.<sup>19</sup>

#### *F. PERSONNEL RETENTION IN THE LATE 1970's*

By the late 1970's, the judge advocate personnel retention problem had turned around 180 degrees. The numbers of attorneys newly admitted to the bar each year continued to be large, while a slower moving civilian economy was less able to absorb all of them. Applications for judge advocate appointments increased, making recruitment somewhat easier. At the same time, fewer and fewer judge advocates left active duty, reducing the number of positions available for new appointees. The retention rate became so high that the JAG Corps had too many career officers in certain year groups.<sup>20</sup>

In consequence, some active duty judge advocates in the Reserve component had to be turned down when they applied for voluntary indefinite or Regular Army status. Also, not all career judge advocates could attend the Graduate Course who wanted to do so. The Graduate Class was substantially enlarged to help meet the need. To ensure fairness in selection of officers for career status and for Graduate Course attendance, OTJAG established formal selection boards.<sup>21</sup>

The late 1970's and early 1980's were a challenging and difficult time not only for junior officers who might not be able to pursue a JAGC career although qualified to do so, but also for senior officers who, remembering past shortages of personnel, did not want any of their subordinates denied career opportunities. Since then the JAG Corps has largely adjusted to the problem.<sup>22</sup>

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<sup>19</sup> 10 U.S.C. 2004 (1976), enacted Nov. 16, 1973; Army Reg. No. 351-22, Schools: The Judge Advocate General's Funded Legal Education Program (15 Oct. 1981).

<sup>20</sup> Note 15, *supra*.

<sup>21</sup> *Id.*

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

## IV. JUDGE ADVOCATES OVERSEAS

### A. JUDGE ADVOCATES IN VIETNAM

Judge advocates have served with the Army in many countries. At the high point of American involvement in the Vietnam war at the end of the 1960's, there were at any given time in excess of 120 Army judge advocates serving in the Republic of Vietnam.<sup>1</sup> Senior among them was the staff judge advocate, United States Army, Vietnam, a colonel, at Long Binh. An Army colonel also served as Staff Judge Advocate for the Military Assistance Command, Vietnam, the joint command embracing all United States forces in Vietnam, at Tan Son Nhut, near Saigon.

The majority of judge advocate positions were filled by captains, working energetically as always as trial and defense counsel, claims and military affairs officers, procurement attorneys, international law advisors, and in other capacities. They served in such units as the 1st, 4th, 23d, and 25th Infantry Divisions, the 1st Cavalry Division (Airmobile), the 101st Airborne Division (Airmobile),<sup>2</sup> various separate commands, and specialized activities.<sup>3</sup>

Two Army judge advocates died in Vietnam. The first was Captain Howard R. Andrews, Jr., who died in an aircraft accident in April of 1970. At the time, he was serving as a defense counsel with the Office of the Staff Judge Advocate, 25th Infantry Division, located at Cu Chi, Vietnam. The second was Lieutenant Colonel Harold D. Krashes, who died late in 1971. He was serving as Staff Judge Advocate for the 23d Infantry Division (Americal). LTC Krashes' classmates in the 15th Advanced Class<sup>4</sup> have planted a tree in his memory in the courtyard of The Judge Advocate General's School.

### B. JUDGE ADVOCATES IN IRAN

The former United States Support Activity-Iran (USSA-I), located in Teheran, Iran, was served for about 2½ years by Army

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<sup>1</sup>*E.g.*, Office of The Judge Advocate General, Department of the Army, JAGC Personnel and Activity Director, at 45-48 (Aug. 1970).

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*

<sup>4</sup>The Judge Advocate General's School, Charlottesville, Va., 1966-67.

judge advocates on the spot. Under agreement with the government of the former Shah of Iran, the United States provided technical assistance to the Iranian defense and security forces. At first this work was carried out through the United States Embassy in Teheran, but its volume soon grew so great that a separate organization had to be formed. This was the USSA-I, a subordinate command of United States Army Europe and Seventh Army.<sup>5</sup>

The Office of the Staff Judge Advocate, USSA-I, was headed by an Army JAGC major,<sup>6</sup> assisted by three captains, an Iranian civilian attorney, two enlisted legal clerks, and various secretaries, lease specialists, and drivers. The office provided service in all the usual areas of military legal activity, including military justice, claims, legal assistance, international law, and procurement.<sup>7</sup>

The violent overthrow of the regime of Shah Reza Pahlavi by the followers of Ayatollah Khomeini is part of general history, as is also the saga of the several dozen Americans held hostage for over a year. Before those events took place, the members of the Office of the SJA, USSA-I, worked very hard along with other staff agencies to ease the transition for thousands of United States personnel who had to leave troubled Iran, sometimes on very short notice.<sup>8</sup>

The USSA-I legal office was in operation for less than three years, from the summer of 1976 until final evacuation in February of 1979. Some of the most important work of the office was undertaken during the last three months of its existence. For example, a much greater volume and variety of personal property claims had to be processed and paid as more and more Americans experienced losses from the bombing and looting of their homes and automobiles. In the international law area, continuing negotiations were carried on with Iranian authorities to ensure receipt of incoming

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<sup>5</sup>Information concerning judge advocates in Iran is taken from an unpublished memorandum, After Action Report, USSA-I, AEUI-JA, After Action Summary of SJA Activities for Period 1 September 1978 to 10 February 1979, by LTC Theodore F. M. Cathey, JAGC, U.S. Army.

<sup>6</sup>LTC Theodore Cathey served as Staff Judge Advocate for USSA-I from June 1978 until the office closed in February of 1979. Subsequently he became chief attorney for the Defense Supply Service-Washington, 1979 to present. LTC Warren H. Taylor served as Staff Judge Advocate, USSA-I, from August 1976 to June 1978.

<sup>7</sup>Note 5, *supra*.

<sup>8</sup>*Id.*

shipments of supplies, outgoing shipments of household goods, and free flow of mail in the steadily deteriorating conditions prevailing during those months.<sup>9</sup>

The legal assistance workload increased several times over, as many new wills and powers of attorney were written, and as many additional problems created by the sharply increased pressures of life in Iran were dealt with. Especially poignant was the situation of those seeking to marry Iranian nationals or adopt Iranian children. Leases gave rise to a great deal of work for the office.<sup>10</sup>

The United States did not have military installations or posts in Iran, and housing and office space had to be leased from private landlords, building by building. As anti-American sentiment grew, the volume of landlord complaints increased; and as evacuations proceeded, lease terminations and household goods storage agreements had to be effected quickly. The Office of the Staff Judge Advocate through its attorneys and lease specialists handled these often difficult matters until the office closed in February of 1979.<sup>11</sup>

The USAA-I Office of the Staff Judge Advocate dealt with many other matters as well as the above problems. Procurement, labor law questions, review and rewriting of regulations, occasional military justice matters, and various types of investigations all demanded attention of the office personnel, lawyers and non-lawyers alike. Work continued until 10 February 1979, when political conditions forced the evacuation of American personnel to United States bases within the Federal Republic of Germany. The office was overrun by insurgents the following day. Most of the office files had to be left behind, but amazingly they survived and were sent to Germany a few months later.<sup>12</sup>

### C. JUDGE ADVOCATE IN THE PEOPLE'S REPUBLIC OF CHINA

For two weeks in late July and early August of 1979, a group of six instructors from the United States Military Academy, West Point, New York, visited the People's Republic of China on permissive TDY. One of the instructors was a judge advocate, Major Joel

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

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

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

D. Miller, then assigned to the Department of Law at the Academy.<sup>13</sup>

The instructors were all Army officers, and all involved in teaching and research in the field of East Asian studies. In addition to Major Miller, they included two Chinese language experts, one political scientist, one historian, and one geographer. During their two weeks in mainland China, they visited Peking, Canton, Shanghai, and other cities.<sup>14</sup>

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<sup>13</sup>Interview with MAJ Miller (autumn 1981). Major Miller completed his tour at USMA in 1980 and attended the 29th Judge Advocate Officer Graduate Course, TJAGSA, Charlottesville, Va. 1980-81. Subsequently he became officer in charge at the Hanau Branch Office of OSJA, HQ, 3d Armored Division, Federal Republic of Germany.

<sup>14</sup>*Id.*

## V. CRIMINAL LAW MATTERS

### A. TRIAL COUNSEL ASSISTANCE PROGRAM

The Trial Counsel Assistance Program (TCAP) began operating on 1 August 1982, within the Government Appellate Division, USALSA, Falls Church, Virginia. The purpose of TCAP is to provide advice to and training for trial counsel, or military prosecutors, with the goal of improving the quality of advocacy on behalf of the Government. The program is therefore analogous to the U.S. Army Trial Defense Service, although TCAP is still in its infancy in organizational structure.<sup>1</sup>

Among other activities, TCAP will present regional seminars within CONUS to improve trial counsel advocacy skills. Records of trial will be reviewed, and TCAP will critique trial counsel performance. Monthly mailings will keep trial counsel abreast of changes in military criminal law, and will address specific problem areas. Additionally, TCAP personnel will be available to make technical assistance visits within CONUS, when requested by staff or command judge advocates, to help with difficult cases or advise on administrative problems.<sup>2</sup>

TCAP personnel will answer questions from trial counsel. Simple questions may be handled telephonically; more complex matters may involve submission of briefs or position papers by trial counsel. TCAP's question-answering service will be one of its most important functions, and will be a tool for measuring the impact of TCAP on Army trials. Particularly for this latter reason, it is intended that TCAP be the primary source of advice to trial counsel, outside counsel's judge advocate office.<sup>3</sup>

### B. SEPARATE DEFENSE COUNSEL ORGANIZATION

One of the most significant organizational changes since 1975 has been the creation of an organization of military defense counsel separate and distinct from and outside of the normal command struc-

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<sup>1</sup>Army TJAG Policy Letter 82-4, subject: Trial Counsel Assistance Program (TCAP), 9 June 1982, reprinted in *The Army Lawyer*, July 1982.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*



ture of which the typical staff judge advocate office is an integral part.

On 7 November 1980, the Army Chief of Staff approved permanent establishment of the U.S. Army Trial Defense Service (USATDS), a separate organization providing military defense counsel services throughout the Army. USATDS will continue to be an activity of the U.S. Army Legal Services Agency, a field operating agency of The Judge Advocate General.<sup>4</sup> The supervisory element of USATDS is part of the USALSA headquarters located at Falls Church, Virginia.

Before 1976, such corps-wide defense counsel structure as existed was informal in nature. This structure was recognized by Brigadier General Bruce T. Coggins in a letter to all defense counsel, dated 25 April 1975.<sup>5</sup> BG Coggins, then Assistant Judge Advocate General for Civil Law,<sup>6</sup> served as chief advisor to The Judge Advocate General in matters regarding the defense function. In his letter, BG Coggins explained that in this capacity he responded to complaints, inquiries, and requests for assistance from JAGC defense counsel, and carried out other activities to enhance the defense function. He was assisted in performing these duties by the Chief, Defense Appellate Division.<sup>7</sup> BG Coggins advised defense counsel in need of help to contact senior defense counsel in large judge advocate offices and at major area command headquarters, and also the appellate counsel at Defense Appellate Division.<sup>8</sup>

Subsequently, Major General Wilton B. Persons, Jr., The Judge Advocate General,<sup>9</sup> sent a letter dated 23 July 1975 to all staff judge

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<sup>4</sup>*Fact Sheet: US Army Trial Defense Service*, The Army Lawyer, Jan. 1981, at 27.

<sup>5</sup>The Army Lawyer, Oct. 1976, at 5.

<sup>6</sup>BG Coggins held this position from August 1973 until his retirement in the summer of 1976. Previously he served as Staff Judge Advocate, 8th U.S. Army, Korea, from July 1971 to July 1973. He completed the 9th Judge Advocate Officers Advanced (Graduate) Course, TJAGSA, Charlottesville, Va., academic year 1960-61.

<sup>7</sup>As a colonel, Brigadier General Victor A. DeFiori served as Chief, Defense Appellate Division, 1974-1976. In July 1975, he was succeeded by Colonel Alton H. Harvey, later The Judge Advocate General, who served in the post until December 1978.

<sup>8</sup>The Army Lawyer, note 5, *supra*, at 5-6.

<sup>9</sup>MG Persons served as The Judge Advocate General from 1 July 1975 to 30 June 1979. He succeeded MG George S. Prugh in this post, and was succeeded in turn

advocates in the Army.<sup>10</sup> This letter concerned training and evaluation of defense counsel. Briefly, General Persons stated that, in general, new judge advocate officers should work as prosecutors for six months before being assigned as defense counsel. Moreover, defense counsel should be rated by the senior defense counsel in the command.<sup>11</sup>

This picture of the Army defense counsel structure began to change with the creation of a new agency, the Field Defense Services Office, which became operational on 1 October 1976. Located within the Defense Appellate Division of the U.S. Army Legal Services Agency, at Falls Church, Virginia, the new office was charged with responding to inquiries from defense counsel in the field concerning professional ethics and trial tactics, and with presenting or coordinating instruction on defense counsel matters. The office was also given responsibility for preparation of *The Advocate*, a bimonthly legal magazine for defense counsel first published in 1969. Representatives of the office were to visit defense counsel in the field periodically to offer assistance and gather information about Army defense services in general. As part of the program to improve the quality of defense services, The Judge Advocate General's School first offered its four-day Defense Advocacy Course in October of 1976.<sup>12</sup> The first Chief of the Field Defense Services Office was Major Joe D. Miller.<sup>13</sup>

The Army tested the USATDS structure for its defense counsel for over two years before its permanent establishment in November of 1980. On 18 March 1978, the Army Chief of Staff approved a one-

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by MG Alton H. Harvey. Previously, General Persons served as Judge Advocate, U.S. Army Europe and Seventh Army, Heidelberg, Germany, from June 1971 until June 1975. In the Heidelberg post, he succeeded MG Prugh and was succeeded by BG Victor A. DeFlori. A biography of MG Persons, with picture, appears in the 1975 JAG Corps history, at 257-259.

<sup>10</sup>The Army Lawyer, note 5, *supra*, at 6.

<sup>11</sup>*Id.*

<sup>12</sup>This information is drawn from a letter, DAJA-ZA, subject: Field Defense Services, dated 7 September 1976, from MG Persons to all staff judge advocates, reprinted in *The Army Lawyer*, note 4, *supra*, at 1-3.

<sup>13</sup>Article, *Field Defense Services Office*, *The Army Lawyer*, *supra* note 5, at 3. Major Miller, promoted to lieutenant colonel in 1980, remained with the office until the summer of 1979, through its reorganization into the U.S. Army Trial Defense Service. Subsequently he attended the Armed Forces Staff College, Norfolk, Va., 1979-80, and was assigned to Headquarters, U.S. Army Berlin, as Staff Judge Advocate.

year test of the new structure within the Training and Doctrine Command. The Trial Defense Service then and now consists of a supervisory element at Falls Church, Virginia; several regional defense counsel; and numerous installation senior defense counsel and trial defense counsel. These defense counsel have their own rating chain separate from the rating chains applicable to other judge advocates. The Trial Defense Service became operational on a provisional basis on 15 May 1978.<sup>14</sup> Colonel Robert B. Clarke was designated its chief.<sup>15</sup>

In September 1979, the program was expanded to all units in CONUS, Alaska, Hawaii, and Panama. By 1 January 1980, USATDS was operating on a test basis in all Army commands, including those in Europe and Korea. The purpose of the new organization is twofold: (1) to improve the efficiency and professionalism of counsel through direct supervision and evaluation within the defense chain; and (2) to eliminate perceptions of soldiers and others that military defense counsel have a potential conflict of interest in carrying out their duties.<sup>16</sup>

Since World War II, there have been legislative proposals and recommendations to establish a separate organization for defense counsel. In 1973, the Secretary of Defense approved such a recommendation made by the DOD Task Force on the Administration of Military Justice. More recently, in a 1978 report to Congress, the General Accounting Office (GAO) urged the Army to implement the USATDS program without delay. The Navy and Air Force have had separate organizations for their defense counsel since 1974.<sup>17</sup>

Approval of the program followed comprehensive evaluations which were conducted in the field and at Headquarters, Department of the Army. The final evaluation, completed in April 1980, included the views of all major Army commanders, as well as 35 general and 50 special court-martial convening authorities. Comments and recommendations were also received from over 200 military lawyers

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<sup>14</sup>Field Defense Services, USALSA, *U.S. Army Trial Defense Services Approved for TRADOC Test*, *The Army Lawyer*, May 1978, at 9; *U.S. Army Trial Defense Service Begins One Year Test*, *The Army Lawyer*, June 1978, at 10; *TJAG's Comments on the USATDS*, *id.*, at 10-11.

<sup>15</sup>Previously, Colonel Clarke served as Chief, Defense Appellate Division, USALSA, Jan. 1977-May 1978, and as Executive, OTJAG, July 1975-Jan. 1977.

<sup>16</sup>*The Army Lawyer*, note 4, *supra*.

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

assigned as staff judge advocates, trial judges and defense counsel.<sup>18</sup>

Approximately 200 judge advocates were assigned to USATDS as of December 1980. They are stationed in field offices which serve commands throughout the Army. A senior defense counsel is in charge of each field office and responsible for local operations. For administrative purposes, the field offices have been grouped into nine geographic regions. Regional defense counsel, field grade officers with extensive experience in military justice, supervise defense counsel activities within their regions. They report to the Chief, USATDS, in Washington. Overall supervision is provided by the Assistant Judge Advocate General for Civil Law.<sup>19</sup>

Late in 1980, the Trial Defense Service was authorized sixteen mobilization designee positions to be filled by JAGC reservists. Six of these positions called for incumbents in the grade of major, to serve as senior defense counsel or special projects officer. The other ten were to be filled by captains as trial defense counsel.<sup>20</sup>

### C. NEW MILITARY RULES OF EVIDENCE

On 12 March 1980, President Carter issued Executive Order No. 12198, amending Chapter XXVII of the Manual for Courts-Martial and adopting the Military Rules of Evidence for use in courts-martial.<sup>21</sup> Effective 1 September 1980, the Military Rules reflect in substantially identical form Articles I, II, IV, and VI through XI of the Federal Rules of Evidence which have been used in the United States district courts since 1975.<sup>22</sup> Section III of the Military Rules contains detailed provisions governing the exclusion of evidence at trial, and Section V sets forth provisions concerning the applicability of the Military Rules worldwide.<sup>23</sup>

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<sup>18</sup>*Id.*

<sup>19</sup>*Id.*

<sup>20</sup>*Id.*, at 38-39.

<sup>21</sup>Exec. Order No. 12198, 45 Fed. Reg. 16932 (1980), reprinted in the new Appendix 18 to the Manual for Courts-Martial, added by Change 3, dated 1 Sep. 1980, and also in West's Military Justice Reporter, at 8 M.J. XLVII-CCXXXIX (1980). This discussion of the new Military Rules is taken from an article by CPT Edward D. Holmes, *The Residual Hearsay Exceptions: A Primer for Military Use*, 94 Mil. L. Rev. 16, 16-17 (fall 1981). Captain Holmes' article was the subject of the TJAGSA Alumni Association Professional Writing Award for 1981, mentioned near the beginning of the present volume.

<sup>22</sup>Pub. L. No. 93-575, 88 Stat. 1926 *et seq.* (1975), codified as an appendix to Title 18, U.S. Code (1976).

<sup>23</sup>Holmes, *supra* note 21, at 17 note 2.

The promulgation of the Military Rules of Evidence is one of the significant changes made in American military criminal law since the Military Justice Act of 1968.<sup>24</sup> Many articles on the new rules have been published in *The Army Lawyer*, a monthly journal published at The Judge Advocate General's School, Charlottesville, Virginia,<sup>25</sup> beginning with an important symposium in the May 1980 issue.<sup>26</sup> Other articles have been published in *The Advocate*, a bi-monthly publication of the Defense Appellate Division, U.S. Army Legal Services Agency, at Falls Church, Virginia.<sup>27</sup> Several articles have appeared in the *Military Law Review*<sup>28</sup> and other service legal periodicals.<sup>29</sup> One book has also appeared, the *Military Rules of Evidence Manual*, by Professor Stephen A. Saltzburg, Major Lee D. Schinasi, and Major David A. Schlueter, USA.<sup>30</sup>

#### D. CHANGES TO U.C.M.J.

The Uniform Code of Military Justice<sup>31</sup> has been amended in several particulars during the past six years. The changes involved bear no comparison with the sweeping restructuring of military justice which took place in 1968.<sup>32</sup> However, they are part of the modern history of American military law, and may even be of crucial importance in certain cases.

Article 131,<sup>33</sup> concerning the offense of perjury, was amended in 1976<sup>34</sup> as one of several changes in federal law designed "to permit the use in Federal proceedings of unsworn declarations given under

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<sup>24</sup>Pub. L. 90-632, 82 Stat. 1335.

<sup>25</sup>Department of the Army Pamphlet 27-50-series. *The Army Lawyer* is analogous with a civilian bar journal.

<sup>26</sup>*Symposium: The Military Rules of Evidence*, *The Army Lawyer*, May 1980, at 1-58. This is a collection of seven articles.

<sup>27</sup>*The Advocate* is oriented toward trial defense counsel. This periodical is not presently a Department of the Army pamphlet but will gain that status in the future.

<sup>28</sup>Department of the Army Pamphlet 27-100-series.

<sup>29</sup>I.e., the *Air Force Law Review*, the *Air Force Reporter*, and the *Navy JAG Journal*.

<sup>30</sup>Published by Michie/Bobbs-Merrill in 1981, this work was reviewed by Major Joseph A. Rehyansky at 94 Mil. L. Rev. 169 (fall 1981).

<sup>31</sup>10 U.S.C. 801-940 (1976).

<sup>32</sup>Military Justice Act of 1968, Pub. L. No. 90-632, 82 Stat. 1335.

<sup>33</sup>10 U.S.C. 981 (1976). The articles of the Code are numbered from 1 to 140. Article 1 is codified at 10 U.S.C. 801; Article 2, at 10 U.S.C. 802; and so on.

<sup>34</sup>Act of Oct. 18, 1976, Pub. L. No. 94-550, § 3, 90 Stat. 2535.

penalty of perjury in lieu of affidavits."<sup>35</sup> The House Judiciary Committee noted, "The requirement that the person who signs an affidavit must appear before a notary and be sworn can be inconvenient," as for example when the affidavit must be prepared after duty hours, or in a foreign country.<sup>36</sup> The amended article references a new provision of title 28, United States Code, concerning the use of unsworn declarations as if sworn.<sup>37</sup>

Article 2,<sup>38</sup> listing the categories of persons subject to the Uniform Code, was amended in 1979<sup>39</sup> by the addition of two new paragraphs (b) and (c). This amendment was intended to eliminate the so-called *Catlow-Russo* problem,<sup>40</sup> under which military personnel accused of violations of the Code could in some cases assert successfully that no court-martial had jurisdiction to try them because of defects in their enlistment. In effect, these accused persons asserted that they were not really in military service, despite appearances to the contrary. They could be administratively discharged but were not subject to military discipline while awaiting such discharge. The new paragraphs of Article 2 explicitly provide that recruiter misconduct will no longer be recognized as a defense, and that constructive enlistment will support court-martial jurisdiction

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<sup>35</sup>H.R. Rep. No. 94-1616, 94th Cong., 2d Sess. 1, reprinted in [1976] U.S. Code Cong. & Ad. News 5644.

<sup>36</sup>*Id.* at 5645.

<sup>37</sup>28 U.S.C. 1746 (1976). The new statute prescribes forms of declaration to be used.

<sup>38</sup>10 U.S.C. 802 (1976).

<sup>39</sup>Department of Defense Authorization Act, 1980, Pub. L. No. 96-107, § 801, 93 Stat. 810 (1979).

<sup>40</sup>In the case of *United States v. Catlow*, 48 C.M.R. 758 (1974), the conviction of the accused was reversed for lack of jurisdiction. Prior to his enlistment in the United States Army, Thomas W. Catlow appeared in a civilian court on various charges. He was in effect told by the judge to enlist in the Army or go to jail for up to five years. 48 C.M.R. at 759. The Court of Military Appeals, reversing the trial judge and the Army Court of Military Review, held that Catlow's enlistment was involuntary and void at its inception. 48 C.M.R. at 761. In effect, the accused was not a member of the Army at all and therefore could not be tried by court-martial.

In the case of *United States v. Russo*, 1 M.J. 134 (1975), the conviction of the accused was also reversed for lack of jurisdiction. Louis M. Russo was unable to read because of dyslexia, and could not pass the armed forces qualification test. An Army recruiter improperly gave Russo a list of answers to test questions. The Court of Military Appeals held that Russo's enlistment was void under these circumstances.

if specified requirements are met, regardless of the circumstances prevailing at the time of enlistment.<sup>41</sup>

Article 36,<sup>42</sup> conferring authority upon the President to issue the Manual for Courts-Martial, was amended at the same time as Article 2.<sup>43</sup> The amendment makes clear that the President can prescribe pre-trial and post-trial procedures as well as procedures to be followed during trial. As with Article 2, this amendment was a response to a decision of the Court of Military Appeals.<sup>44</sup> The legislative history indicates that Congress considered this amendment a reflection of existing law and not a change in the law.<sup>45</sup>

The year 1980 saw several technical changes to Articles 2, 65(c), and 88, U.C.M.J., updating references to the National Oceanic and Atmospheric Administration,<sup>46</sup> The Department of Transportation,<sup>47</sup> and the Secretary of Transportation.<sup>48</sup> Of more general importance was an amendment to Article 67(a)(1),<sup>49</sup> affecting the term of office of judges of the United States Court of Military Appeals. This is discussed in detail in the section of this article devoted to the C.M.A. judges.<sup>50</sup>

<sup>41</sup>S. Rep. No. 96-197, 96th Cong., 1st Sess. 120-123, reprinted in [1979] U.S. Code Cong. & Ad. News 1826-28.

<sup>42</sup>10 U.S.C. 836 (1976).

<sup>43</sup>Note 39, *supra*.

<sup>44</sup>*United States v. Ware*, 1 M.J. 282 (C.M.A. 1976). In this case, the Court invalidated paragraph 67f of the Manual for Courts-Martial, United States, 1969 (Rev.), which implemented Article 62(a), U.C.M.J., authorizing convening authorities to direct trial judges to reconsider decisions dismissing charges. In a footnote, the Court said,

In light of the reading we make of Article 62(a) and of our decision in the case at bar based thereon, we need not concern ourselves with whether paragraph 67f addresses procedure *before courts-martial*, to which the President's power to promulgate procedures is restricted.

1 M.J. at 285 n.10, citing Article 36, U.C.M.J. (Italics in original.).

<sup>45</sup>S. Rep. No. 96-197, 96th Cong., 1st Sess. 123-125, reprinted in [1979] U.S. Code Cong. & Ad. News 1828-1830.

<sup>46</sup>Defense Officer Personnel Management Act, Pub. L. No. 96-513, § 511(24), 94 Stat. 2922 (1980), codified at 10 U.S.C. 802.

<sup>47</sup>*Id.*, § 511(25), codified at 10 U.S.C. 865(c).

<sup>48</sup>*Id.*, codified at 10 U.S.C. 888.

<sup>49</sup>Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, § 12, 94 Stat. 3369, to be codified at 10 U.S.C. 867(a)(1).

<sup>50</sup>See Chapter VIII, The United States Court of Military Appeals.

### E. SEXUAL HARASSMENT AND FRATERNIZATION

The Army policy regarding fraternization was published as paragraph 5-7f, Army Regulation 600-20 on 15 January 1979.<sup>51</sup> Prohibited by this regulation are relationships between servicemembers of different grade which involve or give the appearance of partiality, preferential treatment or improper use of grade or position for personal gain. Although there have been few courts-martial involving fraternization since this policy was published, judge advocates have been extensively involved in advising commanders who must apply the policy. Additionally, judge advocates have been called upon by their installation commanders, particularly at U.S. Army Training Centers, to draft local regulations which further define and explain the Army policy. The Army Court of Military Review upheld the current fraternization policy in 1980 and 1981 opinions. In *United States v. Cooper* (1980)<sup>52</sup>, a company commander was convicted of fraternizing with two enlisted women in his company, and in *United States v. Hoard* (1981)<sup>53</sup>, a drill sergeant was court-martialed for numerous instances of socializing with both male and female trainees. Accordingly, the judge advocates role in the interpretation and enforcement of the Army's fraternization policy has become essential.

Although wrongful fraternization was prohibited in the Army even before the 1979 regulation, trial of sexual harassment cases did not emerge until the 1980s. The Army's commitment to insuring that every soldier is treated fairly, regardless of sex, took on renewed importance as more women entered the Army in "non-traditional" jobs. In Europe in 1980, two male soldiers were convicted of sexual harassment for remarks made to a female enlisted person<sup>54</sup> and, shortly thereafter, a woman soldier was convicted of sexually molesting a male soldier.<sup>55</sup> As in the fraterniza-

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<sup>51</sup>Army Reg. No. 600-20, Army Command Policy and Procedures, para. 5-7f (15 Jan. 1979).

<sup>52</sup>*United States v. Cooper*, CM 438700 (A.C.M.R. 11 Aug. 1980) (unpublished).

<sup>53</sup>*United States v. Hoard*, 12 M.J. 563 (A.C.M.R. 1981).

<sup>54</sup>2 *Europe Troopers Busted, Jailed for Verbal Abuse of Woman Soldier*, Army Times, 20 March 1980.

<sup>55</sup>*Court Sentences Female Soldier; Sexually Harassed Male GI*, Charlottesville Daily Progress, 9 April 1980; *Female Soldier Fined and Jailed on Sex Charge; Convicted in Germany*, Army Times, 6 April 1980.



tion area, the expertise and judgment of Army judge advocates are of inestimable value to commanders as they support his important commitment to our servicemembers.

## VI. ARMY RESERVE AND NATIONAL GUARD ACTIVITIES

### A. INTRODUCTION

The contributions of lawyer-members of the United States Army Reserve and Army National Guard to the successful accomplishment of TJAG's mission in the military community can hardly be overestimated. The Army JAG Corps is dependent upon the citizen-soldier particularly in times of crisis. Historically, when the Army has expanded rapidly to meet a crisis, Corps strength has been doubled or tripled by the influx of Reserve Component personnel. These officers are an invaluable addition to the active force because they have kept their knowledge of military law and practice up to date while in civilian practice.<sup>1</sup> As a result of work as mobilization designees, members of specialized JAGC reserve units, or judge advocate sections, they are able to take their places beside active force members quickly and smoothly.

Less dramatic but possibly just as significant are the contributions of reservists who have remained on active duty during peacetime for years beyond their initial obligation, some even for an entire career. At any given time during the past thirty years, as much as half or more of the career officer force of the JAG Corps has consisted of reservists. Under the new Defense Officer Personnel Management Act (DOPMA),<sup>2</sup> this apparently will change.<sup>3</sup> However, the achievements of career JAGC officers who have been reservists will never be forgotten.

### B. JAGSO TEAM REORGANIZATION

The Judge Advocate General's Service Organization (JAGSO) Detachments were first organized in 1959, a major development. Pre-

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<sup>1</sup>Dep't. of the Army, *The Army Lawyer: A History of the Judge Advocate General's Corps, 1775-1975*, at 5 (hereinafter cited as *Army Lawyer History*).

<sup>2</sup>Pub. L. No. 96-513, 94 Stat. 2835 (1980).

<sup>3</sup>See discussion of "all-regular career force" in Bent, *DOPMA: An Initial Review*, *The Army Lawyer*, Apr. 1981, at 1, 12.

viously, the training of reserve judge advocates in unit positions was dependent upon the schedule and resources of the reserve divisions, corps, and other large units to which they were assigned. Late in 1958, Table of Organization and Equipment No. 27-500D was promulgated,<sup>4</sup> establishing teams of lawyers, court reporters, and legal clerks, who could be inserted wherever the need arose for specialized assistance in military justice, war crimes investigations, claims, and other areas of JAGC work. Thereafter these units could train and work together in their specialty, to maintain maximum proficiency for use whenever needed by the larger units in training exercises or actual mobilization. Additionally, over 1,000 spaces were authorized for reserve judge advocates in the JAGSO Detachments.<sup>5</sup>

Since the JAGSO Detachments were first organized, there have been many changes in the administration and scope of military law and in the organization of the active Army. Consequently, the organization for administering military law has also changed. Lessons learned from past mobilizations showed quite clearly that a reorganization of the JAGSO detachments was necessary in order to adjust to these changes and to meet partial or full mobilization needs.<sup>6</sup>

The reorganization was initiated at the request of Major General Wilton B. Persons, Jr., then The Judge Advocate General, and was based on staff studies conducted by members of The Judge Advocate General's School and Reserve Component judge advocate officers from First, Fifth and Sixth CONUS Armies. Comments and suggestions from mobilization designee general officers and from active Army judge advocates directly involved in the reserve program were also incorporated.<sup>7</sup>

The objective was to identify a type of organization that would permit flexibility in assignment, and, at the same

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<sup>4</sup>Dep't of the Army, TOE No. 27-500D, 17 Oct. 1958.

<sup>5</sup>Army Lawyer History, *supra* note 1, at 230.

<sup>6</sup>This and the next several paragraphs are taken from or based upon an article by Reserve Affairs Department, TJAGSA, *Reorganization of JAGSO Detachments*, The Army Lawyer, Apr. 1977, at 14.

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

time, meet immediate mobilization requirements, in accordance with Total Force Planning. Thus, the new JAGSO organization (TOE 27-600H) reflects the type of units which will support the active Army upon mobilization, and incorporates, in organizational structure and mission, the changes in military law.<sup>8</sup>

Military Law Centers were organized to provide a capability for handling military justice, as well as, other areas of military law. They represent a consolidation of presently fragmented capabilities for legal assistance, claims, administrative law, and international law into single units for the purpose of providing comprehensive legal services. The Military Law Centers also form the base organization for attachment of additional JAGSO teams whenever there is a substantial increase in workload or as the force requires.<sup>9</sup>

The Military Law Centers have the capabilities to provide military legal services to nondivisional troops on an area basis, including trial and review of general, special, and summary courts-martial; review of nonjudicial punishment; legal advice on claims and international law; and legal assistance. They are responsible for the command, control, administration, and operational supervision of assigned or attached judge advocate functional teams.<sup>10</sup>

JAG detachments organized as cellular units of varying sizes with specialized functions and capabilities to augment organic staff judge advocate sections or to be organized as a separate judge advocate unit to support a force are organized pursuant to TOE/MTOE 27-600.<sup>11</sup>

Ten different types of detachments or teams have been organized where there were fourteen before.<sup>12</sup> The functions of these teams

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<sup>8</sup>*Id.*

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

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

<sup>11</sup>*Id.* at 14-15.

<sup>12</sup>Army Reg. No. 27-4, Legal Services: Judge Advocate General Service Organizations: Organization, Training, Employment, and Administration, para. 9 (26 June 1973). The fourteen-team structure was reflected in earlier editions of this regulation (20 July 1971 and 9 May 1969). The 1973 edition has been twice super-

correspond generally to the various specialities and subspecialties found in military practice. Three types of claims service teams and two of war crimes teams were consolidated into one claims team and one international law team. Two types of legal assistance teams were streamlined into one legal service team, dealing with administrative law as well as personal legal assistance matters. The five preexisting types of procurement or contract law teams were retained, specializing in contract law, property law, frauds, labor relations, and fiscal law.<sup>13</sup>

The final effect of the reorganization left 106 JAG Detachments converted, 93 detachments inactivated and 11 detachments reorganized and relocated. The effective conversion date was 8 November 1976 while the effective date for detachments being relocated was 28 February 1977.<sup>14</sup>

The organization of JAGSO teams is continually being modified to reflect the anticipated needs of mobilization. As of July 1982, there were 117 JAGSO units: 19 military law centers; 20 international law teams; 31 court-martial trial teams; 31 court-martial defense teams; 6 legal service teams; and 10 contract law teams. The approved revision of TOE 27-600, pending authorization at FORSCOM, deletes the claims teams, adds the military judge teams, and increases personnel spaces in all teams except for contract law and legal service teams.<sup>15</sup>

The 214th Judge Advocate General's Corps Detachment (Military Law Center), Fort Snelling, Minnesota, became one of the first newly reorganized JAGSO detachments to participate in annual training (FY 77) at Fort Hood, Fort Bliss and Fort Sam Houston, Texas, during February 1977.<sup>16</sup>

The 214th and its subordinate units, the 128th and 117th courts-martial trial and defense teams, reported for annual

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seded. The edition of 19 Nov. 1976 reflects the organizational changes of that year. In the currently effective edition, dated 1 Jan. 1981, the procurement law teams became contract law teams.

<sup>13</sup>*Id.*; note 6, *supra*, at 15.

<sup>14</sup>Note 6, *supra*, at 15.

<sup>15</sup>Records on JAGSO team reorganization maintained by the Reserve Affairs Department, TJAGSA.

<sup>16</sup>This and the next several paragraphs are taken from or based upon an article, *214th JAG Detachment to Fort Hood*, *The Army Lawyer*, May 1977, at 9.

active duty training to the III Corps Staff Judge Advocate Office on 13 February 1977, for deployment to the troop unit JAG offices at Fort Hood. Nine commissioned officers, one warrant officer and five enlisted personnel from the detachments were present for training.<sup>17</sup>

The unit's training mission for the commissioned officers was to participate in actual court-martial cases as assistant trial counsel and to prepare for and develop the prosecution of military offenses. Members of the JAG Detachments were equally divided among the 2d Armored Division, the 1st Cavalry Division and III Corps Headquarters.<sup>18</sup>

The 214th contingents assigned to the SJA offices at Fort Bliss and Fort Sam Houston augmented the legal assistance sections, in addition to filling in at the defense section and processing and preparing administrative board actions.<sup>19</sup>

Another beneficial part of the training was the opportunity for the four enlisted reserve women court reporters to use their stenotype machines in actual courtroom situations and to transcribe and make summary records of special courts-martial. The two court reporters assigned to the 1st Cavalry were also given training in the legal clerk procedure at unit offices under the jurisdiction of the 1st Cavalry SJA.<sup>20</sup>

In 1978, The Judge Advocate General adopted a policy of limiting the tenure of reserve unit commanders and senior staff judge advocates to a three-year period. This change was designed to improve opportunities for upward mobility, promote morale, and prevent stagnation.<sup>21</sup>

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

<sup>18</sup>*Id.*

<sup>19</sup>*Id.*

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

<sup>21</sup>Army Reg. No. 27-4, note 12, *supra*, at para. 7e. See also Army Reg. No. 140-10, Army Reserve: Assignments, Attachments, Details, and Transfers, para. 2-19p (Change 5, 1 July 1981).

### C. JAGC RESERVE AND NATIONAL GUARD GENERAL OFFICERS

In 1975, there were two JAGC general officer positions in the Army Reserve mobilization designee program. The titles of these positions were Assistant Judge Advocate General for Special Assignments (or Projects), and Chief Judicial Officer. Subsequently these titles were changed to Deputy Assistant Judge Advocate General for Reserve Affairs, and Chief Judge, U.S. Army Judiciary, respectively. In the mid-1970's the tenure of these mobilization designee positions was reduced from four years to two years.

BG Evan G. Hultman<sup>22</sup> of Iowa held the position of AJAG for Special Assignments, succeeding BG Robert D. Upp (1969-1974) in 1974 and holding the office until 1976. BG Hultman was followed by BG Edward D. Clapp<sup>23</sup> (1977-1979), and BG Roy R. Moscato of Chicago, Illinois (1979-1982). The current incumbent of the position is BG Bernard H. Thorn of Englewood, Colorado.

In 1975, the mobilization designee judicial post was held at first by BG Edmund W. Montgomery II, who in 1971 had succeeded BG Thomas F. Butt (1968-1971). BG Demetri M. Spiro replaced BG Montgomery in 1975, holding office until 1978. He was followed by BG Jack N. Bohm<sup>24</sup> (1978-1980). The current Chief Judge is BG William H. Gibbes.

Early in 1981, a new position was created, that of Army National Guard Special Assistant to The Judge Advocate General. The incumbent of this position serves as principal advisor to The Judge Advocate General and to the Director, Army National Guard, for judge advocate personnel management and military law matters pertaining to the Army National Guard. The position is currently filled by BG Paul N. Cotro-Manes, JAGC, ARNG, of Utah.<sup>25</sup>

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<sup>22</sup>General Hultman served as Attorney General of Iowa from 1960 to 1964. 6 TJAGSA Alum. Assn. Newsl. 1 (15 Aug. 1974). In 1980, as commanding general of the 108d Corps Support Command, Fort Des Moines, Iowa, he was promoted to major general. *Hultman Promoted to Major General*, 11 TJAGSA Alum. Assn. Newsl. 5 (1980).

<sup>23</sup>8 TJAGSA Alum. Assn. Newsl. 9 (1976).

<sup>24</sup>9 TJAGSA Alum. Assn. Newsl. 6 (1978).

<sup>25</sup>*Reserve Affairs Items*, The Army Lawyer, May 1981, at 84.

*D. TJAGSA AND RESERVE TRAINING*

Realistic and up-to-date training, whether in the form of classroom instruction, correspondence courses, field or office exercises, or other formats, is vitally important to ensure the readiness of reservists and National Guard members. Participation of Army JAGC reservists in active Army training exercises has increased in recent years. Reservist participation in LOGEX<sup>26</sup> was resumed in 1976, and from 1978 onward, reservists were involved in several other exercises for the first time. In 1981, a judge advocate reserve unit traveled to the Federal Republic of Germany to participate in law of war training preparations for USAREUR's Exercise Reforger. Overseas training such as this has been rare and infrequent for reservists.<sup>27</sup> However, three international law teams participated in the exercise Team Spirit '82 as Law of War Special Evaluation Teams in Korea during the ROK/US Combined Forces Command exercise. This exercise is the largest joint combined field training exercise in the Free World with land, sea and air operations.<sup>28</sup>

The Judge Advocate General's School continues to be deeply involved in the training of JAGC reservists, providing instructors and other support for USAR schools. Since 1972 the JAG School has sent its faculty members to reserve units at their home stations during regular drill periods. Hundreds of reservists have maintained or improved their proficiency through attending TJAGSA resident short courses and completing correspondence courses administered by the School.

Overview of Reserve Component activities is a large task. Especially important in providing service to reservists is the School's Reserve Affairs Department. This department provides a full range of career counseling, record-keeping, and management services for individual reservists. Extensive planning and coordination of reserve training is carried out together with liaison activities requiring extensive travel and consultation.

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<sup>26</sup>This training exercise is conducted by the U.S. Army Logistics Management Center, Fort Lee, Virginia.

<sup>27</sup>Conversation with LTC Jack H. Williams, USA, retired, on 1 Sep. 1981. LTC Williams served as Director, Reserve Affairs Department, TJAGSA, Charlottesville, Va., from 1976 to 1981.

<sup>28</sup>Afteraction reports maintained by Reserve Affairs Department, TJAGSA, on OCONUS Training (16 July 1982).



The Reserve Affairs Department and the School have become more and more involved with the Army National Guard in recent years. The purpose of this involvement is to ensure that judge advocates who are Guard members have the same training and readiness as do judge advocates in the USAR. As mentioned previously, a general officer position was created in early 1981. At the same time, a National Guard liaison position was created within the Reserve Affairs Department. The ARNG liaison officer reviews applications for appointment in (or branch transfer to) the JAGC, ARNG, maintains contact with the National Guard Bureau and state adjutants general, and advises individual Guard members on career matters.<sup>29</sup>

### *E. JA RESERVE COMPONENT GENERAL STAFF COURSE*

Judge advocates in the Army Reserve formerly had the option of taking the Judge Advocate Reserve Component General Staff Course, administered by the JAG School. This was a shortened version of the Command and General Staff Officer Course administered by the U.S. Army Command and General Staff College, Fort Leavenworth, Kansas. The full Leavenworth course required five years to complete. However, during the early 1970's, a promotion "hump" had developed among field grade Reserve Component judge advocates. The promotion timetable was such that many of them were hard put to become educationally qualified for promotion by taking the five-year course. The shorter judge advocate version was instituted as a temporary measure to help these officers.<sup>30</sup>

The JARCGS Course was discontinued in 1981. Receipt of applications from new students to take the course were discontinued effective 1 October 1980, and, for students enrolled before that date, applications for equivalent credit were accepted only until 1 June

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<sup>29</sup>*Reserve Affairs Items*, The Army Lawyer, May 1981, at 34.

<sup>30</sup>*Reserve Affairs Items: The Judge Advocate Reserve Components General Staff Course*, The Army Lawyer, May 1980, at 64; *Reserve Affairs Items: JARCGS Discontinuance: A Follow-up*, The Army Lawyer, June 1980, at 35-36.

1981.<sup>31</sup> All enrollments in the JARCGS Course were terminated on 6 July 1981.<sup>32</sup>

The reasons for discontinuance of this popular course were that the full Leavenworth course had been shortened to three years, removing a substantial part of the time problem that existed previously; The Judge Advocate General wanted members of the active and reserve components to have equivalent training; and reserve judge advocates who complete the JARCGS Course may be at a competitive disadvantage with those who complete the Leavenworth course.<sup>33</sup>

As a separate and independent matter, a new Leavenworth course came into being in 1981, the Combined Arms and Services Staff College, called "Cass Cube" or CAS<sup>3</sup>. This course is intended for officers of all branches who have completed their branch advanced or graduate courses. It consists of a nine-week resident phase at Fort Leavenworth which is preceded by a fifteen-part correspondence phase. The course satisfies USAR requirements for promotion to lieutenant colonel,<sup>34</sup> and thus is an alternative to the regular three-year C&GS course.

### F. MOBILIZATION DESIGNEES

Individual members of the Army Reserves are assigned to the Reserve Components Personnel and Administration Center, either pending reassignment to reserve units or permanently as part of the Individual Ready Reserve. For those so assigned, many opportunities exist for continued training and effective participation. The Individual Mobilization Augmentee (IMA) program is the central pillar of the overall effort to improve the training posture and mobilization readiness of the Individual Ready Reserve.

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<sup>31</sup>*Reserve Affairs Items: Update News on JARCGSC*, The Army Lawyer, Sep. 1980, at 40.

<sup>32</sup>*Reserve Affairs Items: Judge Advocate Reserve Components General Staff Course*, The Army Lawyer, May 1981, at 34.

<sup>33</sup>*Reserve Affairs Items: JARCGSC Discontinuance: A Follow-up*, The Army Lawyer, June 1980, at 35-36.

<sup>34</sup>*Reserve Affairs Items, CAS<sup>3</sup> on USAR Officers*, The Army Lawyer, Jan. 1982, at 24-25; *CAS<sup>3</sup> for USAR Officers, Infantry*, Jan.-Feb. 1982, at 43; Army Reg. No. 135-155, Army National Guard and Army Reserve: Promotion of Commissioned Officers and Warrant Officers Other Than General Officers, para. 2-6a, and table 2-2, note 14 (change 10, 15 June 1982).

Participants, termed Mobilization Designees, are members of the Ready Reserve who are preselected and pretrained to perform crucial tasks during early phases of mobilization. Training of mobilization designees is critical and not left to chance. Annual training for a mobilization designee is mandatory. The objective of this training is the attainment of a high degree of qualification in specific duties of the IMA position in which the individual is expected to perform during mobilization.

The scope and efficiency of the IMA program has broadened substantially. It now includes 727 authorized judge advocate positions, located at every major CONUS installation, the Office of The Judge Advocate General, and its Field Operating Agencies.

## VII. THE HOME OF THE ARMY LAWYER

### A. THE NEW J.A.G. SCHOOL

The Judge Advocate General's School, U.S. Army, has been the home of the Army lawyer for many generations of judge advocates. First established in temporary quarters at Washington, D.C., in 1942,<sup>1</sup> the School was moved later that year to Ann Arbor, Michigan,<sup>2</sup> where it remained until deactivation in 1946.<sup>3</sup> Reactivated in 1950 at Fort Myer, Virginia, the School was moved to the grounds of the University of Virginia, Charlottesville, Va., in August of 1951.<sup>4</sup> Several years later the School moved into the rectangular red brick building on the edge of the main grounds, behind Clark Hall, the former School of Law, and above Jefferson Park Avenue, which was to be its home for approximately twenty years.

The JAG Corps grew considerably during the years following the Military Justice Act of 1968.<sup>5</sup> That development and expanded responsibilities in other areas of law made necessary the offering of additional short courses. More and more students came to these courses, including Army reservists and national guardsmen, attorneys from the other uniformed services, and federal civilian employees. New methods of teaching, new library acquisitions, and other evidences of growth made it imperative that more space be obtained. The old building, located in one of the most congested areas of the growing University of Virginia, would no longer suffice.

Plans were made for construction of a new building for the JAG School in a wooded area off what is now Arlington Boulevard. This area, henceforward known as the North Grounds, was also to be the site of the University's new School of Law, the Darden Graduate School of Business Administration, dormitories, and other structures. A ground breaking ceremony was held on 12 April 1973. Presiding were Major General George S. Prugh, The Judge Advocate General; Colonel John Jay Douglass, the Commandant of the

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<sup>1</sup>Army Lawyer History 186.

<sup>2</sup>*Id.*, 186-87.

<sup>3</sup>*Id.*, 187.

<sup>4</sup>*Id.*, 217.

<sup>5</sup>Pub. L. No. 90-632, 82 Stat. 1335, discussed in Army Lawyer History at 230, 243-249, and 254-255.

JAG School; and Dr. Edgar Shannon, President of the University of Virginia.<sup>6</sup>

Work proceeded on the new building, at a cost of \$5 million, under the supervision of the Army Corps of Engineers. Lease negotiations were conducted with the University of Virginia, a difficult task in the face of steadily rising costs for basic services.<sup>7</sup> Finally, before the last week of May, 1975, the School was ready to transfer its operations to the North Grounds. The move was coordinated by LTC Jack H. Williams, then director of the Developments, Doctrine, and Literature Department. As a contemporary account explains,

In accordance with sound tactical principles, the "high ground" was seized first with the Officers' Open Mess occupying its position atop the new building. Next came the Billeting Office and advance supply and administration elements.<sup>8</sup>

This portion of the move was accomplished by JAG School personnel themselves, in advance of the award of a moving contract. Because of this effort, the School was able to host successfully its first function, a meeting of the board of directors of the International Society for Military Law and the Law of War, from 27 May through 1 June 1975. Delegates from Canada, the United Kingdom, the Netherlands, Belgium, France, Germany, Austria, Turkey, Italy, Spain, Zaire, and Australia, were among the first to use the new billets and dine in the Officers' Open Mess.<sup>9</sup>

The 77th Judge Advocate Officer Basic Course began using the practice courtrooms and seminar facilities that same May. The 23rd Advanced (now Graduate) Course graduation exercises took place on 30 May 1975 in the largest of the three amphitheater-style class-

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<sup>6</sup>Program, Judge Advocate General's School, U.S. Army, Home of the Military Lawyer, Groundbreaking Ceremonies, April 12, 1973, Charlottesville, Virginia.

<sup>7</sup>*New Building Grows Old Without TJAGSA*, *The Army Lawyer*, Apr. 1975, at 13.

<sup>8</sup>*JAG School on the Move*, *The Army Lawyer*, June 1975, at 21-22.

<sup>9</sup>*Id.* The Society is a private, nonprofit international organization based in Brussels, Belgium. Its purpose is to promote study of comparative military law and of the law of war. Major activities include annual conventions and the semi-annual publication of a scholarly journal, the *Revue*. More information about the Society and its publications may be found in *The Army Lawyer*, May 1975, at 25-26; *id.*, Dec. 1975, at 38; and 92 *Mil. L. Rev.* 176-81 (spring 1981).

rooms. The first of a long series of distinguished guest speakers was Major General George W. Putnam, Jr., then Director of Military Personnel Management, ODCSPER, HQ, DA.<sup>10</sup>

The move continued in stages and was completed during the first two weeks of June.<sup>11</sup> The new building was formally dedicated by the Honorable Norman R. Augustine, Under Secretary of the Army, in a ceremony held on 25 June 1975. Remarks were made also by General Prugh; by Colonel William S. Fulton, Jr., the School Commandant; and by Dr. Frank L. Hereford, President of the University of Virginia. Music was provided by the United States 392d Army Band, Fort Lee, Virginia.<sup>12</sup> The invocation and benediction were offered by the Reverend Arie D. Bestebreurtje, then pastor of the First Presbyterian Church, Park Street, Charlottesville, Virginia. In attendance were representatives of the American Bar Association, the Federal Bar Association, and the Judge Advocates Association, as well as the University of Virginia, former commandants of the School, past general officers of the JAG Corps, and other dignitaries.<sup>13</sup>

Functions and activities of the School were arranged in the new building in a manner similar to that of the old: administrative and logistical support functions chiefly in the basement, faculty offices on the first floor, BOQ facilities above, and, on the roof, a club and dining facility. Beyond these few superficial similarities, however, the two buildings have nothing in common. The School's new home offers extensive classroom library, and office space,<sup>14</sup> a much larger BOQ section filling two entire floors, and a fully equipped restaurant and lounge. These facilities serve the needs of greatly increased numbers of short-course students, as well as basic and graduate (formerly "advanced") class students.<sup>15</sup>

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<sup>10</sup>*JAG School on the Move*, *The Army Lawyer*, June 1975, at 22.

<sup>11</sup>*Id.*

<sup>12</sup>Program, Dedication, The Judge Advocate General's School, U.S. Army, 25 June 1975, University of Virginia, Charlottesville, Virginia; *New TJAGSA Building Dedicated*, *The Army Lawyer*, July 1975, at 32-33.

<sup>13</sup>*New TJAGSA Building Dedicated*, *The Army Lawyer*, July 1975, at 33.

<sup>14</sup>While at its old location, the School used rented classrooms in the University's Clark Hall, formerly the School of Law.

<sup>15</sup>The nine-month course for career judge advocates was first offered during academic year 1951-52. Through its fourteenth offering in academic year 1965-66, it was called the Career Course. Thereafter the name of the program was changed to, Judge Advocate Officer *Advanced* Course. This designation was used through

Colonel Fulton, the last commandant in the old school and the first in the new one, was succeeded in his post by Colonel Barney L. Brannen, Jr., in 1976. After three years on the job, Colonel Brannen was followed by Colonel David L. Minton. In 1981, Colonel William K. Suter became the fourteenth commandant of The Judge Advocate General's School, U.S. Army. A complete list of the commandants appears in an appendix among the finding aids for the Army Lawyer History, published elsewhere in this volume.

### B. MISSION AND ACTIVITIES OF TJAGSA

The Judge Advocate General's School teaches the fundamentals of military law to attorneys newly commissioned as judge advocates and provides graduate legal training for career military officers. Numerous continuing legal education courses and seminars, lasting from two days to three weeks, are given annually. The School also administers an extensive correspondence course continuing legal education program. More than 2,200 attorneys attend resident courses during the year. Correspondence course enrollment exceeds 2,100.<sup>16</sup>

Functions of the School are divided among four primary departments; Academic; School Support; Developments, Doctrine and Literature; and Reserve Affairs.<sup>17</sup>

The Academic Department develops and conducts all of the School's resident courses and is responsible for all non-resident instruction including administration of correspondence courses and preparation of training material for judge advocates attending Army Reserve Schools or serving in Reserve Component units. The department also manages development of legal subject training materials for use Army-wide.<sup>18</sup>

The Academic Department performs its extensive teaching functions through four divisions, the Administrative and Civil Law Division, the International Law Division, the Criminal Law Division,

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the 26th Advanced Course, given during academic year 1977-78. Beginning with the next year, the course became known as the Judge Advocate Officer *Graduate Course*. 85 Mil. L. Rev. 170 (summer 1979).

<sup>16</sup>Judge Advocate General's School, U.S. Army, 1981-1982 Annual Bulletin 2.

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

<sup>18</sup>*Id.*

and the Contract Law Division.<sup>18</sup> The Operations Branch and the Nonresident Instruction and Audio Visual Branch assist the teaching divisions and perform the several other functions mentioned above. In addition, a Legal Assistance Branch was created within the Administrative and Civil Law Division in 1981.<sup>20</sup>

The Director, Department of School Support, serves as the principal administrative officer, controlling administrative, personnel, logistical, and budget matters. This department is responsible for conference planning, local claims and legal assistance service, and the School's law library.<sup>21</sup>

The Developments, Doctrine and Literature Department determines in concept the tasks and problems likely to arise in the discharge of judge advocate functions in the Army of the future. This responsibility includes identification of problem areas in judge advocate mission performance, development of responses to existing or anticipated problems, as well as review of and participation in studies by other Army agencies to ensure legal accuracy and sufficiency. Additionally, this department publishes professional literature such as the *Military Law Review* and *The Army Lawyer*, and manages the Army Law Library Service.<sup>22</sup>

The Department of Reserve Affairs is responsible for developing and providing programs to improve the readiness capability of Army Reserve Judge Advocate General's Corps personnel. The department provides career management for all Judge Advocate General's Corps Reserve Component officers and assists in the development and administration of technical training programs. The Reserve Affairs Department also supervises the operation of the Mobilization Designee Program for the School, the Office of The Judge Advocate General, the U.S. Army Legal Services Agency, and the U.S. Army Claims Service and approves assignments of JAGC, USAR, officers to all other MOB

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<sup>18</sup>*Id.*, at 5-6.

<sup>20</sup>Judge Advocate General's School, Staff Directory, December 1981.

<sup>21</sup>Note 16, *supra*, at 3.

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



DES positions; monitors policies and projects which involve the operation of Judge Advocate General's Service Organization Detachments; and reviews applications for branch transfer and direct appointment into the JAGC, USAR, and for Federal Recognition.<sup>23</sup>

### C. THE DECKER CHAIR

The Charles L. Decker Chair of Administrative and Civil Law was established on 11 May 1977, in honor of Major General Charles L. Decker, who served as The Judge Advocate General from 1 January 1961 until his retirement from active service on 31 December 1963.<sup>24</sup>

Among many other important assignments, General Decker, as a colonel, served as the first commandant of The Judge Advocate General's School at Charlottesville, Virginia, from 2 August 1951 until 15 June 1955.<sup>25</sup> He recognized the importance of administrative and civil law to military lawyers and to the Army as a whole. As TJAGSA commandant, General Decker oversaw the development of a separate administrative and civil law teaching division at the JAG School.

The first Decker Lecture, entitled "The Chair and the Challenge," was delivered on 11 May 1977, by General Decker himself. He discussed the JAG Corps and the School, their past achievements, and their future challenges.<sup>26</sup> The lecture has since been delivered annually by a distinguished guest speaker.

The Decker Chair is the third of the honorary academic chairs established at the JAG School. The first was the Kenneth J. Hodson Chair of Criminal Law, established on 1 July 1971 to honor Major General Kenneth J. Hodson, TJAG from 1967 to 1971 and Chief Judge of the Court of Military Review from 1971 to 1974.<sup>27</sup> The first Hodson Lecture was presented by General Hodson on 12 April

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<sup>23</sup>*Id.*

<sup>24</sup>A biographical sketch of General Decker is provided at Army Lawyer History 233-35.

<sup>25</sup>*Id.*; Army Lawyer History, 217-218.

<sup>26</sup>The Army Lawyer, June 1977, at 21. The first occupant of the Decker Chair was Lieutenant Colonel Peter J. Kenny, Chief of the School's Administrative and Civil Law Division from 1976 to 1980.

<sup>27</sup>General Hodson's biography appears at Army Lawyer History 241-243.

1972.<sup>28</sup> This lecture, entitled "Manual for Courts-Martial—1984," was published in the *Military Law Review*.<sup>29</sup>

The second honorary chair established at the JAG School is the Edward H. ("Ham") Young Chair of Military Legal Education. Established on 31 August 1972, this chair honors Colonel "Ham" Young, who served as first commandant of the original, temporary JAG School, from August 1942 to December 1944. At that time the School was located on the campus of the University of Michigan, at Ann Arbor. Colonel Young served as commandant again from August 1950 to August 1951, when the School was at Fort Myer, Virginia.<sup>30</sup>

The first Ham Young lecture was presented by Professor Delmar Karlen of the New York University School of Law.<sup>31</sup> Entitled "Civillianization of Military Justice: Good or Bad," this lecture was also published in the *Military Law Review*.<sup>32</sup>

#### D. THE SOLF CHAIR

The Waldemar A. Solf Chair of International Law was established on 2 June 1982, in honor of retired Army colonel, Waldemar A. Solf, who served as Chief, International Affairs Division, OTJAG, 1971–1977, and Special Assistant to the Judge Advocate General for Law of War matters from 1977 until his retirement from government service on 4 August 1979.<sup>33</sup>

While in the Judge Advocate General's Corps, Colonel Solf served in a number of important positions including Chief Judicial Officer, U.S. Army Judiciary, 1965–1966,<sup>34</sup> Staff Judge Advocate, Eighth U.S. Army in Korea, 1962–1963,<sup>35</sup> and Director, Academic Department, The Judge Advocate General's School, 1955–1958.<sup>36</sup> After his retirement from active duty, Colonel Solf continued in government service, serving in the international law positions mentioned above. During this latter period of service, Colonel Solf represented the

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<sup>28</sup>The Army Lawyer, May 1972, at 20–21.

<sup>29</sup>57 Mil. L. Rev. 1 (summer 1972).

<sup>30</sup>Army Lawyer History, at 186–87 and 217.

<sup>31</sup>The Army Lawyer, Aug. 1972, at 22.

<sup>32</sup>60 Mil. L. Rev. 113 (spring 1973).

<sup>33</sup>Biographical sketch of Colonel Solf prepared by Academic Chair Advisory Board, TJAGSA, on 25 March 1982.

<sup>34</sup>*Id.*

<sup>35</sup>*Id.*

<sup>36</sup>*Id.*

United States as a delegate to a number of international conferences, including the diplomatic conference on the Protocols Additional to the Geneva Conventions of 1949.<sup>37</sup>

The Solf Chair is the fourth of the honorary academic chairs established at the JAG School.<sup>38</sup> Colonel Solf is an accomplished practitioner of international law, a distinguished scholar and writer, and a diplomat of the highest caliber. His contributions to the field of international law will have a significant impact on military and civilian legal practice for decades to come.

### *E. TJAGSA BOARD OF VISITORS*

The TJAGSA Board of Visitors was abolished in 1980 as part of a governmental streamlining effort. Established in 1954, the board met annually at TJAGSA to survey the program of instruction, curriculum, faculty, and teaching methodology at the School, and to advise the commandant of the School concerning possible changes and improvements. The board had from five to seven members, usually people of high standing in the legal community, such as judges and law school deans. They were appointed for two-year terms. The board published a biennial report.<sup>39</sup>

### *F. TJAGSA ALUMNI ASSOCIATION*

After two years of inactivity, the TJAGSA Alumni Association was resuscitated in 1977. A new constitution was approved by the Association's board of governors on 18 January 1977, and new officers were chosen.<sup>40</sup> Membership in this private, voluntary organi-

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<sup>37</sup>*Id.* Colonel Solf served as Alternate Representative, U.S. Delegation to four sessions of the Diplomatic Conference on International Humanitarian Law Applicable in Armed Conflict, held in Geneva, Switzerland, 1974-1977.

<sup>38</sup>Memorandum for Commandant, TJAGSA; subject: Honorary Academic Chair in International Law; from Academic Chair Advisory Board; dated 7 April 1982; approved by Commandant, 2 June 1982.

<sup>39</sup>The TJAGSA post judge advocate served as recorder for the board. Linda E. Sullivan, editor, *Encyclopedia of Governmental Advisory Organizations* 139 (1980).

<sup>40</sup>Lieutenant Colonel Peter J. Kenny was selected to be president of the reorganized Alumni Association. He served as Chief of the Administrative and Civil Law Division, TJAGSA, from 1976 until his retirement in 1980. Subsequently, he was employed in the continuing legal education program of the University of Virginia School of Law. LTC Kenny was succeeded in 1980 as president of the Alumni Association and Chief of the Administrative and Civil Law Division, TJAGSA, by LTC Thomas M. Crean, who served until 1982.

zation is open to anyone who has attended a course at TJAGSA. The Association was founded in January of 1963.<sup>41</sup>

The Alumni Association is supported by membership dues and the sale of JAGC-distinctive memorabilia. Historical mementos and other gifts are accepted by the Association on behalf of TJAGSA. Among its other activities, the Association gives an engraved plaque every year to the winner of the TJAGSA Alumni Association Professional Writing Award for the best article published in the *Military Law Review* during the previous year.<sup>42</sup>

The long-overdue 1975 and 1976 issues of the TJAGSA *Alumni Newsletter* were published in 1977. The *Newsletter* was first published in 1968, and appeared quarterly. An annual format was adopted with the 1975 issue. The *Newsletter* tells the history of TJAGSA year by year, with accounts of staff and faculty changes, annual worldwide JAG conference activities, biographies of senior officers, and the like.<sup>43</sup>

One of the most highly visible projects of the reorganized Association has been the development and maintenance of a garden in the courtyard of the new JAG School building. Various basic and graduate (advanced) classes and other groups of alumni and friends of TJAGSA have donated trees, shrubs, and benches for the court-

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<sup>41</sup>Records of the Association indicate that the first president of its board of governors was Colonel John F. T. Murray. He was Commandant of the JAG School from 16 July 1961 to 31 December 1964. The board's secretary was then-Captain Peter Hollingshead-Cook. He remained in the Army and, as a colonel, served as a Senior and Associate Judge on the U.S. Army Court of Military Review, Falls Church, Va., from July 1975 until his death on 15 August 1978. See *In Memoriam*, 84 Mil. L. Rev. 2-3 (spring 1979). Other members of the first board of governors were Colonel Burton K. Philips, Colonel Jesse M. Charlton, Jr., LTC Joseph P. Ramsay, LTC James G. Johnson, Captain Robert L. Wood, and First Lieutenant John D. Goodwin.

<sup>42</sup>An account of the history of the award and a description of applicable selection criteria and procedures appear at 87 Mil. L. Rev. 1 (winter 1979). The awards for 1979 and 1980 are discussed at 90 Mil. L. Rev. 1 (fall 1980) and at 93 Mil. L. Rev. 1 (1981).

<sup>43</sup>Much of the editorial and layout work for recent issues of the *Alumni Newsletter* has been performed by Mr. P. Byrd Eastham, Jr., visitor information specialist with the Academic Department, TJAGSA. From 1976 to 1980, he was on active duty as a lieutenant, later captain, in the Army Adjutant General's Corps, and served as Chief of the Visitors Bureau Branch, Services Division, School Support Department, TJAGSA.

yard. The labor of many persons in the past five years has made the courtyard a place of beauty.<sup>44</sup>

### G. VISITS OF GERMAN JURISTS

During a three-year period 1977-1979, TJAG co-sponsored a series of unique annual visits to the U.S. of German government jurists. The three visits took place under the sponsorship of the Commander-in-Chief, U.S. Army Europe and Seventh Army, and then-The Judge Advocate General, Major General Wilton B. Persons, Jr. The purpose of the visits was to give these key officials a closer insight into the American system of justice and in particular military law.<sup>45</sup>

The German jurists were prosecutors, state and federal level Ministry of Justice officials, and officials in the Federal Ministry of Defense work worked with matters involving the U.S. Forces under the NATO Status of Forces agreement. About twenty lawyers came each year. During each trip, the guests spent a week visiting Washington, D.C., and the JAG School at Charlottesville, Virginia. In Washington, they attended a Supreme Court Session and met with the Justices, and visited DOD and DA officials in the Pentagon. They spent two to three days at Charlottesville, where they were given an orientation at the JAG School, and visited Monticello and the University of Virginia grounds.<sup>46</sup>

Responsible on the German side for the visits was Ministerialrat (Ministerial Advisor) Johann Georg Schaezler. Responsible within the Office of TJAG was Colonel Jim Green, Chief, International Affairs Division, in 1977, and his successor, Colonel Richard J. McNealy, in 1978-79. Action officer each year was Captain John-Terry Bado. Senior escort officer each year was Lieutenant Colonel Ernest S. Auerbach, USAR. Among the guests were: Heinrich

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<sup>44</sup>Much of the early courtyard work was coordinated by Major John R. Beeson, who served as treasurer of the Association, 1977-1979. From 1976 to 1979, he was Post Judge Advocate and Chief of the Services Division at TJAGSA. The work has been continued by his successor, Captain Lawrence E. Rouse. Much help was also provided by Major James H. Rosenblatt, who served as an instructor in the Contract Law Division, TJAGSA, 1978-1981.

<sup>45</sup>Information concerning this program was provided by LTC Ernest Auerbach, JAGC, USAR, a reservist who in civilian life is an attorney practicing in Philadelphia, Pennsylvania. Letter from LTC Auerbach to MAJ Percival D. Park (27 Aug. 1981).

<sup>46</sup>*Id.*

Gauf, Generalstaatsanwalt (Prosecutor General), Zweibruecken; Professor Walter Odersky, Ministerialdirigent (Ministerial Director), Ministry of Justice, Bavaria; and Wilhelm Schneider, Ministerialdirektor (Ministerial Director), Federal Ministry of Justice, Bonn.<sup>47</sup>

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<sup>47</sup>*Id.*

## VIII. THE UNITED STATES COURT OF MILITARY APPEALS

### A. INTRODUCTION

The supreme court of the military services is not itself a military institution, and is in no way under the jurisdiction or control of the Department of Defense. Yet no account of the Army's JAG Corps could be complete without mention of the United States Court of Military Appeals, whose decisions have had a very large impact on the development of military criminal law, substantive, procedural, and evidentiary. Some of these developments are discussed elsewhere. The present chapter deals primarily with the personnel of the court.

### B. THE JUDGES

At the beginning of 1975, the Court of Military Appeals had two regular members, Associate Judge Robert E. Quinn, preparing to retire, and Associate Judge William H. Cook. The post of Chief Judge had been vacant since Chief Judge Robert M. Duncan resigned on 11 July 1974, to become a United States district judge for the Southern District of Ohio. As a temporary measure, Senior Judge Homer Ferguson had come out of retirement to help with the work of the court.<sup>1</sup>

Judge Quinn was first appointed as Chief Judge on 20 June 1951, at the beginning of the court's existence. As his first fifteen-year term of office was drawing to a close, he was reappointed on 28 April 1966. After twenty years as Chief Judge, he passed the office to Chief Judge William H. Darden on 23 June 1971. However, Judge Quinn remained on the bench almost four additional years, retiring on 25 April 1975.<sup>2</sup> He died on 19 May 1975.<sup>3</sup>

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<sup>1</sup>Historical Note: The United States Court of Military Appeals, 50 C.M.R. vii (1975); lists of judges in vols. 1-10 of the Military Justice Reporter (1978-1981).

<sup>2</sup>*Id.*

<sup>3</sup>Annual Report of the U.S. Court of Military Appeals and the Judge Advocates General of the Armed Forces and the General Counsel of the Department of Transportation Pursuant to the Uniform Code of Military Justice for the Period January 1, 1975-December 31, 1975, at 5. (This and other editions of the Annual Report are hereinafter cited as Annual Report of C.M.A. [dates].)

Judge William H. Cook took his oath of office on 21 August 1974, and is still on the bench. He filled the space vacated by Chief Judge Darden, who resigned on 29 December 1973.<sup>4</sup>

Senior Judge Ferguson had previously served as an associate judge from 17 February 1956, until 1 May 1971. On 17 February 1974, former Chief Judge Duncan asked Judge Ferguson to perform full time judicial duties, which he did until about May of 1976. The annual Homer Ferguson conferences, discussed elsewhere, are named in Judge Ferguson's honor.<sup>5</sup>

Former Chief Judge Albert B. Fletcher, Jr., was nominated to the Court of Military Appeals on 13 March 1975. He was confirmed by the Senate and was named chief judge, as successor to Chief Judge Duncan, on 14 April 1975. Five years later, he stepped down as Chief Judge but remained on the court as an associate judge.<sup>6</sup>

A native of Kansas, former Chief Judge Fletcher came to the C.M.A. bench after serving fourteen years as a Kansas state district judge. From 1943 to 1945, he served in the United States Army Air Corps. Subsequently he completed his undergraduate studies at Kansas State University in 1948, and received his J.D. degree from Washburn University, Topeka, Kansas, in 1951. Judge Fletcher was in private practice from 1951 to 1961.<sup>7</sup>

On 18 February 1976, Judge Matthew J. Perry joined the court, to take the place temporarily filled by Judge Ferguson. He resigned on 22 September 1979, to accept an appointment as a United States district judge for the District of South Carolina.<sup>8</sup> As mentioned above, Chief Judge Duncan made a similar move a little more than five years before. This turbulence in the court's membership gave rise to various legislative proposals intended to improve the conditions of service on the court, discussed hereafter.

### C. THE NEW CHIEF JUDGE

The most recent addition to the court is its new Chief Judge, Robinson O. Everett, who took office on 16 April 1980. Among his

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<sup>4</sup>Note 1, *supra*.

<sup>5</sup>*Id.*

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

<sup>7</sup>*Fletcher Is New USCMA Nominee—To Be Chief Judge Upon Confirmation*, *The Army Lawyer*, April 1975, at 8-9.

<sup>8</sup>*Id.*; Annual Report of C.M.A., *supra* note 3, Jan. 1, 1975-Dec. 31, 1975, at 5; *id.*, Oct. 1, 1978-Sep. 30, 1979, at 4.



many achievements, he served on active duty as an Air Force judge advocate for two years. He remained in the Air Force Reserve until his retirement therefrom as a colonel in 1978.<sup>9</sup>

A native of North Carolina, Chief Judge Everett was born in Durham in 1928. He received his undergraduate education at the University of North Carolina and Harvard College. At Harvard Law School he served for two years on the law review staff, and received his law degree in 1950. In that same year he enlisted in the Army as a private, but he was not ordered to active duty, working instead for a year as an assistant professor at Duke Law School. In the meantime, he transferred to the Air Force Reserve and served two years on active duty as a lieutenant and judge advocate.<sup>10</sup>

Released from active duty, Chief Judge Everett served as a commissioner of the Court of Military Appeals for two years, returning to Durham and private practice in 1955. In 1956, he rejoined the Duke law faculty on a part-time basis. In later years he increased his teaching work, becoming a tenured full professor at Duke in 1967, which post he held until he joined the court in 1980. Chief Judge Everett earned an LL.M. at Duke in 1958.<sup>11</sup>

Chief Judge Everett has long been deeply interested in military law. In 1956 he published a textbook, *Military Justice in the Armed Forces of the United States* (reprinted in 1976 by Greenwood Press, Westport, Connecticut, at a price of \$19.50), cited by the United States Supreme Court. From 1961 to 1964, he served as part-time counsel, and from 1964 to 1966 as consultant, to the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, chaired by Senator Sam Ervin, Jr. In these positions, Chief Judge Everett took part in proceedings leading to the Military Justice Act of 1968. He was a member from 1973 to 1977, and chairman from 1977 to 1979, of the A.B.A. Standing Committee on Military Law. He has participated in many other professional and organizational activities concerning other areas of law as well.<sup>12</sup>

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<sup>9</sup>*New Chief Judge for USCMA*, Judge Advocates Assn. Newsletter, June 1980, at 1. See also Everett, *Some Comments on the Civilianization of Military Justice*, *The Army Lawyer*, Sep. 1980, at 1-5; Fidell, *A Look at Chief Judge Robinson O. Everett*, 5 *Dist. Law.* 31-37 (Jul./Aug. 1981).

<sup>10</sup>*New Chief Judge for USCMA*, Judge Advocates Assn. Newsletter, June 1980, at 1.

<sup>11</sup>*Id.*

<sup>12</sup>*Id.*

## D. TERMS OF OFFICE

The judges of the Court of Military Appeals have supported a number of legislative proposals in recent years. Some of these proposals would increase the membership of the court to five judges, establish a pension program for C.M.A. judges similar to that available to most other federal judges, and provide certiorari to the United States Supreme Court.<sup>13</sup> To date, only one proposal, that all initial appointments to the court be for fifteen years, has become law. This legislative change amends Article 67(a)(i) of the Uniform Code of Military Justice.<sup>14</sup>

In general, the term of office of U.S.C.M.A. judges is fifteen years.<sup>15</sup> A number of judges have not completed a full term of office.<sup>16</sup> As a result of legislation enacted and approved in 1968,<sup>17</sup> successors to these judges could be appointed to fill only the unexpired portions of their predecessors' terms, not for a full fifteen years.<sup>18</sup> To remain on the bench at the expiration of their shortened terms, the successor judges had to be reappointed. This occasionally resulted in anomalies such as the initial appointment of Chief Judge Robinson O. Everett for a one-year term, as successor to Judge Matthew J. Perry.<sup>19</sup>

The 1980 amendment<sup>20</sup> to Article 67(a)(1) deleted one sentence in the 1968 legislation which imposed the limitation described above.<sup>21</sup>

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<sup>13</sup>*The Judges Report*, Judge Advocate Assn. Newsletter, Oct. 1980, at 2.

<sup>14</sup>Military Pay and Allowances Benefits Act of 1980, Pub. L. No. 96-579, § 12, 94 Stat. 3369, to be codified at 10 U.S.C. 867(a)(1); *Terms of USCMA Judges Stabilized*, Judge Advocates Assn. Newsletter, March 1981, at 1.

<sup>15</sup>"The court consists of three judges appointed . . . for a term of fifteen years." 10 U.S.C. 867(a)(1) (1976).

<sup>16</sup>*The Judges Report*, Judge Advocates Assn. Newsletter, Oct. 1980, at 2.

<sup>17</sup>Act of June 15, 1968, Pub. L. No. 90-340, § 1, 82 Stat. 178. This should not be confused with the Military Justice Act of 1968, Pub. L. No. 90-632, 82 Stat. 1342.

<sup>18</sup>The terms of office of all successors of the judges serving on the effective date of this Act shall expire fifteen years after the expiration of the terms for which their predecessors were appointed, but any judge appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

Act of June 15, 1968, Pub. L. No. 90-340, § 1, 82 Stat. 178, formerly codified at 10 U.S.C. 867(a)(1) (1976).

<sup>19</sup>Note 25, *supra*.

<sup>20</sup>Note 23, *supra*.

<sup>21</sup>Note 27, *supra*.

The remaining language assures all future appointees to the U.S.C.M.A. a fifteen-year term.<sup>22</sup> As a transitional measure, the terms of the judges sitting on the U.S.C.M.A. at the time of the amendment are set to expire either on the date in effect under prior law, or ten years after they took office, whichever is longer.<sup>23</sup> Additionally, the same 1980 amendment makes the U.S.C.M.A. judges subject to the Ethics in Government Act.<sup>24</sup>

### E. HOMER FERGUSON CONFERENCES

Each year the United States Court of Military Appeals sponsors the Homer Ferguson Conference on Appellate Advocacy. The Conference gives military and civilian practitioners an opportunity to receive concentrated instruction intended to develop and maintain the skills necessary for appellate court practice within the military justice system or elsewhere. The instructors are distinguished judges and appellate trial attorneys. Conferees may obtain certified credit to meet the continuing legal education requirements of their respective state bars.<sup>25</sup>

The Conference is held in Washington, D.C., at the Georgetown University Law Center or George Washington University. The first conference took place on 20-21 May 1976. Major John S. Cooke was a lecturer at that conference.<sup>26</sup> The seventh conference was held on 25-26 May 1982.<sup>27</sup>

The conference is named for Judge Homer Ferguson, who served on the U.S. Court of Military Appeals as an associate judge from 17

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<sup>22</sup>Note 24, *supra*.

<sup>23</sup> The term of office of a judge of the United States Court of Military Appeals serving on such court on the date of the enactment [December 23, 1980] of this Act shall expire (1) on the date the term of such judge would have expired under the law in effect on the day before such date of enactment, or (2) ten years after the date on which said judge took office as a judge of the United States Court of Military Appeals, whichever is later.

Military Pay and Allowances Benefits Act of 1980, note 19, *supra*, § 12(b).

<sup>24</sup>*Id.*, § 12(c).

<sup>25</sup>*Homer Ferguson Conference, 25-26 May 1982*, The Army Lawyer, Nov. 1981, at 27.

<sup>26</sup>*CPT Cooke Addresses Homer Ferguson Conference*, The Army Lawyer, July 1976, at 12-13.

<sup>27</sup>Note 1, *supra*.

February 1956 until 1 May 1971, and again as a senior judge from 17 February 1974 until May 1976. From 1943 to 1954, Judge Ferguson served as a United States Senator from Michigan, and in 1955-1956, as United States ambassador to the Philippines.<sup>28</sup>

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<sup>28</sup>*Id.*

## IX. MISCELLANEOUS TOPICS

### A. LABOR AND CIVILIAN PERSONNEL LAW OFFICE

On 1 January 1975, the Civilian Personnel Law Office, OTJAG, and the Industrial Relations Team, Procurement Law Division, OTJAG, were merged into a new entity, the Labor and Civilian Personnel Law Office, OTJAG. The former Civilian Personnel Law Office focused on the law pertaining to civilian employees of the government, including federal labor-management relations, proceedings before the former Civil Service Commission, and other matters. The Industrial Relations Team dealt with cases involving employees of government contractors. The new office performs the functions of both former offices, and supervises the DA Labor Counselor Program.<sup>1</sup>

### B. RETIRED ARMY JUDGE ADVOCATES ASSOCIATION

The first annual meeting of the Retired Army Judge Advocates Association, Incorporated (RAJA), was held at The Judge Advocate General's School, Charlottesville, Virginia, 22 through 24 April 1977. Approximately thirty-five retired Army judge advocates and their wives attended the conference. The organization is made up entirely of judge advocates retired from active duty, and its purpose is to bring them together at an annual meeting. The 1978 annual meeting, originally planned for Hawaii, was rescheduled for San Antonio, Texas, 16 through 20 April.<sup>2</sup>

The first president of RAJA was Colonel John J. Douglass, who served as Commandant of the JAG School from 9 June 1970 until his retirement on 31 January 1974.<sup>3</sup> The vice president of RAJA was Brigadier General Clio Straight. Colonel Len Petkoff and Colonel Richard Garties were elected directors.<sup>4</sup> Serving as secretary-

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<sup>1</sup>*New Labor Law Office in OTJAG*, *The Army Lawyer*, March 1975, at 22-23.

<sup>2</sup>*The Army Lawyer*, May 1977, at 16; 9 TJAGSA Alumni Newsl. 5 (Apr. 1978).

<sup>3</sup>*The Army Lawyer*, May 1977, at 16. Colonel Douglass has been dean of the National College of District Attorneys and professor of law at the University of Houston College of Law, Houston, Texas, since 1974. Director of Law Teachers 1980-81, at 333 (1981).

<sup>4</sup>9 TJAGSA Alumni Newsl. 5 (Apr. 1978).

treasurer was Brigadier General Bruce C. Babbitt of Fort Walton Beach, Florida. He was Assistant Judge Advocate General for Civil Law before his retirement from active duty on 30 June 1973.<sup>5</sup>

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<sup>5</sup>The Army Lawyer, August 1973, at 23; *id.*, May 1977, at 16.

## X. CONCLUSION

The Army Judge Advocate General's Corp marches on, successfully meeting challenge after challenge, decade after decade. The caliber of the men and women who serve in the Corps, their military and legal professionalism, their dedication and perseverance, and their commitment to hard work, continue to be as high as ever. These qualities will be needed as never before in the years to come, as the Army faces whatever an uncertain future holds.





FINDING AIDS FOR  
*THE ARMY LAWYER: A HISTORY OF THE  
JUDGE ADVOCATE GENERAL'S CORPS, 1775-1975*  
(1975)\*

By Major Percival D. Park\*\*

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\* Any opinions expressed or positions taken herein are those of the compiler and do not necessarily express the views of The Judge Advocate General's School, the Department of the Army, or any other government agency.

\*\* Judge Advocate General's Corps, United States Army. Editor, *Military Law Review*, 1977 to 1982. For full biographical note, see second starred footnote to the article, *The Army Judge Advocate General's Corps, 1975-1982*, published in this volume of the *Military Law Review* at 5.

## I. EXPLANATORY NOTE

Set forth below are a detailed table of contents, a list of illustrations, and a subject-matter index for the official JAG Corps history which was published in 1975 as part of the national bicentennial observance. That history was published with only a summary table of contents and a bibliography. Complete finding aids were not prepared in 1975 because of pressure of time. The passage of several years has revealed the desirability of such aids, even if published separately and seven years late.

The history published in 1975 is organized in ten numbered chapters, nine of which are divided into eighty-eight unnumbered sections. The sections vary in format, but most are short biographies or informal casenotes. The detailed table of contents is merely a listing of chapter titles and section headings. These titles and headings do not give a complete description of the contents of the history. However, it was felt that addition of new headings would be misleading and confusing, because they would not appear in the text of the 1975 history itself. Moreover, the subject-matter index is sufficiently detailed to meet any normal research needs.

The 1975 history includes sixty-eight illustrations. All are approximately one-half page in size, and all are reproductions of photographs or paintings, except for two line drawings (Figures 39 and 54) and two organizational charts (Figures 49 and 50). The illustrations are listed in numerical order in section III, following the detailed table of contents.

The two appendices are set forth after the list of illustrations, on the assumption that, if included in the original 1975 history, they would have been placed after the text but before any index. Appendix A is a list of Judge Advocates General of the Army and persons occupying analogous positions. This list provides an incomplete chronology of the Army JAG Corps. The second appendix is a list of Commandants of The Judge Advocate General's School, included because of the great importance which that institution has acquired for the JAG Corps.

The primary reader aid offered is section V, the subject-matter index. An effort has been made to list every topic presented in the 1975 history, no matter how minor its importance. Topics identified have been listed under as many different headings as possible. All personal names, and most names of institutions, publications, and

other items have been included. Events of importance in JAG Corps history, such as courts-martial and revisions of military law, are listed under several headings. Major historical events general in nature, such as wars, have been listed. However, specific battles and military units have not.

Topics in section V are listed in alphabetical order, disregarding *a*, *an*, and *the*. Words beginning with *Mac* or *Mc* are listed in alphabetical order together with other words beginning with *m*.

A number of statutes and court decisions are mentioned in the 1975 history. However, since that work is not a law book, no case tables or other similar aids are presented. In general, these legal authorities may be found by looking for specific names or dates under the topic headings Acts, Army Regulations, Articles of War, Cases, Decisions, Legal Publications, Manual for Courts-Martial, and Regulations.

Selection of items to be listed and assignment of topic headings have been made by the editor of the *Military Law Review*. Such selection and assignment do not necessarily reflect the views of The Judge Advocate General's School, the Department of the Army, or any other governmental agency.

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## IV. APPENDICES

## APPENDIX A

JUDGE ADVOCATES GENERAL OF THE  
UNITED STATES ARMY

## I. INTRODUCTORY NOTE

The historical record reveals that thirty-one officers have served as Judge Advocate General of the Army, from Colonel Tudor who served during the Revolutionary War, to the present incumbent, Major General Clausen. The source of the list here presented is the official history of the Army JAG Corps, published in 1975.<sup>1</sup>

Several things should be noted about this list. First, there are two significant gaps in the chronological sequence. The office of Judge Advocate General was vacant (or nonexistent) for fourteen years, from 1783 until 1794,<sup>2</sup> and again from 1802 until 1849.<sup>3</sup> Second, although no single officer served as chief lawyer for the Army during the latter period, various judge advocate positions were authorized for major commands below War Department level between 1802 and 1821.<sup>4</sup> No judge advocates were explicitly authorized between 1821 and 1849. Line officers were intermittently designated acting judge advocates.<sup>5</sup> During this same period the Adjutant General of the Army performed some of the duties of the Judge Advocate General.<sup>6</sup> The Adjutant General, as had some commanders, designated line officers to serve as acting Judge Advocate of the Army.<sup>7</sup> Little is known about most of these acting judge advocates.

A third point is that judge advocate terminology was not standardized in the early decades of the JAG Corps' History. Captain Campbell Smith seems to have been called "Judge Marshal and Advocate General," and later, "Judge Advocate of the Army."<sup>8</sup> The

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<sup>1</sup>Department of the Army, *The Army Lawyer: A History of The Judge Advocate General's Corps, 1775-1975*, at various pages (1975).

<sup>2</sup>*Id.* at 23, 26.

<sup>3</sup>*Id.* at 27, 33-42.

<sup>4</sup>*Id.* at 27, 33-35.

<sup>5</sup>*Id.* at 35.

<sup>6</sup>*Id.* at 37-38.

<sup>7</sup>*Id.* at 39-41.

<sup>8</sup>*Id.* at 26-27.

latter title was applied also to Major John Fitzgerald Lee.<sup>9</sup> The position occupied by them seems to have been analogous in every way with that of the several Judge Advocates General who served before and after them.

Many officers have served as Acting Judge Advocate General for short periods of time. These are not included in the following list, with the exception of Brigadier General G. Norman Lieber, who served as acting Judge Advocate General for over ten years in exceptional circumstances.<sup>10</sup> Mention must be made, however, of the great nineteenth century military legal scholar, Colonel William Winthrop, who served as acting Judge Advocate General from 23 January 1881, to 17 February 1881. Additionally, Brigadier General Samuel Tilden Ansell, whose advanced concepts of military justice were not reflected in law until a generation after he left the Army, served as Acting Judge Advocate General in 1917 and 1918.<sup>12</sup>

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<sup>9</sup>*Id.* at 42.

<sup>10</sup>*Id.* at 83, 86.

<sup>11</sup>*Id.* at 76, 98.

<sup>12</sup>*Id.* at 115.

## II. LIST OF JUDGE ADVOCATES GENERAL

1. Lieutenant Colonel William Tudor, 29 July 1775 to 9 April 1777;
2. Colonel John Laurance, 10 April 1777 to 3 June 1782;
3. Colonel Thomas Edwards, 2 October 1782 to 8 November 1783;
4. Captain Campbell Smith, Judge Marshal and Advocate General of the Legion of the United States, 16 July 1794 to 13 July 1796; Judge Advocate of the Army, 2 June 1797 to 1 June 1802;
5. Major John Fitzgerald Lee, 2 March 1849 to 30 July 1862;
6. Brigadier General Joseph Holt, 3 September 1862 to 1 December 1875;
7. Brigadier General William McKee Dunn, 2 December 1875 to 22 January 1881;
8. Brigadier General David G. Swaim, 18 February 1881 to 21 July 1884; suspended on the latter date, and retired 3 December 1894;
9. Brigadier General Guido Norman Lieber, acting Judge Advocate General, 22 July 1884 to 11 January 1895; Judge Advocate General, 11 January 1895 to 21 May 1901;
10. Brigadier General Thomas F. Barr, 21 May 1901 to 22 May 1901;
11. Brigadier General John W. Clous, 22 May 1901 to 24 May 1901;
12. Major General George Breckenridge Davis, 24 May 1901 to 14 February 1911;
13. Major General Enoch H. Crowder, 14 February 1911 to 14 February 1923;
14. Major General Walter A. Bethel, 15 February 1923 to 15 November 1924;
15. Major General John A. Hull, 15 November 1924 to 15 November 1928;
16. Major General Edward A. Kreger, 16 November 1928 to 28 February 1931;

17. Major General Blanton Winship, 1 March 1931 to 30 November 1933;
18. Major General Arthur W. Brown, 1 December 1933 to 30 November 1937;
19. Major General Allen W. Gullion, 1 December 1937 to 1 December 1941;
20. Major General Myron C. Cramer, 1 December 1941 to 1 December 1945;
21. Major General Thomas H. Green, 1 December 1945 to 30 November 1949;
22. Major General Ernest M. Brannon, 27 January 1950 to 26 January 1954;
23. Major General Eugene Mead Caffey, 5 February 1954 to 31 December 1956;
24. Major General Goerge W. Hickman, Jr., 2 January 1957 to 31 December 1960;
25. Major General Charles L. Decker, 1 January 1961 to 31 December 1963;
26. Major General Robert H. McCaw, 27 February 1964 to 30 June 1967;
27. Major General Kenneth J. Hodson, 1 July 1967 to 30 June 1971;
28. Major General George Shipley Prugh, 1 July 1971 to 30 June 1975;
29. Major General Wilton B. Persons, Jr., 1 July 1975 to 30 June 1979;
30. Major General Alton H. Harvey, 1 July 1979 to 31 July 1981;
31. Major General Hugh J. Clausen, 31 July 1981 to present.



## APPENDIX B

COMMANDANTS OF THE JUDGE ADVOCATE  
GENERAL'S SCHOOL, UNITED STATES ARMY

The Judge Advocate General's School was formally organized during World War II, on 9 February 1942. Until September of that year, it operated at the National University Law School<sup>1</sup> in Washington, D.C. The JAG School was then moved to the Law Quadrangle of the University of Michigan Law School, at Ann Arbor. The School remained there until deactivation on 1 February 1946.<sup>2</sup>

On 2 October 1950, the School was founded anew, and conducted classes at Fort Myer, Virginia, until the late summer of 1951. Thereafter the School was moved to the grounds of the University of Virginia, Charlottesville, Virginia.<sup>3</sup> The School moved from its original building off Jefferson Park Avenue to a new structure on the North Grounds in 1975.

1. Colonel Edward H. Young, Commandant from August 1942 to December 1944 at Ann Arbor, Michigan, and again from August 1950 to August 1951 at Fort Myer, Virginia;

2. Colonel Reginald C. Miller, Commandant from December 1944 to 1 February 1946, at Ann Arbor;

3. Colonel Charles L. Decker,<sup>4</sup> Commandant from 2 August 1951 to 15 June 1955, at Charlottesville, Virginia;

4. Colonel Nathaniel B. Rieger,<sup>5</sup> 16 June 1955 to 24 February 1957;

5. Colonel John G. O'Brien, 1 March 1957 to 13 May 1961;

6. Colonel John F.T. Murray, 16 July 1961 to 31 December 1964;

7. Colonel John W. Burtchaell, 1 January 1965 to 30 June 1966;

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<sup>1</sup>This is now the National Law Center of the George Washington University.

<sup>2</sup>Army Lawyer History at 186-187.

<sup>3</sup>*Id.*, 217-218.

<sup>4</sup>Colonel Decker subsequently became The Judge Advocate General, serving in that post from 1 January 1961 to 31 December 1963. His biography appears in the official JAG Corps history, *The Army Lawyer: A History of the Judge Advocate General's Corps, 1775-1975*, at 233-235 (1975).

<sup>5</sup>Colonel Rieger was promoted to brigadier general on 31 March 1967 and retired on 1 February 1962.

8. Colonel Lewis F. Shull,<sup>6</sup> 25 July 1966 to 2 September 1967;
9. Colonel Kenneth C. Crawford, 3 September 1967 to 31 May 1970;
10. Colonel John Jay Douglass, 9 June 1970 to 31 January 1974;
11. Colonel William S. Fulton, Jr., 1 February 1974 to 3 July 1976;
12. Colonel Barney L. Brannen, Jr., 4 July 1976 to 10 August 1979;
13. Colonel David L. Minton, 10 August 1979 to 31 March 1981;
14. Colonel William K. Suter, 31 March 1981 to present.

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<sup>6</sup> Colonel Shull was promoted to brigadier general in February of 1968, served as Judge Advocate, U.S. Army Europe and Seventh Army, Heidelberg, Germany, and retired in February of 1970.

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### I. INTRODUCTION

This index includes entries for articles, book reviews and other writings published in the *Military Law Review* from volume 92 (spring 1981), Department of the Army Pamphlet No. 27-100-92, through volume 96 (spring 1982), DA Pam No. 27-100-96, inclusive. About 20 writings are indexed, and half of these are full-length articles. The remainder are book reviews, symposium introductions, and writing award announcements. This index is an addition to the index presented in volume 91 (winter 1981), and it replaces the volume indices found in volumes 92, 93, and 94.

This index, like volumes 81 and 91, consists of an author index, a subject index, a title index, and a two-part book review index which lists books by author and by book title and review title. Numerical references along right-hand page margins are to volume numbers and pages. Thus, 92/1 means page 1 of volume 92 of the *Military Law Review*, or 92 Mil. L. Rev. 1 (spring 1981).

In the author index, each named author is listed separately. Thus, writings having more than one author are listed more than once in the author index. In the case of military authors, an effort has been made to include the highest rank or grade held by the author up to the time of preparation of this index. Errors are inevitable with this type of effort, and the editor apologizes in advance. Authors of book reviews are listed in the author index rather than the book review index. Book authors are listed only in the book review index.

The subject index is the heart of this index volume. The subject index is preceded by a list of the subject-matter headings used. These headings are taken from the list of headings in the volume 81 and 91 indices, and from the volume indices appearing in volumes 92 through 94. Writings are indexed by title under appropriate subject-matter headings.

Every effort has been made to list each writing under as many different subject-matter headings as possible. The assignment of writings to headings is the choice of the editor of the *Review*, and does not reflect the views of The Judge Advocate General's School, the Department of the Army, or any governmental agency.

Certain publication notes written by the editor of the *Review* are listed in the subject-matter index under the heading "Publication Notes." These notes, a page or less in length, appear in the section called "Publications Received and Briefly Noted," in volume 83 and later volumes, or "Books Received and Briefly Noted," in volumes 80 and 82. These notes, unlike the writings indexed as book reviews, are primarily descriptive and nonevaluative in character, and are not in themselves sufficiently significant as works of scholarship to merit indexing. However, some of them provide information about books of special interest to judge advocates or other government attorneys, and are indexed for that reason.

In the title index, titles of articles are listed in alphabetical order of the first major word of each title, disregarding *a*, *an*, and *the*. Book reviews and book titles are listed similarly, by first major word of the title of the book.

The book review index is in two parts. Part A, book authors, lists alphabetically all authors or editors of books and pamphlets reviewed. Writings having more than one author or editor are listed more than once. Part B of the book review index is an alphabetical list of book titles and review titles. Book titles and review titles appear in both the subject index and the title index. Reviewers are listed in the author index. Book authors and editors appear only in part A of the book review index.

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