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DOPMA: An Initial Review

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"[W]e are turning now to [a bill] which is perhaps more far reaching than anything we have dealt with to date. This is popularly known as the Defense Officer Personnel Management Act, or DOPMA I recognize that we may find we simply cannot finish the work on DOPMA this year . . . [s]o I warn Defense officials - if DOPMA doesn't pass this year, keep it on your priority list for next year because it will be on mine"

**Samuel S. Stratton, Chairman
Subcommittee No. 4 (Military Com-
pensation)
House Armed Services Committee
Tuesday, July 2, 1974**

I. Introduction

On 12 December 1980, the Defense Officer Personnel Management Act (DOPMA) was

1. *Hearings on H.R. 12405, Defense Officer Personnel Management Act (DOPMA), Before Subcommittee No. 4 of the Committee on Armed Services, House of Representatives, 93d Cong., 2d Sess. 159-60 (1974) (Statement of Samuel S. Stratton).*

signed into law by President Carter.² That signing marked the culmination of an effort which had begun more than eight years before when, on 9 August 1972, the Secretary of Defense directed that a DOD Study Group be convened to (1) provide recommendations for an improved officer personnel management system, and (2) identify actions necessary to implement those recommendations.³ Subsequently, Congress directed the Secretary of Defense to submit a written report concerning limitations on the number of officers who might serve in commissioned grades in the armed forces; the report was to include such recommendations for permanent legislation as the Secretary deemed appropriate.⁴ The DOD Study Group's findings formed the basis for the Secretary of Defense's report to Congress, as well as for the proposed Defense Officer Personnel Management Act.⁵ Although hear-

ings were held on the proposed legislation during the 93d Congress, no action was taken on the bill. DOPMA was resubmitted by the Defense Department during both the 94th and 95th Congresses; on both occasions, the House of Representatives passed the legislation by wide margins but the Senate did not act on the bill.⁶

During the 96th Congress, S. 1186, nearly identical to the bills passed twice previously by the House of Representatives, was introduced in the Senate. The Senate Armed Services Committee made major revisions to the bill in both form and substance; accordingly, it was reported as an original bill, S. 1918, on 22 October 1979.⁷ Following four amendments on the Senate floor, S. 1918 was passed, by a vote of 87 to 0, on 30 November 1979.⁸ The Military Compensation Subcommittee of the House Armed Services Committee began hearings on

2. Public Law 96-513, 94 Stat. 2835, 12 December 1980. [hereinafter cited as P.L. 96-513].

3. See letter, 22 July 1975, from Martin R. Hoffmann, General Counsel, Department of Defense, to Hon. Carl Albert, Speaker of the House of Representatives [hereinafter cited as 1975 Speaker Letter].

4. Section 2, Public Law 92-561, 86 Stat. 1175, 1176, 25 October 1972.

5. 1975 Speaker Letter.

6. *H.R. REP. NO. 96-1462*, 96th Cong., 2d Sess. 6 (1980) [hereinafter cited as *H.R. REP. NO. 96-1462*].

7. *S. REP. NO. 96-375*, 96th Cong., 1st Sess. 2 (1979).

8. *Congressional Record*, S. 1918, 96th Cong., 1st Sess., 125 *CONG. REC. S17555, S17566* (1979).

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S. 1918 on 29 April 1980.⁹ In his testimony before the Subcommittee on that date, the Hon. Robert B. Pirie, Jr., Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, set the tone for the hearings by stating that S. 1918 "clearly fail[ed] to meet the important objectives... set for DOPMA."¹⁰ One of the primary features of S. 1918 which led to this cool reception by the Defense Department was a severe reduction in officer grade authorizations - 30% in O-6's, 25% in O-5's, and 20% in O-4's over a ten-year transition period.¹¹ Mr. Pirie concluded that analysis by the Defense Department "clearly indicate[d] that S. 1918 [was] not a viable alternative and that it incur[red] serious potential risks to our readiness," and urged the Subcommittee to support the legislation proposed by the Department.¹²

Because of the great diversity between the two versions of DOPMA, the chairmen of the House and Senate Armed Services Committees directed their respective staffs to meet with Defense Department representatives and "hopefully propose a compromise version of DOPMA that would be generally acceptable to the services."¹³ Over a period of several weeks, a large number of "contentious issues" were resolved and a suggested compromise reached;¹⁴ Mr. Pirie, testifying on behalf of the

Defense Department, concluded that the compromise version was "a viable piece of legislation that on one hand represent[ed] the wishes of the Congress and on the other satisfie[d] the needs of the Department."¹⁵ S. 1918, as amended, was passed by the House of Representatives on 17 November 1980;¹⁶ the Senate concurred in the amendment of the House on 21 November 1980.¹⁷ The passage of this Act marked the first major revision of officer personnel law since the enactment of the Officer Personnel Act of 1974.

This article is not intended to be an analysis of every change to current law made by DOPMA. Rather it is an overview of the major provisions of the Act, concentrating on those areas in which immediate changes to established procedures will be required or which will have a direct and substantial effect upon the officer corps in general, with special attention to any specific impact upon the JAGC.

II. The Promotion System

A. Comparison of Current and Revised Systems

Probably the most significant change to the Army's personnel management practices which will be required by DOPMA is the demise of the present dual promotion system. Briefly, and in general terms, commissioned officers on active duty ordinarily hold either Regular or Reserve appointments. Each component, Regular and Reserve, operates under its own statutory promotion system,¹⁸ which is fairly detailed, and an officer on active duty is

9. *Hearings on S. 1918, Defense Officer Personnel Management Act (DOPMA), Before the Military Compensation Subcommittee of the Committee on Armed Services, House of Representatives, 96th Cong., 2d Sess. 1 (1980).*

10. *Id.* at 175.

11. *Id.* at 175. For example, 10 U.S.C. 3202(a) currently authorizes 5002 colonels, 12,265 lieutenant colonels, and 17,060 majors per 100,000 commissioned officers on active duty on the last day of any fiscal year. Under the DOD-proposed legislation (S. 1186), 4870 colonels, 11,588 lieutenant colonels, and 17,925 majors per 100,000 commissioned officers would have been authorized. Under S. 1918, those authorizations would have been reduced to 3723 colonels, 9818 lieutenant colonels, and 16,313 majors.

12. *Id.* at 180.

13. *Id.* at 361.

14. *Id.* at 362-63.

15. *Id.* at 370.

16. *Congressional Record*, S. 1918, 96th Cong., 2d Sess., 126 *CONG. REC.* H10760 (1980).

17. *Congressional Record*, S. 1918, 96th Cong., 2d Sess., 126 *CONG. REC.* S14839 (1980).

18. Regular promotions are based upon 10 U.S.C. 3295 *et seq.*; Reserve promotions are based upon 10 U.S.C. 3360 *et seq.*

considered for promotion in his or her component under those statutes and the applicable implementing regulations. Apart from the provisions for permanent promotion, there exists statutory authority for temporary, or Army of the United States (AUS), promotions, without specification of component.¹⁹ The permanent and temporary promotion systems operate, to a great extent, independently of each other. A commissioned officer may be serving on active duty in a temporary grade which is higher than, equal to, or in some cases lower than his or her permanent grade. Under DOPMA, the foregoing dichotomy will be eliminated. Virtually all of the present statutory provisions for Regular and temporary promotions will be repealed,²⁰ to be replaced by new provisions for permanent promotion.²¹ Temporary appointments will not be eliminated altogether, but will be limited to appointment of generals, lieutenant generals and warrant officers, and to appointments in time of war or national emergency.²² Although the present statutory provisions for Reserve promotions will remain intact, Reserve officers on active duty, other than those excluded from the active-duty list, will be considered for promotion under the sections of Title 10, United States Code, added by DOPMA, and will not be considered by Reserve promotion boards.²³ Thus, elimination of the dual promotion system will be complete.

B. Selection for Permanent Promotion Under DOPMA.

Consideration for promotion under the Code sections added by DOPMA will be limited to

"officers on the active-duty list" of the Army.²⁴ The active-duty list will be comprised of all officers on active duty, with the exception of certain categories of Reserve officers and several other groups.²⁵ Promotion to permanent grades will no longer occur at specified "phase points" as in the current provisions;²⁶ instead, the Secretary of the Army will determine, based upon the projected needs of the Army, both the number of officers in the promotion zone and the number to be recommended for promotion.²⁷ In that regard, the permanent promotion system under DOPMA will operate in much the same manner as the temporary system does at present. The active-duty list will be broken down into competitive categories, or groups of officers who compete among themselves for promotion.²⁸ These competitive categories are to be established by the Secretary of the Army, under regulations to be prescribed by the Secretary of Defense.²⁹

On its face, the authority to prescribe competitive categories provides a great deal of flexibility to the services in determining who competes against whom for promotions. However, Congress has made it clear that this authority is to be used initially to preserve existing competitive categories - Army promotion list (APL), chaplains, Army Medical Department officers, and the JAGC - and that additional categories are to be created "only after the most careful consideration of the impact of such action and only after the service Secretary concerned determines that it is necessary in the best interests of his service

19. 10 U.S.C. 3441-3452.

20. All of the provisions from 10 U.S.C. 3295 to 10 U.S.C. 3314 will be repealed, except 10 U.S.C. 3310; all of the provisions cited in note 19, *supra*, except 10 U.S.C. 3346, will be repealed. P.L. 96-513, secs. 204, 207, and 208.

21. Chapter 36, Title 10, United States Code, as added by P.L. 96-513, Sec. 105.

22. 10 U.S.C. 601-603, as added by P.L. 96-513, sec. 105.

23. 10 U.S.C. 3396, as added by P.L. 96-513, sec. 206(a); see also H. R. REP. NO. 96-1462, at 25.

24. 10 U.S.C. 611, as added by P.L. 96-513, sec. 105.

25. 10 U.S.C. 620, and 10 U.S.C. 641, as added by P.L. 96-513, sec. 105. For example, the director of admissions, dean, and permanent professors at USMA, as well as warrant officers, retired officers on active duty, and students at the Uniformed Services University of the Health Services, are excluded.

26. See 10 U.S.C. 3299(b).

27. 10 U.S.C. 623(b) and 10 U.S.C. 622, as added by P.L. 96-513, sec. 105.

28. 10 U.S.C. 621, as added by P.L. 96-513, sec. 105.

29. *Id.*

and consistent with the guidance from the Secretary of Defense."³⁰

If the foregoing expression of Congressional intent is heeded, the JAGC would become a separate competitive category. That will not represent a change insofar as establishment of promotion zones is concerned, but, once selections have been made, the names of those officers recommended for promotion will not be integrated into the APL by date of rank, as at present, but will be placed on a separate promotion list by competitive category, in order of seniority.³¹ Promotions will be made as vacancies in the higher grade occur,³² until the list is exhausted. That will solve at least one JAGC personnel management problem. At present, the combination of the extended JAGC primary zone and integration into the APL results in a large percentage of JAGC promotions occurring near the end of the promotion period. Consequently, dates of rank are not spread over the course of a year, but are becoming concentrated into a two or three month period. With the advent of the separate JAGC promotion list, promotions may again be spread evenly over the course of the promotion period. Congress has recognized that separate lists by competitive category could result in delay of promotions in categories in which turnover is slow.³³ Whether that will be the case with JAGC promotions is difficult to predict. However, it should be noted that a major item of the Senate/House compromise concerning DOPMA had to do with the officer grade limitation tables. Although, under DOPMA, a reduction from current year-end strength levels in grades O-4 through O-6 will be required over a two-year transition period, the reduction will be approximately 5% rather than the 20-30% cut initially proposed by the

Senate.³⁴ Representatives of the Office of the Deputy Chief of Staff for Personnel (ODCSPER) have informally calculated that the DOPMA grade strength reductions during the transition period will delay promotions to the affected grades by a month or two. As with many of the provisions of DOPMA, the eventual results of the interactions between and among the sections discussed above cannot be predicted with any certainty, but will only become evident upon implementation of the Act and the experience derived from dealing with its provisions.

Unlike the current temporary promotion system, DOPMA establishes statutory minimum time-in-grade requirements for promotion or consideration for promotion to the next higher grade. Eighteen months in grade will be required for promotion to first lieutenant, and two years in grade for promotion to captain. Officers must serve three years in grade before they can be *considered* for promotion to the grades of major, lieutenant colonel, and colonel, and one year in grade before they can be considered for promotion to brigadier general or major general.³⁵ As noted, those are *minimum* requirements and may be extended by the Secretary of the Army.³⁶ The Secretary may also waive the time-in-grade requirements for promotion consideration for major, lieutenant colonel and colonel to the extent necessary to assure consideration for promotion of officers below the promotion zone ("secondary zone" promotions).³⁷ Although DOPMA authorizes the Army to allow at least two opportunities for consideration for promo-

30. H.R. REP. NO. 96-1462, at 41-42.

31. 10 U.S.C. 624(a)(1), as added by P.L. 96-513, sec. 105.

32. 10 U.S.C. 624(a)(2), as added by P.L. 96-513, sec. 105.

33. H.R. REP. NO. 96-1462, at 42.

34. Compare present 10 U.S.C. 3202(a) with 10 U.S.C. 523(a)(1), as added by P.L. 96-513, sec. 103. See also H.R. REP. NO. 96-1462, at 15-17, which states that the reduction below current actual strengths will average 3-4%. Congress remains skeptical, however, concerning the justification for some of the grade requirements, and has asked the services to "review their methodologies for assessing requirements by grade. . . ." H.R. REP. NO. 96-1462, at 16.

35. 10 U.S.C. 619(a)(1)&(2), as added by P.L. 96-513, sec. 105.

36. 10 U.S.C. 619(a)(3), as added by P.L. 96-513, sec. 105.

37. 10 U.S.C. 619(a)(4), as added by P.L. 96-513, sec. 105.

tion from below the zone, ODCSPER recently announced a policy decision which would limit officers to one below-the-zone consideration for promotion to lieutenant colonel and major.³⁸

The promotion system under DOPMA will facilitate the Army's newly-initiated practice of establishing specialty quotas for promotion of officers to the grade of lieutenant colonel. That practice was developed in order to maintain balance in the staffing of Officer Personnel Management System (OPMS) specialties, as well as to correct gradually the presently-existing shortages in a number of officer specialties.³⁹ By requiring the Secretary of the Army to furnish selection boards with "information relating to the needs of the armed force concerned for officers having particular skills",⁴⁰ and by requiring selection boards to give "due consideration" to such needs in determining which officers are best qualified for promotion,⁴¹ DOPMA sanctions the Army practice. Although the JAGC personnel system operates apart from OPMS, the concept of promotion by specialty represents a major shift in Army personnel management philosophy and can be expected to have a significant effect upon the officer corps in the future.

C. Nonselection for Promotion

Any officer considering an Army career has probably asked the question, "What happens if I don't get promoted?" That is, of course, an important consideration, because nonselection for promotion can cause a rather sudden alteration in one's evaluation of his or her career opportunities.

At present, Reserve commissioned officers

on active duty who are twice nonselected for AUS promotion to captain, major, or lieutenant colonel are relieved from active duty on the 90th day following notification of their second nonselection.⁴² Officers who would have two years or less remaining until completion of twenty years of active Federal service as of the date on which they would otherwise be released are retained until they become eligible for retirement;⁴³ in addition; officers in the grades of captain and major may be selectively continued on active duty.⁴⁴ Regular officers who are twice nonselected for temporary promotion are not subject to discharge on that basis; however, current law requires the discharge (or retirement, if eligible) of Regular officers twice nonselected for *permanent* promotion to the grade of captain, major, or lieutenant colonel, unless they are within two years of becoming eligible for retirement, in which case they are retained on the active list until eligible and then retired.⁴⁵

Under DOPMA, the above-described situation will be altered substantially. Regular officers who are twice nonselected for permanent promotion to the grade of captain, major, or lieutenant colonel are to be discharged (or retired, if eligible) not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered them for the second time.⁴⁶ Officers who, on the date on which such discharge would be required, are within two years of qualifying for retirement under 10 U.S.C. 3911 will be retained on active duty until they are qualified, and then retired.⁴⁷ Discharge or release from active duty

38. DAPE-MPO-C Msg 301400Z January 1981, subject: Officer Secondary Zone Promotion Policy. See also H.R. REP. NO. 96-1462, at 43.

39. See DAJA-AL 1980/3070, 12 November 1980.

40. 10 U.S.C. 615(4), as added by P.L. 96-513, sec. 105.

41. 10 U.S.C. 616(a), as added by P.L. 96-513, sec. 105.

42. Paragraph 3-65a(1), AR 635-100 (19 February 1969; thru Interim Change No. 102, 28 November 1980) [hereinafter cited as AR 635-100].

43. Paragraph 3-65d, AR 635-100; see 10 U.S.C. 1163(d).

44. Paragraph 3-65g, AR 635-100.

45. 10 U.S.C. 3303(d); 10 U.S.C. 3913(b).

46. 10 U.S.C. 631(a) and 10 U.S.C. 632(a), as added by P.L. 96-513, sec. 105.

47. 10 U.S.C. 631(a)(3) and 10 U.S.C. 632(a)(3), as added by P.L. 96-513, sec. 105.

of Reserve officers on the active-duty list who are twice nonselected for promotion is not specifically addressed by DOPMA. Discharge or transfer to the Retired Reserve of Reserve officers on the basis of promotion nonselection is currently required by 10 U.S.C. 3846, which is not amended by DOPMA. That section is applicable only to officers twice nonselected under the Reserve promotion statutes,⁴⁸ not to Reserve officers on the active-duty list considered for promotion under the Code sections added by DOPMA. Unless DOPMA is amended to provide specific authority, release from active duty of these officers would be under the discretionary authority of 10 U.S.C. 681, as implemented by paragraph 3-62a, AR 635-100.

One important consequence of the current Regular Army promotion system is that once an officer is promoted to the Regular grade of major he or she is reasonably assured of attaining eligibility for retirement before he or she can be twice nonselected for Regular Army promotion to lieutenant colonel. That is because promotion to Regular grades now occurs at specified "phase points," with consideration for promotion to lieutenant colonel occurring only far enough in advance of the date on which the officer completes twenty-one years of service to permit promotion, if recommended, on the date such service is completed.⁴⁹ By the time the second nonselection occurs, Regular officers are usually qualified for retirement, or at least well within the two-year "sanctuary" referred to above. That situation is somewhat different for Regular officers appointed in the JAGC, because the three years of constructive service credited upon appointment is counted in calculating eligibility for permanent promotion but not for retirement.⁵⁰ Thus, an officer of the JAGC who receives such credit would have

only eighteen years of active service as of the date he or she attains eligibility for permanent promotion to lieutenant colonel. That, of course, would be sufficient for entry into the two-year "sanctuary." However, elimination of the statutory "phase points" for Regular Army promotion under DOPMA will have the effect of denying an officer who is promoted to the permanent grade of major the assurance of attaining eligibility for retirement; such assurance will only be attained upon promotion to lieutenant colonel.⁵¹ However, Congress recognized this problem of reduced career expectation and provided, as a transition measure, that officers who, as of the effective date of DOPMA (15 September 1981⁵²), hold the Regular grade of major or have been recommended for promotion to that grade, and who are not subsequently selected for promotion to lieutenant colonel or otherwise continued on active duty, will be retained on active duty until completion of twenty-one years of service and then retired.⁵³

In addition, DOPMA provides authority for selective continuation on active duty of Regular captains and majors twice nonselected for permanent promotion until completion of twenty and twenty-four years of active commissioned service, respectively.⁵⁴ In that regard, Congress intends that the services use selective continuation "to meet manpower requirements in specific skills that for a variety of reasons exhibit shortages on a transitory basis."⁵⁵ Officers who are selectively continued on active duty are not excluded from the officer grade strength limitations.⁵⁶ Therefore, for every officer continued on active duty in a particular grade, the opportunity

48. *I.e.*, under the provisions of 10 U.S.C. 3366 and 10 U.S.C. 3367.

49. 10 U.S.C. 3299(b).

50. Compare 10 U.S.C. 3287(a)(2)(A) and 10 U.S.C. 3299(b) with 10 U.S.C. 3911 and 10 U.S.C. 3926(a).

51. See 10 U.S.C. 633, as added by P.L. 96-513, sec. 105.

52. P.L. 96-513, sec. 701(a).

53. Sec. 609(a)(1), P.L. 96-513; see *H.R. REP. NO. 96-1462*, at 27.

54. 10 U.S.C. 637(a)(2) and (3), as added by P.L. 96-513, sec. 105.

55. *H.R. REP. NO. 96-1462*, at 28.

56. See 10 U.S.C. 523(b), as added by P.L. 96-513, sec. 103.

for promotion to that grade will be reduced proportionally. How the selective continuation procedures will be implemented is uncertain at present. Given the current favorable recruitment and retention picture of the JAGC, plus its pyramidal structure and status as a separate category, it is unlikely that selective continuation will have any impact on the Corps. Twice-nonselcted captains will not need to be continued unless the recruiting of new officers falls short of providing replacements. Twice-nonselcted majors will be continued only if a majority of the captains fail to seek and achieve career status, causing a reduction in the supply of new majors. Thus, only a drastic turn of events would cause continuation to be of any consequence within the JAGC. Again, however, until DOPMA is fully implemented, the number of variables in the officer personnel management system renders predictions concerning the eventual effect of DOPMA somewhat less than statistically reliable. In any event, the question "What happens if I don't get promoted?" will not become any less important following implementation of DOPMA.

III. Appointments as Commissioned Officers

DOPMA revises and makes uniform the statutory provisions for appointment of commissioned officers in Regular components. Most of the current provisions are repealed,⁵⁷ being replaced by new Code sections applicable to all of the armed forces.⁵⁸ In addition, several of the presently-existing provisions for appointment and order to active duty of Reserve commissioned officers will be changed.⁵⁹ The amendments to provisions con-

cerning Reserve officers, although few in number, are of great significance to the JAGC, as will be discussed later in this section.

At present, to be appointed as a commissioned officer in the Regular Army (except in the Medical Corps or Dental Corps), a person must be a citizen of the United States, be at least twenty-one years of age, be of good moral character, be physically qualified for active service, and have such other qualifications as the Secretary of the Army may prescribe.⁶⁰ In addition, for all persons other than those appointed in the Medical and Dental Corps, maximum age limitations are set.⁶¹ Further, officers appointed in the Regular Army may be credited, at the time of appointment, with all previous active commissioned service in the Army performed since 6 December 1941 and after becoming age twenty-one, and with an additional three years if appointed, for example, in the JAGC.⁶² There are provisions for determining grade upon appointment, as well as additional qualifications for appointment in specific branches.⁶³

Under DOPMA, most of the qualifications are retained. However, the minimum age requirement of twenty-one years is deleted, as are the specific maximum age limitations. Instead, except for those appointed as medical and dental officers and chaplains, persons must be able to complete twenty years of active commissioned service before their fifty-fifth birthday.⁶⁴ In addition, the provisions for granting service credit upon appointment will be altered substantially. Credit will be given for any active commissioned service (other than as a commissioned warrant officer - a Navy anomaly⁶⁵) performed in any armed force

57. 10 U.S.C. 3284-3295 will be repealed. P.L. 96-513, sec. 204.

58. Subchapter I, Chapter 33, Title 10 United States Code, as added by P.L. 96-513, sec. 104(a).

59. 10 U.S.C. 3353 will be amended by P.L. 96-513, sec. 205(a). In addition, 10 U.S.C. 3494 will be repealed (P.L. 96-513, sec. 209(a)) and replaced by 10 U.S.C. 689, as added by P.L. 96-513, sec. 106.

60. 10 U.S.C. 3285.

61. 10 U.S.C. 3286(a) and 10 U.S.C. 3291(a).

62. 10 U.S.C. 3287(a).

63. 10 U.S.C. 3288; 10 U.S.C. 3289-3294.

64. 10 U.S.C. 532(a)(2) and (d), as added by P.L. 96-513, sec. 104(a).

65. See 10 U.S.C. 5001(a)(6).

prior to appointment.⁶⁶ Instead of specifically granting three years of credit for appointment in the JAGC, credit will be given at the rate of one year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or advanced degrees for appointment as commissioned officers; however, credit is given for only the number of years *normally* required to complete the advanced education or receive the advanced degree.⁶⁷

Because three years is normally needed to complete requirements for award of a juris doctor degree, it is fairly clear that service credit for lawyers under DOPMA is limited to a maximum of three years. Because the wording of the provision appears to state only a maximum level, however, it is not quite as clear that persons finishing law school in less than three years would nevertheless receive the full credit. Because the language of the statute is not clear, it is subject to interpretation; if "each year of advanced education" is interpreted to mean "each school year," and if education received during summer sessions is regarded as additional quarters, the total time spent in pursuit of an advanced degree would still be "three years." The point may be somewhat esoteric, but it would be an unpleasant surprise to exert the effort required to finish law school ahead of one's contemporaries only to be penalized by receiving less service credit upon appointment than those same contemporaries. Finally, to the extent that any of the education for which credit would otherwise be granted was obtained while serving as a commissioned officer on active duty or in an active status, it is not creditable.⁶⁸

Officers of reserve components who receive Regular Army appointments are to be ap-

pointed in the grade and with the date of rank to which they would have been entitled had they been serving on active duty as Reserve officers on the date of such appointment.⁶⁹ Congress intends that such officers not lose seniority on the active-duty list as a result of receiving Regular Army appointments.⁷⁰ However, DOPMA contains no provision for grade determination of officers who receive Regular Army appointments and who have no underlying Reserve appointments. At present, all officers who are appointed in the Regular Army in the JAGC do have underlying appointments, and grade determination under those circumstances will not present a problem.

The service credit provisions of DOPMA applicable to Regular Army appointments are repeated in the provisions governing Reserve appointments.⁷¹ Although, as discussed above, the language will be changed under DOPMA, the amount of constructive service credit received by officers appointed in the JAGC will remain the same - three years.⁷² At present, three years of service credit for an individual with no prior commissioned service results in Reserve appointment as a first lieutenant.⁷³ Officers appointed as Reserve first lieutenants in the JAGC are presently ordered to active duty in the temporary grade of captain,⁷⁴ as an implementation of 10 U.S.C. 3494, which provides that "[a] reserve commissioned officer who is ordered to active duty shall be ordered to that duty in his reserve grade unless the Secretary of the Army, in his discretion, orders him to active duty (other than for training) in a higher temporary grade." DOPMA does not amend the Reserve entry grade statute; therefore, three years of constructive credit will still result in appointment in the Reserve

66. 10 U.S.C. 533(a)(1), as added by P.L. 96-513, sec. 104(a).

67. 10 U.S.C. 533(b)(1)(A), as added by P.L. 96-513, sec. 104(a).

68. 10 U.S.C. 533(d)(1), as added by P.L. 96-513, sec. 104(a).

69. 10 U.S.C. 533(f), as added by P.L. 96-513, sec. 104(a).

70. *H.R. REP. NO.* 96-1482, at 64.

71. 10 U.S.C. 3353, as amended by P.L. 96-513, sec. 205(a).

72. *See* 10 U.S.C. 3353(b)(4).

73. *See* 10 U.S.C. 3359(2).

74. Paragraph 8, AR 601-102 (1 September 1978).

grade of first lieutenant. However, 10 U.S.C. 3494 will be repealed,⁷⁵ being replaced by 10 U.S.C. 689,⁷⁶ which will provide: "A reserve officer who is ordered to active duty shall be ordered to active duty in his reserve grade." Thus, Secretarial authority to order officers to active duty in higher grades will be eliminated and, absent an amendment to DOPMA, Reserve JAGC first lieutenants will be ordered to active duty as first lieutenants. The constructive credit granted upon appointment is creditable toward time-in-grade for promotion.⁷⁷ However, as only three years of credit is authorized, and as the the full three years of credit must be applied to result in appointment as a first lieutenant, there will be no excess credit to apply toward time-in-grade for promotion. Thus because two years in grade is the minimum required for promotion to captain, officers of the JAGC ordered to active duty as first lieutenants will be required to serve at least two years in that grade before being promoted, unless DOPMA is amended.

DOPMA does provide, as to both Regular and Reserve appointments, that if the Secretary of Defense determines that the number of qualified judge advocates on active duty in grades below major is critically below the number needed in such grades, he may authorize the Secretary of the Army to credit any person receiving an original appointment in the JAGC with additional constructive credit in such an amount as will result in the grade on appointment of such person being that of captain.⁷⁸ However, as is clear from the wording of the provision, the determination by the Secretary of Defense is not to be prospective - the JAGC must, in order to take ad-

vantage of the section, be able to demonstrate an existing *critical* shortage of officers on active duty in the grades of captain and first lieutenant. If the provision were implemented and the shortage thereby reduced, DOPMA does not address the manning level at which implementation of the provision is to cease and the constructive service credit reduced to the "normal" level. However, it seems clear that action under this provision would be transitory. Legislation has been proposed which would ameliorate the problems discussed above. However, until such legislation is enacted, if at all, the current form of DOPMA will prevail.

IV. Retirement

DOPMA contains a number of provisions which either amend current law or enact new law with respect to the retirement of Regular commissioned officers.

At present, as discussed in Section II, officers serving in the Regular grade of major are ordinarily assured of reaching twenty-one years of service. Under DOPMA, unless a Regular Army major is within the two-year "sanctuary" or is selectively continued on active duty, he or she will be discharged, following his or her second nonselection for permanent promotion to lieutenant colonel, before becoming eligible for retirement.

Under current law, the retirement of an officer in the Regular grade of lieutenant colonel is required on the thirtieth day following completion of twenty-eight years of service; the Secretary of the Army may defer such retirement in the case of chaplains and officers of the Army Medical Department.⁷⁹ Under DOPMA, no real changes will be made; the twenty-eight year mandatory retirement point remains intact.⁸⁰ However, any lieutenant colonel may have such retirement deferred for up

75. P.L. 96-513, sec. 209(a).

76. As added by P.L. 96-513, sec. 106.

77. See 10 U.S.C. 3353(a)(1), as amended by P.L. 96-513, sec. 205(a), and 10 U.S.C. 3360(b)(3). Dates of rank of Reserve officers placed on the active-duty list will also reflect constructive service credit. 10 U.S.C. 741(d)(1), as amended by P.L. 96-513, sec. 107.

78. 10 U.S.C. 533(e), as added by P.L. 96-513, sec. 104(a); 10 U.S.C. 3353(d), as amended by P.L. 96-513, sec. 205(a).

79. 10 U.S.C. 3916.

80. 10 U.S.C. 633, as added by P.L. 96-513, sec. 105.

to five years, but not beyond his or her sixty-second birthday.⁸¹

At present, officers in the Regular grade of colonel must retire on the fifth anniversary of their appointment to that grade or on the thirtieth day after they complete thirty years of service, whichever is later.⁸² Again, such retirement may be deferred in the case of chaplains and certain officers of the Army Medical Department.⁸³ Under DOPMA, the "fifth anniversary" provision is deleted; mandatory retirement of colonels is required on the first day of the month after the month in which they complete thirty years of active commissioned service.⁸⁴ Deferral of such retirements may be approved under the same conditions as for lieutenant colonels.⁸⁵

The foregoing provisions notwithstanding, DOPMA provides that Regular lieutenant colonels who have failed of selection to the grade of colonel two or more times and Regular colonels who have served at least four years in grade, whose names are not on a list of officers recommended for promotion, may be considered for selective early retirement.⁸⁶ The number of officers selected for early retirement may not exceed thirty percent of those considered in each grade and competitive category.⁸⁷ Officers selected for such retirement are to be retired not later than the first day of the seventh calendar month after the Secretary of the Army approves the selection board's report or, in the case of officers not already eligible for retirement, retained on active duty until eligible for retirement under 10

U.S.C. 3911 and then retired.⁸⁸

With regard to retirement for age, the requirement for mandatory retirement of Regular commissioned officers below major general at age 60⁸⁹ will be repealed by DOPMA,⁹⁰ to be replaced by a provision requiring such retirement at age 62⁹¹

At present, unless entitled to retire in some higher grade, a Regular or Reserve officer who retires other than for physical disability retires in the Regular or Reserve grade that he or she holds on the date of his or her retirement.⁹² Further, Regular and Reserve commissioned officers are entitled to retire in the highest temporary grade in the Army in which they served on active duty satisfactorily, as determined by the Secretary of the Army, for a period of not less than six months.⁹³ Under DOPMA, an officer must serve satisfactorily on active duty in a grade below lieutenant colonel for not less than six months to retire in that grade.⁹⁴ However, in order to be eligible for voluntary retirement in a grade above major, an officer will have to have served on active duty in such grade for not less than three years.⁹⁵ Officers whose length of service in grade does not meet the specified requirements will be retired in the next lower grade in which they served satisfactorily for not less than six months.⁹⁶ As a transition measure, officers on active duty on 14 September 1981 who are not thereafter promoted to a higher grade, and to whom the three-year time-in-grade requirement would otherwise apply, will be eligible to retire in the grade in which they are serving on 14

81. 10 U.S.C. 637(b)(1) and (3), as added by P.L. 96-513, sec. 105.

82. 10 U.S.C. 3921(a).

83. 10 U.S.C. 3921(b).

84. 10 U.S.C. 634, as added by P.L. 96-513, sec. 105.

85. 10 U.S.C. 637(b)(1) and (3), as added by P.L. 96-513, sec. 105.

86. 10 U.S.C. 638(a)(1) and (2), as added by P.L. 96-513, sec. 105.

87. 10 U.S.C. 638(a), as added by P.L. 96-513, sec. 105.

88. 10 U.S.C. 639(b)(1), as added by P.L. 96-513, sec. 105.

89. 10 U.S.C. 3883.

90. P.L. 96-513, sec. 216.

91. 10 U.S.C. 1251(a), as added by P.L. 96-513, sec. 111.

92. 10 U.S.C. 3961.

93. 10 U.S.C. 3963(a).

94. 10 U.S.C. 1370(a)(1), as added by P.L. 96-513, sec. 112.

95. 10 U.S.C. 1370(a)(2), as added by P.L. 96-513, sec. 112.

96. 10 U.S.C. 1370(b), as added by P.L. 96-513, sec. 112.

September 1981 after two years of service in that grade.⁹⁷

V. Additional Provisions

The provisions to be discussed in this section complete the package of major officer personnel policies, rounding out Congress' scheme for a uniform system of officer personnel management for the military services.

A. All-Regular Career Force

DOPMA will enable the Army to make a transition to a career force consisting entirely of Regular officers. That authority is not specified within the statute itself; one could read DOPMA from cover to cover and never see a single reference to an all-regular force. However, by increasing the statutory limitation on Regular commissioned officers from 49,500⁹⁸ to 63,000,⁹⁹ Congress believes that sufficient flexibility is provided for the Army to achieve an all-regular officer force by selective integration of Reserve officers into the Regular Army by approximately the eleventh year of service.¹⁰⁰ In this regard, Congress has stressed that the *final* consideration for integration should coincide with selection for promotion to the grade of major, in order to avoid the obvious morale problem of, for example, a captain being selected for career status but then

nonselected for promotion a short time later.¹⁰¹ Although the all-regular force is not statutorily mandated, Congress expressly stated its intent that that objective be accomplished.¹⁰² The Army has already begun planning for transition to an all-regular field grade officer force. Although not yet approved for implementation, the proposal under study would include offers of Regular appointments to all non-regular majors and promotable captains on the active duty list (other than those majors in a promotion nonselect status) who are determined to be fully-qualified for promotion. In addition, Regular appointments would be tendered, to the extent allowed by strength ceilings, to all non-regular lieutenant colonels and colonels who apply and are determined to be qualified for continued service. In the case of other non-regular officers, those who enter on active duty on or before 30 September 1981 would be offered integration when selected for promotion to major; those who decline could continue on active duty under present procedures. However, non-regular officers who enter on active duty after 30 September 1981 and who decline integration following selection for promotion to major would be released from active duty. If the foregoing proposal is implemented, the Army will have taken the first step toward achievement of an all-regular officer force. The "anomaly of the career reserve officer"¹⁰³ will eventually be eliminated.

B. Separation Pay Provisions

Under DOPMA, the provisions for separation pay upon involuntary discharge or release from active duty will be changed. All separation pay provisions will be contained in a single code section.¹⁰⁴ Regular commissioned

97. P.L. 96-513, sec. 629. This transition exception also applies the two year rule to officers who are on promotion lists on 14 September 1981.

98. 10 U.S.C. 3205(a); that number does not include Regular officers of the Army Nurse Corps and the Army Medical Specialist Corps, authorized strengths of which are prescribed by the Secretary of the Army (10 U.S.C. 3206, 3207), nor does it include the permanent professors and director of admissions at the U.S. Military Academy (an additional 24 officers - see 10 U.S.C. 4331(b)).

99. 10 U.S.C. 522, as added by P.L. 96-513, sec. 103.

100. H. R. REP. NO. 96-1462, at 24-25.

101. *Id.*, at 25.

102. *Id.*, at 5.

103. *Id.*, at 25.

104. 10 U.S.C. 1174, as added by P.L. 96-513, sec. 109(c); see H. R. REP. NO. 96-1462, at 30-31.

officers who are discharged as a result of having been twice nonselected for promotion and who have completed five or more, but less than twenty, years of active service will be entitled to separation pay in an amount equal to ten percent of the product of (1) their years of active service and (2) twelve times their monthly basic pay, or \$30,000, whichever is less.¹⁰⁵ Regular commissioned officers who are discharged with less than five years active *commissioned* service (but more than five years active service),¹⁰⁶ Regular chaplains who are discharged for failure to maintain the qualifications needed to perform their professional functions,¹⁰⁷ and Regular officers who request discharge in lieu of elimination proceedings,¹⁰⁸ are entitled to separation pay calculated as described above or one-half of such amount (up to \$15,000), as determined by the Secretary of the Army, *unless* the Secretary determines that the conditions under which the officer is discharged do not warrant payment of separation pay.¹⁰⁹ Non-regular officers involuntarily separated after 14 September 1981, who have completed five or more, but less than twenty, years of active service immediately before such discharge, are entitled to separation pay as described in the preceding sentence.¹¹⁰ Separation pay is not payable to members who (1) are discharged or released from active duty at their own request (except as specifically provided by law¹¹¹), (2) are released from active duty for training, or (3) are, upon discharge or release from active

duty, immediately eligible for retired pay based upon their military service.¹¹² Officers who have received separation pay (or severance or readjustment pay under other provisions of law) and who subsequently qualify for retired pay will have an amount equal to the total amount of such separation, severance and readjustment pay deducted from their retired pay in monthly installments.¹¹³ As a transition measure, commissioned officers on active duty on 15 September 1981 who, as of that date, have been twice nonselected for permanent (regular or reserve) promotion to captain, major, or lieutenant colonel, or who have been once nonselected for permanent promotion to such grades and are subsequently again nonselected, will be entitled, at their election, to separation pay as described above or to severance or readjustment pay under present law.¹¹⁴

C. Separation Provisions

Under DOPMA, the current statutory provisions governing separation from the Regular Army for substandard performance of duty¹¹⁵ and for moral or professional dereliction or in the interests of national security¹¹⁶ will be repealed¹¹⁷ and replaced by a single set of provisions for all such separations.¹¹⁸ Very few substantive changes to existing law will be made; a major improvement is the requirement that the Secretary of Defense prescribe regulations for such separation proceedings, creating uniform policies for all of the services.

105. 10 U.S.C. 1174(a) and (d)(1), as added by P.L. 96-513, sec. 109(c).

106. U.S.C. 630(1)(A), as added by P.L. 96-513, sec. 105; see 10 U.S.C. 1174(b), as added by P.L. 96-513, sec. 109(c).

107. 10 U.S.C. 643, as added by P.L. 96-513, sec. 105.

108. 10 U.S.C. 1186(a)(2), as added by P.L. 96-513, sec. 110.

109. 10 U.S.C. 1174(b) and (d), as added by P.L. 96-513, sec. 109(c).

110. 10 U.S.C. 1174(c), as added by P.L. 96-513, sec. 109(c).

111. See, e.g., 10 U.S.C. 1186(c), as added by P.L. 96-513, sec. 110.

112. 10 U.S.C. 1174(e), as added by P.L. 96-513, sec. 109(c).

113. 10 U.S.C. 1174(b)(1), as added by P.L. 96-513, sec. 109(c).

114. P.L. 96-513, sec. 607; see P.L. 96-513, secs. 603(b)(2), 604, 605(b)(3), and 606.

115. Chapter 359, Title 10, United States Code.

116. Chapter 360, Title 10, United States Code.

117. P.L. 96-513, sec. 213.

118. Chapter 60, Title 10, United States Code, as added by P.L. 96-513, sec. 110.

VI. Transition Provisions

With a statute of the magnitude of DOPMA, which will require massive changes to military personnel management, Congress recognized that inclusion of appropriate provisions would be necessary "to effect an orderly transition to the new officer-management system and to protect the equities of those now in service."¹¹⁹ Several such provisions have been discussed in previous sections. The major change, elimination of the temporary promotion system, obviously necessitates a clear definition of what will happen to all of those officers on active duty who are serving under temporary appointments on the effective date of DOPMA.

Within six months after 15 September 1981, all officers of the Army who are subject to placement on the active-duty list are to be placed on that list with the same relative seniority which they held prior to the effective date of the Act.¹²⁰ Regardless of when placement on the list actually occurs, it will be considered as having occurred on the effective date of the Act.¹²¹ In order to maintain relative seniority among officers placed on the list, the Secretary of the Army may, during the one-year period beginning on 15 September 1981, adjust the date of rank of any officer serving on active duty on that date.¹²²

Regular Army officers on active duty on 15 September 1981 who (1) are serving in a temporary grade higher than their Regular grade, (2) are on a list of officers recommended for promotion to a temporary grade, or (3) are on a list of officers recommended for promotion to a Regular grade higher than the grade in which they are serving, are to be considered as having been recommended, by a board of officers convened under the Code sections added by DOPMA, for promotion to the Regular grade

equivalent to the temporary grade in which they are serving or for which they have been recommended for promotion.¹²³ The date of rank of officers who are considered as having been recommended for promotion to Regular grades equivalent to the temporary grades in which they are serving will be the date of their temporary appointment to that grade.¹²⁴ Although the phrase "considered to have been recommended for promotion" has not been subjected interpretation, it appears that promotion will not be automatic but that review by the Secretary of the Army and submission to the Secretary of Defense for transmittal to the President for approval, by and with the advice and consent of the Senate, will be required.¹²⁵ That would mean, for example, that the names of officers on the recommended list would still be subject to removal from such list by the President.¹²⁶

Regular officers who, as of the effective date of DOPMA, have been once nonselected for promotion to the Regular grade of captain, major, or lieutenant colonel, will not be treated as described above, but, within one year after the effective date, will again be considered for such promotion by a selection board convened under the laws in effect *before* the effective date.¹²⁷ Any officer who is recommended for promotion by the subsequent board will be considered to have been recommended for promotion to the next higher Regular grade or the grade in which he or she is serving, whichever is higher.¹²⁸ An officer who is not recommended for promotion by such board, as well as Regular officers who, as of the effective date of DOPMA, have been twice nonselected for promotion to the Regular grade of captain, major,

119. *H.R. REP. NO. 96-1462*, at 44.

120. P.L. 96-513, sec. 621(a)(1).

121. *Id.*

122. P.L. 96-513, sec. 621(b).

123. P.L. 96-513, sec. 601(a). This does not apply to officers serving in the temporary grades of general or lieutenant general.

124. P.L. 96-513, sec. 601(c).

125. 10 U.S.C. 618(b)(1), as added by P.L. 96-513, sec. 105; 10 U.S.C. 531, as added by P.L. 96-513, sec. 104(a).

126. 10 U.S.C. 618(c), as added by P.L. 96-513, sec. 105.

127. P.L. 96-513, sec. 603(a).

128. P.L. 96-513, sec. 603(b)(1)(A).

or lieutenant colonel, will, unless continued on active duty, be retired, discharged, or retained on active duty until eligible to retire and then retired, as applicable, under the laws in effect before the effective date of DOPMA.¹²⁹

Reserve officers who, on the effective date of DOPMA, are subject to placement on the active-duty list and are (1) serving in temporary grades higher than their Reserve grades or (2) on a list of officers recommended for promotion to temporary grades that are the same or higher than their Reserve grades, are to be considered as having been recommended for promotion to the Reserve grade equivalent to the grade in which they are serving or for which they have been recommended for promotion.¹³⁰ The date of rank of Reserve officers considered as having been recommended for promotion to Reserve grades equivalent to the temporary grade in which they are serving will be the date of their temporary appointment to that grade.¹³¹ Reserve officers serving on active duty in temporary grades lower than their Reserve grades will retain such temporary grades while serving on active duty, but will thereafter be considered for promotion under the Code sections added by DOPMA as if the temporary grade were a permanent grade. If recommended for promotion, their appointments to the higher grade will also be temporary appointments.¹³²

Reserve officers who, on the effective date of DOPMA, are subject to placement on the Active-duty list and have once failed of selection¹³³ to the Reserve grade of captain, major, or lieutenant colonel, will again be considered for such promotion under the statutes governing their prior nonselection.¹³⁴ Such officers

who are serving on active duty as of 15 September 1981 in temporary grades higher than their Reserve grades and who are recommended for promotion by the subsequent board to the Reserve grade which is equivalent to their temporary grade, shall be considered to have been recommended for promotion to those Reserve grades by a selection board convened under the Code sections added by DOPMA; the date of rank of such officers will be the date of their temporary appointment to that grade.¹³⁵ Such officers who are serving on active duty as of 15 September 1981 in temporary grades equal to or lower than their Reserve grades and are recommended by the subsequent board for promotion to Reserve grades higher than the temporary grades in which they are serving shall be considered as having been recommended for promotion to those Reserve grades.¹³⁶ Unless such officers are ordered to active duty in their Reserve grades, they will retain their temporary grades while continuing to serve on active duty and be considered for promotion under the Code sections added by DOPMA as if the temporary grade were a permanent grade. If recommended for promotion, their appointments to the higher grade will also be temporary appointments.¹³⁷ However, any such officers who are again nonselected for promotion upon consideration by the subsequent board, as well as Reserve officers, who, as of 15 September 1981, are (1) on active duty and subject to placement on the active-duty list and (2) were considered to have twice failed of selection to the Reserve grade of captain, major, or lieutenant colonel, will be either discharged or, if they are eligible and apply for such transfer, transferred to the Retired Reserve.¹³⁸

In addition to the provisions discussed above, DOPMA contains several provisions which affect those officers who might other-

129. P.L. 96-513, secs. 603(b)(2) and 604.

130. P.L. 96-513, sec. 602(a)(1). This does not apply to officers serving in the temporary grades of general or lieutenant general.

131. P.L. 96-513, sec. 602(a)(2).

132. P.L. 96-513, sec. 602(b).

133. *I.e.*, under 10 U.S.C. 3366 or 3367.

134. P.L. 96-513, sec. 605(a)

135. P.L. 96-513, sec. 605(b)(1).

136. *I.e.*, under 10 U.S.C. 3366 or 3367.

137. P.L. 96-513, sec. 605(b)(2).

138. P.L. 96-513, secs. 605(b)(3) and 606; *see* 10 U.S.C. 3846.

wise receive less favorable treatment after 15 September 1981 than that to which they would be entitled under current law.

Regular Army officers who, on the effective date of DOPMA, hold the Regular grade of major or are on a list of officers recommended for promotion to that grade, are to be retained on active duty until they complete twenty-one years of service and then retired.¹³⁹ Regular Army officers who, on the effective date of DOPMA, hold the Regular grade of colonel or are on a list of officers recommended for promotion to that grade, will be retained on active duty until the fifth anniversary of their appointment to that grade or the thirtieth day after they complete thirty years of service, whichever is later, and then retired.¹⁴⁰ The foregoing provisions do not apply to officers who are (1) sooner retired or separated under another provision of law, (2) promoted to the next higher Regular grade, or (3) selected for continuation on active duty.¹⁴¹

Officers serving on active duty on 15 September 1981 in temporary grades equal to their permanent grades will be serving in such grades subject to the amendments to Title 10, United States Code, made by DOPMA. The date of rank of such officers will be the date of their temporary appointment to that grade.¹⁴²

For the purpose of determining whether an officer is subject to involuntary retirement or discharge under the Code sections added by DOPMA, his or her years of service will be (1) the amount of service creditable to such officer for such purpose as of 14 September 1981 and (2) all of his or her subsequent active commissioned service.¹⁴³ Similar formulae will be applied to calculation of the years of service with which an officer may be credited for the purpose of pay and allowances, to include retired

pay, severance pay, readjustment pay, separation pay, and basic pay.¹⁴⁴

VII. Conclusion

As is readily apparent, DOPMA is a highly complex, multi-faceted piece of legislation; it will impact upon the officer corps in a wide variety of ways, many of which cannot even be predicted. Although DOPMA has been over eight years in the making, it is far from perfect. Congress recognized that "technical errors and inconsistent policy direction might become apparent as the services grapple with the formal implementation."¹⁴⁵ Accordingly, the Defense Department was invited to submit corrective legislation early in the 97th Congress, to include a *limited* number of substantive changes, "if a strong case can be made" therefor.¹⁴⁶ Legislation has been proposed which would address some of the concerns expressed in other sections of this article, as well as making other technical corrections to the Act.¹⁴⁷ However, that legislation is not yet a reality and, if the experience of DOPMA is any kind of teacher, it would not be wise to assume that it will pass. In addition, countless changes to Department of Defense Directives and Army Regulations will be required in order to implement DOPMA. Many such actions, like the decision to implement the concept of the all-regular officer force, will require detailed policy consideration and determination.

The effective date of DOPMA is now less than six months away, and the mechanisms for implementation of the Act are shifting into high gear. At this point, however, as detailed and comprehensive as it is, DOPMA is little more than a skeleton. How it will appear in six months, a year, or ten years is difficult to predict. There is little doubt that it will change.

139. P.L. 96-513, sec. 609(a)(1).

140. P.L. 96-513, sec. 609(b)(1); see 10 U.S.C. 3921.

141. P.L. 96-513, secs. 609(a)(2) and (b)(2).

142. P.L. 96-513, sec. 622(a).

143. P.L. 96-513, sec. 624(a).

144. P.L. 96-513, sec. 626(a).

145. H.R. REP. NO. 96-1462, at 45.

146. *Id.*

147. Draft "DOPMA Technical Corrections Act of 1981".

Some of the anomalies discussed or alluded to in this article will be remedied; others might replace them. It is in anticipation of such change that this article is entitled "DOPMA: An Initial Review"; it is based solely upon DOPMA in its present form. A 15 September 1981 draws near, as corrective legislation becomes law, and as implementing regulations are approved, each officer would be well-advised to take a fresh look at how that skeleton is being "fleshed-out." There are, after all, very few subjects of greater interest to an officer than those which directly affect his or her career progression and expectation.

If anything is clear, it is that DOPMA will affect, in some way, the career of each and every officer on active duty. As the nature of such effects becomes apparent, additional guidance will undoubtedly be provided. In the meantime, the present version of DOPMA represents the direction to be taken by the officer corps on 15 September 1981. Many people have spent an incalculable number of hours in this major effort aimed at improving officer personnel management within the armed forces - DOPMA provides the structure upon which achievement of that objective may be based. There is still, however, a long way to go.

PERSONA EST HOMO CUM STATU QUODAM CONSIDERATUS¹

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Is the wrongful, willful and unlawful impersonation of an Army Criminal Investigation Division Agent a viable offense under Article 134, Uniform Code of Military Justice? No, says Judge Fletcher, in *United States v. Yum*,² law and logic require something more than a bare false representation to be criminal. Maybe, says Chief Judge Everett, but criminal liability requires playing out the role of the person impersonated. Of course, says Judge Cook, there is no doubt whatsoever as to the legality of the offense. The mind boggles at the thought of thousands of would-be gumshoes passing as CID agents throughout the Army with little, if any, fear of criminal prosecution. How, in the name of Dick Tracy, did the United States Court of Military Appeals reach this result?

Along with the admission of several other criminal transgressions, Specialist Four Charles Y. Yum entered a plea of guilty to a specification which alleged that he "did at

Seoul, Korea . . . , wrongfully, willfully, and unlawfully impersonate an Army Criminal Investigation Division Agent by informing Seoulin Hotel employees that he was an Army Criminal Investigation Division Agent and by using Eight U.S. Army Criminal Investigation Division as his address in a Seoulin Hotel Guest Registration,"³ at his general court-martial. The United State Court of Military Appeals examines this specification in some detail through the precedent of federal law, specifically cases which involve 18 U.S.C. §912 dealing with anyone who "falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof."⁴ Both Judge Fletcher and Chief Judge Everett seize upon *United States v. Rosser*⁵ as the definitive federal case against which to measure the alleged offense of impersonation of a CID agent in violation of Article 134, Uniform Code of Military Justice.⁶ The

1. A person is a man considered with reference to certain status. Black's Law Dictionary 1300 (4th ed. 1951).

2. 10 M.J. 1 (C.M.A. 1980).

3. Id. at 1-2.

4. Id. at 4.

5. 528 F.2d 652 (D.C. Cir, 1976).

6. 10 U.S.C. §934 (1970).

Roser case involved the impersonation of an Internal Revenue Service employee during the gasoline shortage in 1974. Finding overt acts consistent with the impersonation as required by the statute in question, namely soliciting information about gasoline sales and arranging for gasoline sales and service, the United States Court of Appeals of the District of Columbia held a proper criminal offense alleged and proven. Applying the overt act element of *Rosser* to Specialist Yum's case Judges Fletcher and Everett conclude that "the mischief to be eliminated is the exercise of pretended federal authority."⁷ Hence, it is not enough to pose as a CID agent, one must act the part. Query, absent the statutory element of federal law requiring an acting out of the impersonation, is not there inherent in the impersonation of a CID agent conduct prejudicial to good order and discipline in the armed forces so as to constitute a criminal offense under Article 134, Uniform Code of Military Justice? And, by the by, whatever happened to military case law as precedent?

In *United States v. Colleymore*,⁸ Judge Ferguson, concurring in result, clearly indicated that *vis a vis* impersonation of an officer with intent to defraud, "simple impersonation . . . (is) conduct equally prejudicial to good order and discipline."⁹ Indeed, the accused in the *Colleymore* case was convicted of impersonating an officer without having worn the insignia of an officer or personally declaring himself to be an officer. The United States Court of Military Appeals nonetheless concluded that the accused had "created the wrongful appearance that he was an officer and entitled to the privileges and prerequisites of that class"¹⁰ by holding himself out as an officer and such was adequate proof of impersonation. Significantly, on the issue of intent to defraud the Court found no proof of

criminality, thus returning the case for ultimate reassessment of sentence based upon the lesser offense of simple impersonation.

An essential element in the offense of impersonation of an officer is willfulness,¹¹ and in Specialist Yum's case the element was alleged, defined by the trial judge, and admitted by the accused. As noted by Chief Judge Everett, "criminal liability does not hinge on the impersonator's receiving any benefit from his impersonation;"¹² nor should such depend on whether the deception misled a third party.¹³ Further, by analogy to the offense of impersonation of an officer, it would appear that the gravamen of any impersonation offense alleged under Article 134 is whether the impersonation would adversely influence the good order and discipline of the armed forces. "It requires little imagination to conclude that a spirit of confusion and disorder, and lack of discipline in the military would result"¹⁴ if members of the Army were permitted to assume the role of CID agents and masquerade as such at their fancy.

The wrongful, willful and unlawful impersonation of an officer is recognized as a viable offense under Article 134, Uniform Code of Military Justice, because of the adverse impact the act of impersonation would have on good order and discipline.¹⁵ It would seem that the act of impersonation of a CID agent would have a similar adverse impact on good order and discipline, even if to a lesser degree. In fact, Chief Judge Everett recognizes that impersonation of a CID agent might constitute a simple disorder although not treated as such in *United State v. Yum*.¹⁶ Perhaps what is most disturbing about the *Yum* decision is not the

7. *United States v. Yum*, 10 M.J. 1, 3 (C.M.A. 1980).

8. 11 C.M.A. 666, 29 C.M.R. 482 (1960).

9. *Id.* at 484.

10. *Id.* at 483.

11. *United States v. Demetris*, 9 C.M.A. 412, 26 C.M.R. 192 (1958).

12. *United States v. Yum*, 10 M.J. 1, 5 (C.M.A. 1980).

13. *United States v. Messinger*, 2 C.M.A. 21, 6 C.M.R. 21 (1952).

14. *Id.* at 25.

15. *United States v. Kupchik*, 6 M.J. 766 (A.C.M.R. 1978).

16. 10 M.J. 1 (C.M.A. 1980).

likelihood of soldiers passing as CID agents (Chief Judge Everett proposes two theories of prosecution: by disposing of CID impersonators under the "crimes and offenses not capital" clause of Article 134, Uniform Code of Military Justice, as violators of 18 U.S.C. §912, or as noted, as offenders guilty of simple disorders), but that the majority of the United States Court of Military Appeals looks to civilian case "interpretations of 18 U.S.C. §912,"¹⁷ to which form specification 155 seems heavily indebted."¹⁸ The accused, the military trial judge and the Army Court of Military

Review had no difficulty finding that impersonation of a CID agent was prejudicial to good order and discipline, such being the essence of the offense, not the interpretation of a federal statute upon which a form specification was apparently predicted.¹⁹ The majority judges in *United States v. Yum* need look no further than the landmark case of *Parker v. Levy*²⁰ to discover that, with respect to Article 134 offenses in particular, the Uniform Code of Military Justice "cannot be equated to a civilian criminal code."²¹

17. Chief Judge Everett recognizes that a CID agent impersonator could be prosecuted under the language of 18 U.S.C. §912, concerning anyone who "falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof." See *United States v. Wright*, 176 F.2d 376 (2d Cir. 1949), *cert. denied*, 338 U.S. 950 (1950).

18. *United States v. Yum*, 10 M.J. 1, 5 (C.M.A. 1980).

19. *Id.*

20. 47 U.S. 733 (1974).

21. *Id.* at 749.

FROM THE DESK OF THE SERGEANT MAJOR

by Sergeant Major John Nolan



1. **ASSIGNMENT PROCEDURES.** To provide some follow-up and expansion on earlier comments in this column, I asked SFC Meehan, our Liaison NCO at MILPERCEN, to furnish some additional information on assignment procedures. His response follows:

Enlisted assignment procedures are enormously complex and cannot be explained to the satisfaction of each soldier in the Corps in one short article. Policies and priorities are constantly changing, often before MILPO's in the field are aware of them.

The one most constant philosophy at MILPERCEN is to try to satisfy both the needs of the Army and the requests of the individual soldier to the greatest extent possible. However, the needs of the Army are ever present. MILPERCEN is inundated with myriad

requisitions, priority fill units, full time manning locations, and service school training requirements. MILPERCEN's primary function is to staff the Army and its individual units with sufficient personnel to enable mission accomplishment. At the same time, MILPERCEN tries to place soldiers where they would like to be. Some soldiers reach a desired location through reenlistment options, requests for joint domicile, volunteering for foreign service, enlistment options, and advanced individual training replacement.

Most assignments do not fit into any of the above categories. These assignments result primarily through the process of computer nomination or manual matching against a requisition or open requisition from a command.

The single most important influence an in-

dividual soldier has regarding future assignments within the CAP III system is the Enlisted Preference Statement (DA Form 2635). Properly filled out and submitted through MILPO, the preference statement accomplishes several important assignment influences. At the local MILPO, a SIDPERS transaction is made indicating one's primary CONUS and overseas area of preference. This data is entered in the Enlisted Master File tape at MILPERCEN as part of the criteria the CAP III computer uses to nominate a soldier for his or her next assignment. The professional development NCO and assignment manager at MILPERCEN are provided with a list of six assignment locations for each soldier, as well as duty assignment preference. Assignment for 71D/E personnel are made only after referring to preference statements if reenlistment, joint domicile, or other soldier-initiated requests are not paramount. The DA Form 2635 may provide information on the special needs of dependents to be considered in making future assignments.

Many soldiers do not think their preference statements are considered. I have found that the major reason for this is that most of these non-believers request Hawaii, Alaska, Panama, Presidio of San Francisco, Fort Huachuca, Fort Benjamin Harrison, and other "garden spots." If they don't get a preferred assignment, they think their DA Form 2635 was not considered. That is simply not correct. Every effort is made to allow personnel to be stationed where they want to be.

2. ANCOC REVISION. Last month, I mentioned that TRADOC was revising the curriculum for the Advanced NCO Course (ANCOC). Several decisions have been made regarding that course. The course will continue to be taught at the Soldier Support Center, Fort Benjamin Harrison, Indiana. As to content, the revised course will train attendees both in common military subjects and, in a separate technical track, in MOS-specific subjects. Instructors for the latter will be furnished by The Judge Advocate General's School. This revised curriculum will be implemented on 1

September 1981. Following is an outline of the new course for legal clerks and court reporters.

Core Subjects — Revised Curriculum

1. *Tasks supported by Leadership and Management cluster:*
 - a. Write a Standing Operating Procedure (SOP)
 - b. Review/Revise a Standing Operating Procedure (SOP)
 - c. Set Individual Performance Objectives
 - d. Conduct Performance Counseling with a Subordinate
2. *Tasks supported by Communication cluster:*
 - a. Prepare the Rater's/Indorser's/Reviewer's Section of a Senior Enlisted Evaluation Report (SEER)
 - b. Prepare a Briefing
 - c. Draft Military Correspondence
 - d. Conduct a Briefing
 - e. Conduct Personal Counseling with a Subordinate
3. *Tasks supported by Training Management cluster will be grouped as follows*
 - a. Army Training
 - b. Individual Training
 - c. Collective Training
4. *Tasks supported by Combat Survival cluster will be grouped as follows:*
 - a. Land Navigation
 - b. Nuclear, Biological, Chemical Warfare
 - c. Defensive Operations

71D/71E Technical Track Summary

1. *Skill level 4 tasks to be trained:*
 - a. Review final report of Article 32 Investigation

- b. Review Court-Martial Charge Sheets (DD Form 458)
 - c. Review Court-Martial Convening Orders
 - d. Review Records of Trial by Inferior Courts-Martial
 - e. Review Initial Court-Martial Promulgating Orders
 - f. Review Supplementary Court-Martial Promulgating Orders
 - g. Review Convening Authority's Action
 - h. Review Record of Proceedings Under Article 15, UCMJ
 - i. Research Federal Statutes using United States Code Annotated
 - j. Research Appellate Court Decisions using Court-Martial Reports
 - k. Research Court Decisions using the National Report System
2. *Source of Tasks: Skill Level 4 Soldier's Manual*
 3. *Hours in Track: 30*
 4. *Blocks of Instruction:*
 - a. Legal Assistance Programs and Administration
 - b. Paralegal Functions
- c. Legal Bibliography
 - d. Army Law Library Management
 - e. Personnel Claims
 - f. Reports of Survey
 - g. Administrative Boards
 - h. Federal Tort Claims
 - i. Affirmative Claims
 - j. Introduction to Criminal Law - New Developments
 - k. Nonjudicial punishment
 - l. Pretrial Responsibilities
 - m. Post-Trial Responsibilities
 - n. The Army Correctional System
 - o. Examination.
3. EER. A new Enlisted Evaluation Report Form will be introduced on 1 October 1981. I will provide further information on this at a later date.
 4. COURSE ATTENDANCE. A new policy designed to reduce the number of NCO's who decline NCO course attendance for other than operational or compassionate reasons has been approved by the Army. The new policy, scheduled to become effective with the March publication of new AR 351-1, will apply to all NCO courses except the US Army Sergeants Major Academy.

Army Law Library Service

*Major Michael A. Haas and Ms. Helena Daidone,
Developments, Doctrine, and Literature Department, TJAGSA*

1. *Microfiche Readers* are authorized items under CTA 50-909. DA Pam 310-1 is now produced only on microfiche and others will follow. The use of fiche in legal publishing is increasing and West Publishing Company now offers Federal Reporter 2d, volumes 1-450, and Federal Supplement, volumes 1-200, on ultrafiche. Although ALLS lacks the funding

to purchase these sets, if local funding is available ALLS will allow offices to turn in the hard bound volumes to West and receive an allowance of 75¢ per volume. Microfiche readers are available through supply channels or local purchase and viewer-printers are normally available in Morale Support Activity libraries. Complete reader and printer descrip-

tions are found in DA Circular 310-80-7.

2. *Items available on Microfiche from ALLS:*
 - a. Unpublished Comptroller General Decisions covering 1951-1979, limited number available.
 - b. FLITE Quick Index to Military Rules of Evidence.

3. *Comptroller General Decisions and Court of Claims Reports.*

All libraries desiring automatic distribution of the Comptroller General Decisions will be required to set up an account with AG Publications. A copy of DA Form 12-4, with block 34 completed, will be required for initial distribution. Send request to: AG Publications Center, 2700 Eastern Blvd., Baltimore, MD 21220. A letter to HQDA/DAAG-PAD, Forrestal Bldg.,

Washington, D.C. 20310 will be required for those desiring automatic distribution of the Court of Claims Report.

4. In order to reduce costs by eliminating little-used materials, all subscriptions to Federal Supplement have been cancelled except those going to TJAGSA, USALSA, the Army Claims Service, HQ USAREUR, HQ Eighth Army and Corps of Engineers offices. Further, all subscriptions to ALR 2d Later Case Service, ALR 3rd and ALR 4th will be cancelled except those going to TJAGSA, USALSA, the Army Claims Service, HQ USAREUR and HQ Eighth Army libraries. Subscriptions to ALR Federal and Federal Reporter 2d will be continued.

A Matter of Record

Notes from Government Appellate Division, USALSA

1. **General Deterrence Argument**

Trail counsel must insure that their sentencing arguments do not invite the court members to rely upon deterrence to the exclusion of other factors. While *United States v. Lania*, 9 M.J. 100 (CMA 1980) permits trial counsel to argue deterrence, the Court of Military Appeals in *United States v. Geidl*, 10 M.J. 168 (CMA 1981) served notice that *Lania* does not give trial counsel *carte blanche* in this area. Counsel should exercise care when fashioning an argument which includes deterrence as a factor to be considered lest they fall into the pitfall of "excesses in rhetoric."

2. **Making a Complete Record**

While a description of real evidence may be substituted for the actual evidence in the record of trial, counsel are encouraged to use photographs as a substitute rather than a written description. In *United States v. Sanchez*, 10 M.J. 273 (CMA 1981), the photograph of the marijuana pipe was a great aid to the appellate counsel in argument before the Court of Military Appeals. As the Court stated, "[a]n

examination of a picture of the pipe that is attached to the record as an exhibit reflects that the pipe was distinctively unusual."

3. **Government Appellate Division Publications**

Every month the Government Appellate Division distributes to each staff judge advocate office several publications of particular interest to trial counsel. The *Current Issue Index* is a listing of significant issues pending before the appellate courts and briefed by the Government Appellate Division. These briefs are available to trial counsel upon request. The *Recent CMR Opinions* summarizes significant decisions of the Courts of Military Review, whether reported or unreported. These opinions are available upon request. Because of the delay in the publication of the reported cases and the large number of unreported cases, this publication can be of great use to trial counsel. If deemed important, the monthly mailing will include the *GAD Update* which includes discussions of recent Court of Military Appeals decisions and other matters of current interest. If trial counsel have any

questions concerning these publications or wish to request material, please call Captain Gillett at autovon 289-1271/1272/1273/1274/1454.

Legal Assistance Items

*Major Joel R. Alvarey, Major Joseph C. Fowler, and Major Walter B. Huffman
Administrative and Civil Law Division, TJAGSA*

Real Property—FHA In-Service Mortgages

As of 31 March 1980, the In-Service FHA program was discontinued because Congress deleted the funds from the budget to support the program. Guidance was sent to the field via message, 051302Z June 1980 (MILPO Message Number 80-169). SJA offices should delete references to this program in their Legal Assistance publications.

FAIR DEBT COLLECTION—Debt Collector Fails to Provide Timely Notice and Requested Verification. *Bieaulieu v. American National Education Corporation.* CCG ¶ 97244 (USDC Neb., January 22, 1981).

The Fair Debt Collection Practices Act requires that the debt collector inform the debtor within five days of its initial communication with the debtor that unless the debt is disputed within thirty days, the debt collector will assume the debt is valid. 15 U.S.C. § 1692g(a). The debt collector failed to provide this required notice.

The act also provides that the debt collector verify the debt if the debtor requests such. 15 U.S.C. § 1692g(b). Verification of the debt was

provided by the university, to whom the debt was owed, rather than by the debt collector. This was held to be a violation of the Act.

FAIR DEBT COLLECTION—Collection Agency Resumes Contact of Debtor After Being Notified to Cease. *Carrigan v. Central Adjustment Bureau,* CCG ¶ 97.262, (USDC, ND of GA, December 4, 1980).

The Fair Debt Collection Practices Act provides that once a debtor informs the debt collector in writing not to contact him in the future; the debt collector is to cease further communications with the debtor except to advise the consumer that the debt collector's efforts are being terminated or to advise the debtor that the debt collector or the creditor may or intends to use specified remedies. 15 U.S.C. 1692c.

The debtor notified the debt collector in writing to cease communicating with him. After receiving this notice, the debt collector called the debtor in an attempt to effect payment of the debt. This contact was a violation of the Act. The debtor was awarded actual damages of \$100, \$250 statutory damages, plus court costs and attorney's fees.

Administrative and Civil Law Section

Administrative and Civil Law Division. TJAGSA

The Judge Advocate General's Opinions

1. (Separation From The Service—Grounds) An administrative elimination for alcohol abuse must be supported, on the record, by suf-

ficient evidence to establish that the individual was properly declared a rehabilitative failure. DAJA-AL 1980/1803, 29 May 1980.

Based upon two arrests by civil authorities

for driving under the influence of alcohol, the individual was referred to the installation's ADAPCP program. He apparently completed the active phase successfully and moved into the follow-up phase. About three months later, the soldier was again arrested for driving under the influence of alcohol, and with a BAT of .06%; he was ultimately found not guilty of that offense. His commander, however, eliminated the individual for alcohol abuse under Chapter 16 (now Chapter 9), AR 635-200, after having declared him a rehabilitative failure. The Judge Advocate General, after reviewing the file for the Army Board for Correction of Military Records, found that the individual's separation from the service was improper.

There were two problems with this case. First, the command relied solely on the soldier's arrest for driving under the influence during the follow-up rehabilitation phase to support elimination. A blood alcohol content of .06%, however, indicates only alcohol use, not alcohol abuse. Additionally, there was no showing on the record that the soldier's duty performance was ineffective; in fact, the soldier had received an EER during this period which indicated that his duty performance was average. There was, therefore, an insufficient basis, on the record, for elimination under Chapter 16. The second problem was that the command had failed to include all available, relevant information in the elimination file. This case had also been in litigation, and there were materials contained in the OTJAG Litigation Division files which were probably sufficient to support the Chapter 16 elimination. However, this information never appeared in the Chapter 16 elimination file. AR 635-200 requires that the soldier receive notification of the proposed action and the reasons therefore, and that the file contain a detailed explanation of how the member was determined to be a rehabilitative failure. The soldier then has an opportunity to submit written rebuttal. Accordingly, information contained in the OTJAG litigation files cannot now be used to support the elimination because the soldier has had no opportunity to rebut it.

2. (Prohibited Activities and Standards Of Conduct - General) Invitation to industrialists to serve as Army advisors concerning industrial preparedness is subject to the requirement of the Federal Advisory Committee Act. DAJA-AL 1980/1936 (3 June 1980).

The Judge Advocate General was requested to render an opinion concerning the application of the Federal Advisory Committee Act (FACA) (5 USC App I) to a group of industrial executives invited to serve as advisors on industrial preparedness during MOBEX-80. The industrialists were to meet in a seminar with Army personnel and aid in the development of position papers on industrial mobilization.

A second meeting of the group was to culminate in a report addressing the industrial base. The industrialists were to be selected by national industrial associations and approved by the CSA.

As the proposed meetings would result in a consensus of views and a position paper, the Judge Advocate General determined that the group should be treated as an advisory committee subject to the FACA rather than individual consultants to whom FACA would not apply. It was noted FACA is intended to restrain the unregulated use of advisory committees so special interest groups cannot use advisory roles to promote private concerns (see *National Nutritional Foods v. Califano*, 603 F. 2d 327 (2d Cir. 1979)). To eliminate the potential for abuse, AR 15-1, which implements FACA, sets forth numerous requirements for advisory committees. These requirements include specific authorization to exist granted by the Secretary of the Army, balanced membership in the points of view represented (industry, labor, education, etc.), publication in the Federal Register of advance notice for meetings, documentation available for public inspection, and public participation.

As an additional consideration, The Judge Advocate General noted that failure to comply with FACA in this situation may also raise questions concerning compliance with paragraph 1-3e, AR 600-50. That paragraph

directs DA personnel to avoid actions, whether or not specifically prohibited, which might result in or reasonably be expected to create the appearance of: (1) giving preferential treatment to any person or entity; (2) losing complete independence or impartiality; or (3) affecting adversely the confidence of the public in the integrity of the Government. Consequently, compliance with FACA would also eliminate any question over compliance with AR 600-50.

3. (Military Installations - Law Enforcement - *Posse Comitatus*) Military investigative authorities (CID, MP, MPI) having seized a vehicle or having information about a vehicle which has not been (or will not be) seized may notify D.E.A. agents regarding forfeiture of such vehicle without violating the *Posse Comitatus* Act. DAJA-AL 1980/2106, 17 July 1980.

ODCSPER requested an opinion from The Judge Advocate General regarding a CID message authorizing the seizure of vehicles involved in drug transactions and the notification of agents of the Drug Enforcement Administration to initiate forfeiture actions for said vehicles.

Citing the inherent powers of the installation commander to maintain law and order on the installation and Rules 316 of the Military Rules of Evidence (which authorizes designated military personnel to seize contraband, evidence of a crime, or an item that can be used to escape custody) TJAG opined that vehicles used in drug transactions may, depending upon the facts of each case, constitute evidence of a crime or provide the means for escape and thus, be properly subject to seizure.

TJAG then examined 21 U.S.C. § 881 which authorizes the Attorney General to seize vehicles used to transport controlled substances and 21 C.F.R. 1316.72 which authorizes agents of the Drug Enforcement Administration to make sure seizures for forfeiture purposes and opined that neither the statute nor 21 C.F.R. 1316.72 provide any authority for military personnel to seize

vehicles solely for forfeiture purposes. However, where there is a valid military purpose in the seizure of a vehicle (e.g. where the vehicle constitutes evidence of a crime UP Rule 316, M.R.E.) the *Posse Comitatus* Act is not violated when military investigative authorities notify D.E.A. agents of the facts and circumstances to determine if D.E.A. will institute forfeiture action pursuant to 21 C.F.R. 1316.72. The transmission of information about a vehicle subject to forfeiture is also allowed when the vehicle has not been (or will not be) seized for any Rule 316 purpose in order that D.E.A. agents may seize the vehicle by CID, MP, MPI solely for purpose of forfeiture action (and not for any military investigative purpose) *would* (emphasis added) violate the *Posse Comitatus* Act, 18 U.S.C. § 1385.

4. (Line of Duty) Use of oral evidence of blood alcohol test (BAT) to sustain finding of NLOD-DOM is improper unless it is shown that written record cannot be obtained and supporting evidence is included in LOD investigation. DAJA-AL 1980/2315, 1 August 1980.

The Adjutant General requested a legal opinion regarding the use of oral evidence of a BAT to sustain a finding of NLOD-DOM in a line of duty investigation involving a servicemember who was injured in an unwitnessed, one-car, accident. The MP report indicated that the servicemember had exceeded the speed limit but that his driving ability was not impaired. The formal LOD investigation concluded that the injuries were incurred in line of duty, not due to own misconduct, and this finding was approved by the appointing authority on 25 February 1980. This finding was disapproved and a finding of NLOD-DOM was substituted on 27 February 1980, following receipt of a phone call from an unidentified individual at the medical treatment facility relating the results of a BAT on the servicemember which allegedly found a blood alcohol content of 2.46 mg/ml. However, no documentation whatsoever could be found to substantiate the oral evidence and the pa-

tient's records contained no indication that a BAT had ever been administered. In view of these facts, the relying on prior opinions concerning the use of oral BAT evidence, TJAG opined that unless the written record cannot be obtained and absent supporting evidence (i.e., evidence of the nature and circumstances of the test, and of the origin and credibility of the oral evidence) in the LOD investigation file, the use of the unsubstantiated oral communication of the results of a BAT was improper.

5. (Prohibited Activities And Standards Of Conduct - Commercial Employment) Off-duty employment of military personnel and government civilian employees by CITA contractors is generally permissible. DAJA-AL 1980/2558 (2 October 1980).

A Staff Judge Advocate requested The Judge Advocate General to reconsider a prior opinion concerning off-duty employment of military personnel by CITA contractors which was disseminated Army wide by HQDA (DACS-DMA) Message 182015Z Aug. 80. The message stated off-duty employment of military personnel by CITA contractors would raise the possibility of the Comptroller General holding such a contract to be a subterfuge in circumvention of the Dual Compensation Act's prohibition against extra pay for extra services (5 U.S.C. § 5536).

On reconsideration, The Judge Advocate General determined that off-duty employment of military personnel and Government civilian employees by CITA contractors is generally permissible provided such employment does not contravene the provisions of para 2-6a, AR 600-50, and, provided further, that such employment does not involve the holding of a concurrent Federal civilian position or result in the direct receipt of Federal compensation for services rendered. In reaching this decision, The Judge Advocate General reasoned that contracts resulting from the CITA program did not necessarily violate any of these provisions. First, because a true CITA contractor is an independent entity, payments from the Government to the contractor lose

their character as appropriated funds when the contractor receives them. Thus, subsequent payments by the contractor to employees are not payments of appropriated funds, and the Dual Compensation Act's prohibition against dual appropriated fund payments does not apply. Second, the employee of an independent CITA contractor owes his obligation to the contractor, not to the Government. The employees ordinarily would not have federal appointments, receive federal pay, or be under federal requirements. Therefore, the prohibition against holding another federal position is also inapplicable in the CITA context.

Although The Judge Advocate General determined off-duty employment of military personnel and federal civilian employees by CITA contractors is generally permissible, it was also noted that in some circumstances such employment is still prohibited. One circumstance is where the CITA contract is a mere sham or subterfuge created to allow a federal employee to hold a second federal position or receive direct federal compensation for extra services. A second circumstance in which off-duty CITA employment is prohibited is where the employment violates paragraph 2-6, AR 600-50. That paragraph prohibits off-duty employment which interferes with or is not compatible with the performance of government duties, may reasonably be expected to bring discredit upon the Department of the Army, or is otherwise inconsistent with the requirements to avoid actions which create a conflict or the appearance of a conflict of interest.

6. (Retired Members - Civilian Pursuits) Retired Regular Army officer may not have violated 18 U.S.C. § 281 by contacting the Department of the Army regarding sale of corporate services. DAJA-AL 1980/2569 (10 September 1980).

The Judge Advocate General reviewed a report of investigation which concluded that a retired Regular Army officer had violated 18 U.S.C. § 281. The investigation revealed that the retiree signed a cover letter notifying the Government of the services the company he represented

could provide and expressing an interest in receiving a solicitation if a requirement for those services arose. The retiree was also listed as an employee and contact for the company involved.

The Judge Advocate General determined that the facts established by the investigation were insufficient to substantiate a violation of 18 U.S.C. § 281. It was noted that the statute appears to permanently prohibit retired Regular Army officers from representing any person or concern in the "sale of anything" to the Government through the Army. However, under current Department of Justice interpretations of 18 U.S.C. § 281, it is not clear whether the prohibition against a "sale of anything" includes a contract to render services, the statute may not apply to retirees not on active duty, and the statute may be unenforceably vague when applied to retirees not on active duty. Further, the actions of the retiree in question may not amount to prohibited "selling" activities.

The Judge Advocate General suggested that the investigating officer notify the retiree concerned of this determination and the reasons therefore. The retiree should also be made aware that the current interpretations of the application of 18 U.S.C. § 281 are subject to change by the Department of Justice. Further, the retiree should be advised to review his future activities on behalf of his company and avoid any which could be construed as selling to the Department of the Army. As a framework for review, it was noted that in interpreting a similar statute, "selling" has been defined as including personal participation in the actual negotiation or signing of bid, proposal, or contract, or making other contacts intended to further the ultimate consumation of a sale.

7. (Pecuniary Liability) A commander is not an "accountable officer" within the meaning of AR-735-11 solely by virtue of assignment as commander. DAJA-AL 1980/2722. (20 October 1980).

A Staff Judge Advocate requested an opinion

from TJAG concerning whether a Commander is an "accountable officer" within the meaning of AR 735-11 solely by virtue of assignment as Commander.

Based upon paragraph 1-7, AR 735-5, and the definitions of "accountable officer" in AR 735-11 and DOD 7200.10-M, TJAG opined that the general property *responsibility* integral to command is distinct from the regulatory concept of *accountability*. It is possible that the nature of local circumstances and procedures may result in a commander's becoming an accountable officer, but this would depend upon the establishment of a special relationship between the commander and the property and not upon the officer's assignment as commander. TJAG, relying in part on information provided by the proponent of DOD 7200.10-M, concluded that the intent was that an "accountable officer" be one particularly chosen to maintain auditable property accounts and designation by orders is preferred to clarify the office.

8. (Separation From The Service, Administrative Double Jeopardy) Administrative elimination is not barred by administrative double jeopardy rule where court-martial charges for the same conduct were withdrawn prior to the court-martial considering evidence on the general issue. DAJA-AL 1980/2844 (22 October 1980).

A soldier was charged with sodomy involving his minor daughter, and the charge was referred to a general court-martial. Prior to the introduction of evidence on the merits, the daughter and mother/wife refused to testify and the convening authority withdrew the charge IAW paragraph 56, MCM (1969 Rev. ed.), with the statement that further prosecution was not intended. Thereafter, elimination action under paragraph 14-33, AR 635-200 was initiated for the same misconduct. Responding to a request for a legal opinion from MILPERCEN, TJAG stated that the administrative double jeopardy provision of paragraph 1-96 b(1), AR 635-200, which bars administrative elimination for conduct which has been the subject of judicial proceedings resulting in an acquittal or action having the

effect thereof, is markedly different from the concept of former jeopardy in Article 44, UC-MJ. The administrative rules are prefaced with the policy statement that separation is not to be based on conduct which has been disposed of in an earlier proceeding in a manner indicating that separation is not warranted. Thus, while the daughter and

mother/wife were called to testify, both refused to testify on the merits, preventing consideration of evidence on the general issue by the court. The convening authority's action thereafter was not such as to indicate that separation was not warranted, and the present elimination proceeding was not barred.

Non-Judicial Punishment

Quarterly Punishment Rates Per 1000 Average Strength October-December 1980

	<u>Quarterly Rates</u>
ARMY-Wide	49.95
CONUS Army command	52.49
OVERSEAS Army commands	45.60
USAREUR and Seventh Army commands	45.36
Eighth US Army	62.70
US Army Japan	17.17
Units in Hawaii	34.97
Units in Alaska	17.97
Units in Panama	56.22

Courts-Martial

Quarterly Court-Martial Rates Per 1000 Average Strength October-December 1980

	GENERAL CM	SPECIAL CM		SUMMARY CM
		BCD	NON-BCD	
ARMY-WIDE .....	.42	.45	1.16	1.31
CONUS Army commands .....	.42	.41	1.09	1.49
OVERSEAS Army commands .....	.68	.52	1.27	1.00
USAREUR and Seventh Army commands .....	.80	.49	1.27	.75
Eighth US Army .....	.29	1.16	1.62	1.91
U.S. Army Japan .....	.40	-	-	-
Units in Hawaii .....	.17	.11	1.47	1.64
Units in Alaska .....	.37	.25	.74	1.61
Units in Panama .....	.29	-	.58	3.07

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

Reserve Affairs Items

Reserve Affairs Department, TJAGSA

1. JARCGSC Equivalent Credit

Applications for equivalent credit for the Judge Advocate Reserve Components General Staff Course will not be accepted after 30 September 1981. If you are planning to apply for equivalent credit for JARCGSC, based upon completion of 50% of the Reserve C&GS course, contact the JAG School, Reserve Affairs Department, Personnel Actions Office as soon as possible.

2. Judge Advocate Reserve Components General Staff Course.

For Officers Enrolled with TJAGSA.

Reminder. All correspondence subcourse materials for the Judge Advocate Reserve Components General Staff course have been mailed to students. Completion of all correspondence subcourses is a prerequisite to attendance at the resident phase. *All cor-*

respondence course enrollments will be terminated on 6 July 1981. No extensions of enrollment or waivers of the prerequisite will be granted. If you have not received your materials or are having difficulties, contact the Reserve Affairs Department.

For Officers Transferring to JARCGSC.

Transfer to JARCGSC must be completed before a quota or orders can be obtained for the resident phase.

3. JAGC Professional Recruiting Office

The Judge Advocate General's Corps Professional Recruiting Office became operational in July, 1980. The purpose of the new office is to expand the JAGC recruiting effort nationwide and to encourage qualified applicants, including women and minorities, to seek a commission in the Corps.

Active duty Field Screening Officers and designated Judge Advocate Reservists, referred to as Law School Liaison Officers, provide the primary contact with law schools. All JA Reservists are encouraged to refer interested

law students to the JAGC Professional Recruiting Office, 5611 Columbia Pike, Falls Church, Virginia, 22041, (toll free (800) 336-3315 or in Virginia call (703) 756-1792 collect).

Selection Boards for active duty attorneys are scheduled during April and December of each year. Law students may apply during their third year of school. The four basic qualifications for a commission are: (1) Applicants must be 21 and not have reached their 33d birthday by the date of commissioning, (2) be a citizen of the United States or have made a declaration to become a citizen, (3) have received a J.D. or LL.B degree from a law school approved by the ABA, and (4) be admitted to practice and have membership in good standing of the bar of the highest court of a state or federal court. A selection board for the Judge Advocate General's Summer Intern Program meets in January of each year to consider applications from first and second year students interested in a 90-day intern position in a JAGC office during the summer.

4. Mobilization Designee Vacancies

There are a large number of mobilization designee positions now vacant. Reserve Component Judge Advocates should be aware that the U.S. Army Mobilization Personnel Processing System (MOBPERS) preassigns (earmarks), by computer all non-MOBDES control group officers as "fillers" to vacant positions

in deploying units and on mobilization station MOB TDAs. These officers do not however, receive preassignment orders. Only the RCPAC computer and the mobilization station is aware of the actual proposed assignment of the preassigned officer.

During FY81, non-MOBDES control group judge advocates will be officially preassigned to augmentation positions on MOB-TDA. Criteria for preassignment will be age, grade, experience and geographical proximity of the officer to the mobilization station. Although these officers will receive preassignment orders, they will not be entitled as a result of such preassignment to two weeks training with the mobilization station to which preassigned.

Non-MOBDES control judge advocates who desire to apply for one or more of the many vacant MOB DES positions are encouraged to review the list of vacant positions printed below. Such officers should complete the Application for Mobilization Designation (DA Form 2976) and forward it to The Judge Advocate General's School, ATTN: JAGS-RA (Colonel Carew), Charlottesville, Virginia 22901. Interested officers are reminded that mobilization designees are normally guaranteed a minimum of two weeks training with their mobilization agency.

Current positions available are as follows:

GRD	PARA	LINE	SEQ	POSITION	AGENCY	CITY
LTC	36C	04	01	Legal Off	Ofc DCS Opns Plans	Washington, DC
MAJ	04	01A	01	Judge Advocate	Letterman AMC	Presidio SF, CA
MAJ	04	01A	02	Judge Advocate	Letterman AMC	Presidio SF, CA
CPT	04	02A	02	Asst JA	Walter Reed ARC	Washington, DC
MAJ	05	02B	01	Legal Officer	Ofc Gen Counsel	Washington, DC
MAJ	06	03A	03	Asst SJA	USA Health Svcs Cmd	Ft S Houston, TX
CPT	02	01A	01	Judge Advocate	USA Garrison	Ft Detrick, MD
LTC	05	05	05	Military Judge	USA Legal Svcs Agency	Falls Church, VA
MAJ	05	07	10	Military Judge	USA Legal Svcs Agency	Falls Church, VA
MAJ	07	05	03	App Attorney	USA Legal Svcs Agency	Falls Church, VA
CPT	07	08	02	App Attorney	USA Legal Svcs Agency	Falls Church, VA
MAJ	08	08	02	App Attorney	USA Legal Svcs Agency	Falls Church, VA
CPT	08	11	02	App Attorney	USA Legal Svcs Agency	Falls Church, VA

<i>GRD</i>	<i>PARA</i>	<i>LINE</i>	<i>SEW</i>	<i>POSITION</i>	<i>AGENCY</i>	<i>CITY</i>
MAJ	09	06	02	Trial Attorney	USA Legal Svcs Agency	Falls Church, VA
MAJ	09	06	03	Trial Attorney	USA Legal Svcs Agency	Falls Church, VA
LTC	12	09	01	Judge Advocate	USA Legal Svcs Agency	Falls Church, VA
MAJ	12	10	01	Judge Advocate	USA Legal Svcs Agency	Falls Church, VA
MAJ	12	10	02	Judge Advocate	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	10	01	Sp Project Off	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	12	01	Sr Def Counsel	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	12	02	Sr Def Counsel	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	12	03	Sr Def Counsel	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	12	04	Sr Def Counsel	USA Legal Svcs Agency	Falls Church, VA
MAJ	13	12	05	Sr Def Counsel	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	02	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	03	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	04	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	05	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	06	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	07	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	08	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	09	Trial DC	USA Legal Svcs Agency	Falls Church, VA
CPT	13	18	10	Trial DC	USA Legal Svcs Agency	Falls Church, VA
LTC	05A	02	01	Deputy Chief	USA Clms Service	Ft Meade, MD
MAJ	05A	04	02	Clms JA	USA Clms Service	Ft Meade, MD
LTC	05	01A	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
LTC	05	02A	01	Plans Officer	Ofc Judge Advocate General	Washington, DC
MAJ	05	03A	03	Staff Officer	Ofc Judge Advocate General	Washington, DC
LTC	09	01A	01	Dep Ch DA Adv	Ofc Judge Advocate General	Washington, DC
CPT	10A	02A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC
CPT	10A	02A	02	Judge Advocate	Ofc Judge Advocate General	Washington, DC
LTC	10B	01A	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
LTC	10C	01A	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
MAJ	10C	02A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC.
MAJ	10C	02B	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC.
MAJ	10C	02B	02	Judge Advocate	Ofc Judge Advocate General	Washington, DC
MAJ	10C	02B	03	Judge Advocate	Ofc Judge Advocate General	Washington, DC
CPT	10C	03A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC

GRD	PARA	LINE	SEQ	POSITION	AGENCY	CITY
CPT	10C	03A	02	Judge Advocate	Ofc Judge Advocate General	Washington, DC
MAJ	10D	01A	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
CPT	10E	02A	02	Judge Advocate	Ofc Judge Advocate General	Washington, DC
LTC	10F	01	01	Chief	Ofc Judge Advocate General	Washington, DC
MAJ	10F	02	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
LTC	10G	01	01	Chief	Ofc Judge Advocate General	Washington, DC
LTC	12A	01A	02	Judge Advocate	Ofc Judge Advocate General	Washington, DC
MAJ	12A	02A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC
LTC	13	01A	01	Asst Chief	Ofc Judge Advocate General	Washington, DC
MAJ	13B	02A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC
LTC	13C	01A	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC
LTC	14B	01	01	Chief	Ofc Judge Advocate General	Washington, DC
LTC	14D	02	01	Judge Advocate	Ofc Judge Advocate General	Washington, DC
CPT	04	04	02	Asst SJA	MTMC Eastern Area	Bayonne, NJ
CPT	07E	02	01	Clms O Tfc B	Gulf Outport	New Orleans, LA
MAJ	20I	02	01	Leg Advisor	USA Missile Cmd	Redstone Ars, AL
CPT	20I	03	01	Leg Advisor	USA Missile Cmd	Redstone Ars, AL
CPT	20I	03	02	Leg Advisor	USA Missile Cmd	Redstone Ars, AL
CPT	20I	03	03	Leg Advisor	USA Missile Cmd	Redstone Ars, AL
MAJ	75	02	01	Cmd JA	USA Depot	Corpus Christi, TX
MAJ	07	02	01	Judge Advocate	USARSCH Technology Sch	Moffet Field, CA
MAJ	26D	01A	01	Legal Advisor	USA TSARCOM	St. Louis, MO
LTC	02	01A	01	Asst JA	HQ Ft Haachuca	Ft. Huachuca, AZ
MAJ	02	01B	01	Asst JA	HQ Ft Haachuca	Ft. Huachuca, AZ
MAJ	02	01B	02	Asst JA	HQ Ft Haachuca	Ft. Huachuca, AZ
MAJ	02	01B	03	Asst JA	HQ Ft Huachuca	Ft. Huachuca, AZ

GRD	PARA	LINE	SEQ	POSITION	AGENCY	CITY
MAJ	02	01B	04	Asst JA	HQ Ft. Huachuca	Ft. Huachuca, AZ
MAJ	02	01B	05	Asst JA	HQ Ft Huachuca	Ft. Huachuca, AZ
CPT	08C	05	02	Trial Counsel	172d Inf Bde	Ft. Richardson, AK
CPT	57	03	02	Asst SJA	172d Inf Bde	Ft. Richardson, AK
CPT	03B	03	01	Trial Counsel	USA Garrison	Ft. Devens, MA
LTC	05A	01	01	Ch Mil Affairs	USA Garrison	Ft. Bragg, NC
MAJ	05A	04	01	Judge Advocate	USA Garrison	Ft. Bragg, NC
LTC	05B	01	01	Ch Mil Justice	USA Garrison	Ft. Bragg, NC
MAJ	05B	02	01	Defense Counsel	USA Garrison	Ft. Bragg, NC
CPT	05B	05	01	Asst Judge Advocate	USA Garrison	Ft. Bragg, NC
CPT	05B	07	01	Defense Counsel	USA Garrison	Ft. Bragg, NC
CPT	05B	08	01	Trial Counsel	USA Garrison	Ft. Bragg, NC
MAJ	05C	02	01	Judge Advocate	USA Garrison	Ft. Bragg, NC
MAJ	05D	01	01	Claims Off	USA Garrison	Ft. Bragg, NC
CPT	03A	02	04	Trial Counsel	101st ABN Division	Ft. Campbell, KY
CPT	03B	02	04	Defense Counsel	101st ABN Division	Ft. Campbell, KY
CPT	03B	02	05	Defense Counsel	101st ABN Division	Ft. Campbell, KY
CPT	03B	02	06	Defense Counsel	101st ABN Division	Ft. Campbell, KY
CPT	03C	03	01	Admin Law Attorney	101st ABN Division	Ft. Campbell, KY
CPT	03D	06	02	Asst SJA-DC	USA Garrison	Ft. Stewart, GA
CPT	03E	02	02	Asst SJA	USA Garrison	Ft. Stewart, GA
CPT	102	A01	01	Asst SJA	USA Garrison	Ft. Stewart, GA
CPT	102	B01	01	Asst SJA	USA Garrison	Ft. Stewart, GA
CPT	102	B02	01	Asst SJA-TC	USA Garrison	Ft. Stewart, GA
CPT	102	B03	01	Asst SJA-DC	USA Garrison	Ft. Stewart, GA
CPT	102	B03	02	Asst SJA-DC	USA Garrison	Ft. Stewart, GA
CPT	102	B03	03	Asst SJA-DC	USA Garrison	Ft. Stewart, GA
CPT	102	001	01	Asst SJA	USA Garrison	Ft. Stewart, GA
CPT	102	001	02	Asst SJA	USA Garrison	Ft. Stewart, GA
MAJ	102	01	01	Asst SJA	USA Garrison	Ft. Stewart, GA
CPT	52C	02	02	Asst SJA	USA Garrison	Ft. Stewart, GA
LTC	03	02	01	Deputy SJA	USA Garrison	Ft. Hood, TX
MAJ	03B	02	01	Trial Counsel	USA Garrison	Ft. Hood, TX
MAJ	03C	01	01	Defense Counsel	USA Garrison	Ft. Hood, TX
MAJ	03D	02	02	Asst Judge Advocate	USA Garrison	Ft. Hood, TX
MAJ	03E	01	01	Ch Legal Asst Of	USA Garrison	Ft. Hood, TX
CPT	03E	03	02	Legal Asst Off	USA Garrison	Ft. Hood, TX
MAJ	03F	01	01	Claims Off	USA Garrison	Ft. Hood, TX
CPT	03F	03	01	Asst Claims Off	USA Garrison	Ft. Hood, TX
CPT	04	06	01	Asst SJA	USA Garrison	Ft. S Houston, TX
MAJ	03B	01	01	Ch Def Counsel	5th Inf Div	Ft. Polk, LA
CPT	03B	03	01	Def Counsel	5th Inf Div	Ft. Polk, LA
CPT	03B	03	02	Def Counsel	5th Inf Div	Ft. Polk, LA

GRD	PARA	LINE	SEQ	POSITION	AGENCY	CITY
CPT	03B	03	03	Def Counsel	5th Inf Div.	Ft. Polk, LA
CPT	03B	03	04	Def Counsel	5th Inf Div	Ft. Polk, LA
CPT	03B	04	02	Trial Counsel	5th Inf Div	Ft. Polk, LA
MAJ	03C	01	01	Asst SJA	5th Inf Div	Ft. Polk, LA
MAJ	03C	01	02	Asst SJA	5th Inf Div	Ft. Polk, LA
MAJ	03C	02	01	Sr Def Counsel	USA Garrison	Ft. Sheridan, IL
MAJ	02A	02	01	Ch Def Counsel	USA Garrison	Ft. Riley, KS
MAJ	02B	03	01	Ch Legal Asst	USA Garrison	Ft. Riley, KS
CPT	02B	04	01	Asst JA	USA Garrison	Ft. Riley, KS
CPT	03B	07	01	Trial Counsel	USA Garrison	Ft. Carson, CO
CPT	03B	04	02	Judge Advocate	USA Garrison	Ft. Drum, NY
CPT	03C	02	01	Judge Advocate	USA Garrison	Ft. Drum, NY
CPT	03C	02	02	Judge Advocate	USA Garrison	Ft. Drum, NY
CPT	03C	02	03	Judge Advocate	USA Garrison	Ft. Drum, NY
CPT	03D	01	01	Judge Advocate	USA Garrison	Ft. Drum, NY
MAJ	03B	01	01	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	01	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	02	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	03	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	04	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	05	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	06	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	07	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	08	Judge Advocate	USA Garrison	Annville, PA
CPT	03B	03	09	Judge Advocate	USA Garrison	Annville, PA
MAJ	03C	01	01	Leg Aff Off	USA Garrison	Annville, PA
CPT	03B	03	02	Judge Advocate	USA Garrison	Sparta, WI
CPT	03B	03	04	Judge Advocate	USA Garrison	Sparta, WI
MAJ	66	02	01	Judge Advocate	USA Garrison	Sparta, WI
MAJ	03D	01	01	Ch Admin Law Br	USA Garrison	Ft. Lewis, WA
CPT	03E	02	01	Legal Asst Off	USA Garrison	Ft. Lewis, WA
CPT	03E	02	02	Legal Asst Off	USA Garrison	Ft. Lewis, WA
CPT	03E	03	01	Legal Asst Off	USA Garrison	Ft. Lewis, WA
CPT	21D	01	01	Judge Advocate	USA Garrison	Ft. Lewis, WA
MAJ	62D	04	01	Fiscal Law Off	USA Forces Command	Ft. McPherson, GA
CPT	03B	02	01	Judge Advocate	USA Garrison	Ft. Buchanan, PR
MAJ	03D	01	01	Ch Judge Advocate	USA Garrison	Ft. Buchanan, PR
CPT	03D	02	01	Judge Advocate	USA Garrison	Ft. Buchanan, PR
CPT	03E	02	01	Judge Advocate	USA Garrison	Ft. Buchanan, PR
CPT	40C	02A	01	Asst Trial Counsel	Instl Actv MDW	Ft LJ McNair, DC
CPT	03B	01B	01	Asst JA-Instr	USA Trans Cen	Ft. Eustis, VA
MAJ	05D	02	01	Mil Affairs Off	USA Armor Center	Ft. Knox, KY

GRD	PARA	LINE	SEQ	POSITION	AGENCY	CITY
CPT	31I	04	01	Instr	USA EN Center	Ft. Belvoir, VA
CPT	31I	04	02	Instr	USA EN Center	Ft. Belvoir, VA
CPT	31I	04	03	Instr	USA EN Center	Ft. Belvoir, VA
CPT	31I	04	04	Instr	USA EN Center	Ft. Belvoir, VA
CPT	31I	04	05	Instr	USA EN Center	Ft. Belvoir, VA
MAJ	05	03B	01	Asst SJA	QMC Ft Lee	Ft. Lee, VA
MAJ	04A	02A	01	Sr Def Counsel	USA Inf Cen	Ft. Benning, GA.
CPT	04A	04A	01	Trial Counsel	USA Inf Cen	Ft. Benning, GA
LTC	04B	01	01	Chief MALAC Br	USA Inf Cen	Ft. Benning, GA
CPT	04b	03	01	Admin Law Off	USA Inf Cen	Ft. Benning, GA
CPT	04B	04	01	Admin Law Off	USA Inf Center	Ft. Benning, GA
CPT	04B	07A	01	Claims Off	USA Inf Cen	Ft. Benning, GA
MAJ	14B	02	02	Asst SJA	USA Signal Cen	Ft. Gordon, GA
CPT	07A	03	02	Judge Advocate	AVN Center	Ft. Rucker, AL
CSPT	07A	04	01	Mil Judge	AVN Center	Ft. Rucker, AL
MAJ	38B	01	01	Admin Law Off	USA Garrison	Ft. Chaffee, AR
MAJ	38B	02	01	Admin Law Off	USA Garrison	Ft. Chaffee, AR
CPT	30B	02A	01	Defense	USA AD Cen	Ft. Bliss, TX
CPT	04	03A	01	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	02	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	03	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	04	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	05	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	06	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
CPT	04	03A	07	Asst SJA	USA Combine Arm Cen	Ft. Leavenworth, KS
MAJ	06	02	01	Dep SJA	USA Admin Center	Ft. B Harrison, IN
CPT	10D	06	01	Instr	USA Intel Cen Sch	Ft. Huachuca, AZ
CPT	10D	06	03	Instr	USA Intel Cen Sch	Ft. Huachuca, AZ
MAJ	12	02	02	Asst JA	ARNG TSA Cp Atterbury	Edinburg, IN

The SJA office at CINCPAC, Camp Smith, Hawaii, has announced an 0-6 JAGC mobilization designee vacancy. Applicant must be resident of Hawaii and be an 04, 05 or 06. Interested applicants should submit DA Form 2976 directly to TJAGSA, Reserve Affairs Department, Colonel Carew.

JAGC Personnel Section

PP&TO, OTJAG

1. Reassignments

COLONEL

DOWNES, Michael
 GARNER, James
 LaPLANT, Earl
 McKAY, William
 MURRAY, Robert
 NOBLE, James
 O'BRIEN, Francis
 O'ROARK, Dulaney
 RABY, Kenneth
 RUSSELL, George
 RYKER, George
 SPENCER, Bryan
 STEWART, Ronald
 TRAIL, Sebert

LIEUTENANT COLONEL

COHEN, Robert
 CUNDICK, Ronald
 CUTHBERT, Thomas
 DAVIS, Ronald
 ECKHARDT, William
 EGGARS, Howard
 FELDER, Ned
 FORYS, Conrad
 GILLIGAN, Francis
 GIUNTINI, Charles
 GLEASON, James
 HAESSIG, Arthur
 HEMMER, William
 KANE, Peter
 KENNETT, Michael
 MALINOSKI, Joseph
 McNEIL, Robert
 MURPHY, James
 MURRAY, Charles
 NICHOLS, John
 RANKIN, Thomas
 SCANLON, Jerome
 TOOMEPUU, Tonu
 WATSON, Kermith

FROM

DAIG, Wash, DC
 USALSA, Europe
 USALSA, Eurode
 Ft Shafter, HI
 Stu, AWC, PA
 USALSA, Ft Ord, CA
 Stu, ICAF, Wash, DC
 Stu, ICAF, Wash, DC
 Stu, AWC, PA
 Ft Hood, TX
 Ft Lewis, WA
 Italy
 USALSA, Europe
 Ft Leonard Wood, MO

Aberdeen Proving Ground, MD
 OTJAG, Wash, DC
 OTJAG, Wash, DC
 Ft Hood, TX
 USAREUR
 OCLL, Wash, DC
 USALSA, Europe
 Bayonne, NJ
 USALSA, Europe
 OTJAG, Wash, DC
 USAREUR
 OTJAG, Wash, DC
 USAREUR
 Ft Carson, CO
 USAREUR
 Ft Devens, MA
 Ft Jackson, SC
 OTJAG, Wash, DC
 Korea
 Ft Belvoir, VA
 Walter Reed, AMC, Wash, DC
 S&F, USMA, NY
 Ft Monmouth, NJ
 Ft Meade, MD

TO

Ft Bragg, NC
 USALSA, Wash, DC
 USALSA, Ft. Hood, TX
 USALSA, Wash, DC
 S&F, TJAGSA
 USALSA, Europe
 DAIG, Wash, DC
 Ft Hood, TX
 OTJAG, Wash, DC
 Ft Shafter, HI
 USALSA, Ft Ord, CA
 Ft Leavenworth, KS
 USALSA, Ft Knox, KY
 USALSA, Wash, DC

USALSA, Wash, DC
 Stu, ICAF, Wash, DC
 Stu, AWC, PA
 USALSA, Europe
 Stu, AWC, PA
 Korea
 Ft Meade, MD
 Ft Monmouth, NJ
 Ft Campbell, KY
 USAREUR
 OTJAG
 USALSA, Wash, DC
 USALSA, Ft Bliss
 Ft Leonard Wood, MO
 USALSA, Europe
 USALSA, Europe
 Ft Monroe, VA
 Panama
 Ft Meade, MD
 AAFES, Europe
 Ft Detrick, MD
 Ft Sam Houston, TX
 Ft Devens, MA
 Ft Gordon, GA

MAJOR

AILEO, William	OTJAG, Wash, DC	Stu, CGSC, KS
ANDREWS, Douglas	USALSA, Europe	OTJAG, Wash, DC
BARBEE, Jon	TDS, Ft Sam Houston, TX	Stu, TJAGSA, VA
BEST, Sharon	OTJAG, Wash, DC	Stu, TJAGSA, VA
BOREK, Theodore	USALSA, Wash, DC	Stu, CGSC, KS
BROWN, Patrick	USALSA, Europe	Ft Lewis, WA
CARON, William	USAREUR	USALSA, Wash, DC
CASEY, William	Ft Lewis, WA	S&F, USMA, NY
CHIMINELLO, Philip	USAREUR	USALSA, Wash, DC
CORNELISON, Joseph	USAREUR	Stu, TJAGSA, VA
CRUDEN, John	OTJAG, Wash, DC	Stu, CGSC, KS
DELINE, Donald	Ft Campbell, KY	Stu, CGSC, KS
DICHARRY, Michael	Ft Lee, VA	Stu, TJAGSA, VA
ECKER, Frank	CID CMD, Wash, DC	Stu, TJAGSA, VA
EDLEFSEN, Gregory	Ft Campbell, KY	Korea
EDWARDS, John	Stu, CGSC, KS	USALSA, Wash, DC
EISENBERG, Stephen	S&F, TJAGSA, VA	USALSA, Wash, DC
FAULKNER, Sanford	Stu, TJAGSA, VA	S&F, TJAGSA, VA
FINKLEA, Alfred	Ft Bragg, NC	OTJAG, Wash, DC
FINNEGAN, Richard	Ft Sam Houston, TX	Walter Reed, AMC, Wash, DC
FOWLER, Joseph	S&F, TJAGSA, VA	Korea
FRYER, Eugene	S&F, TJAGSA, VA	Korea
GRAY, Kenneth	Stu, CGSC, KS	Ft Hood, TX
GREENE, William	Stu, CGSC, KS	S&F, TJAGSA, VA
GREENHAUGH, John	Stu, TJAGSA, VA	USAREUR
HALL, Warren	Stu, TJAGSA, VA	USALSA, Europe
HANSEN, Donald	USALSA, Ft Meade, MD	USALSA, Europe
HARPER, Stephen	USALSA, Europe	Ft McClellan, AL
HAVENS, Edward	TDS, Ft. Lewis, WA	Ft Bliss, TX
HIGLEY, John	S&F, USMA, NY	St. Louis, MO
HILTBRAND, Lance	Ft McPherson, GA	Ft Shafter, HI
HOLLOMAN, John	OTJAG, Wash, DC	Ft Carson, CO
JOHNSON, Linus	USALSA, Wash, DC	Stu, TJAGSA, VA
KEEFE, Thaddeus	Ft Sam Houston, TX	Stu, TJAGSA, VA
KESLER, Dickson	Ft Monroe, VA	S&F, TJAGSA, VA,
		w/d Ft Ben Harrison
KUKLOK, James	Korea	Ft Lewis, WA
KULLMAN, Thomas	Stu, CGSC, KS	USAREUR
LANCASTER, Steven	Stu, CGSC, KS	USAREUR
LAUBE, Garey	USALSA, Ft Stewart	USAREUR
LINEBARGER, James	USAREUR	Ft Jackson, SC
LOH, KOM	Ft Dix, NJ	Stu, TJAGSA, VA
MACKEY, Richard	OTJAG, Wash, DC	Stu, CGSC, KS
McCONNELL, Robert	TDS, Ft Carson, CO	Ft Monmouth, NJ
McLAURIN, John	USALSA, Europe	Ft Hood, TX
MILLARD, Arthur	Ft McPherson, GA	Korea
MURPHY, James	Stu, TJAGSA, VA	Ft Rucker, AL
NORSWORTHY, Levator	Korea	USALSA, Wash, DC

O'BRIEN, Kevin
 OSGARD, James
 PLAUT, Joyce
 PORTER, Steven
 RANEY, Terry
 RIVEST, Joseph
 ROBBLEE, Paul
 ROBERTS, Raymond
 ROBERSON, Gary
 RUSSELL, Richard
 SCHEMPF, Bryan
 SCHLUETER, David
 SCOTT, David
 SEGAAR, Ruurd
 SMITH, Michael
 SMITH, Paul
 SQUIRES, Malcolm
 SWIHART, John
 TYRRELL, John
 WAGNER, Anthony
 WALCZAK, Alexander
 WILLIAMS, Robert B
 WILLIAMS, Robert P
 ZUCKER, David

CAPTAIN

ACKLEY, Robert
 ADAMS, William
 BAKER, Arthur
 BOSCO, Don
 BOWE, Thomas
 BRESSLER, Stephen
 BROOKS, Waldo
 BROWN, David
 BROWN, Larry
 BUCKEY, Kerry
 BUCHHOLZ, Ronald
 BUSCH, Richard
 BYCZEK, Thomas
 BYRD, Wilbert
 CALL, Kevin
 CARLSON, Louis
 CASKEY, Ralph
 CHAPIN, Donna
 CHAPMAN, Michael
 CHURCH, Robert
 COFFIN, Charles
 COHEN, Richard
 COLEMAN, Brenda

Stu, TJAGSA, VA
 Stu, TJAGSA, VA
 Korea
 Ft Detrick, MD
 Ft Rucker, AL
 USALSA, Europe
 Ft Bragg, NC
 Ft Monmouth, NJ
 Stu, TJAGSA, VA
 USALSA, Europe
 S&F, TJAGSA, VA
 S&F, TJAGSA, VA
 Dugway PG, UT
 Redstone Arsenal, AL
 Ft Bragg, NC
 USALSA, Wash, DC
 Stu, TJAGSA, VA
 Stu, TJAGSA, VA
 Ft Meade, MD
 Stu, CGSC, KS
 USAREUR
 USALSA, Wash, DC
 OTJAG, Wash, DC
 USAREUR

Ft Leavenworth, KS
 Ft Leonardwood, MO
 Ft Bliss, TX
 OTJAG, Wash, DC
 Ft Shafter, HI
 Ft Sam Houston, TX
 S&F, USMA, NY
 Ft Detrick, MD
 Ft Campbell, KY
 USAREUR
 Stu, Madison, WI
 Ft Shafter, HI
 Korea
 TDS, Ft. Hood, TX
 USALSA, Europe
 USAREUR
 ASBCA, Wash, DC
 TDS, Ft Ord, CA
 USALSA, Wash, DC
 Ft Eustis, VA
 HHC, NATO/SHAPE
 Ft Huachuca, AZ
 Ft Monroe, VA

USALSA, Wash, DC
 Ft Shafter, HI
 USALSA, Wash, DC
 Korea
 Ft McPherson, GA
 USAREUR
 Ft Knox, KY
 TDS, Ft Devens, MA
 Ft Ben Harrison, IN
 Ft Hood, TX
 MILPERCEN, Wash, DC
 USALSA, Europe
 Stu, TJAGSA, VA
 USALSA, Wash, DC
 Ft Bragg, NC
 Stu, TJAGSA, VA
 Ft Campbell, KY
 TDS Ft Sam Houston, TX
 Stu, TJAGSA, VA
 USAREUR
 Ft Stewart, GA
 OTJAG, Wash, DC
 Stu, CGSC, KS
 Stu, AFSC, VA

Ft Belvoir, VA
 Stu, TJAGSA, VA
 TDS, Ft Carson, CO
 ASBCA, Wash, DC
 Stu, TJAGSA, VA
 Stu, TJAGSA, VA
 Stu, TJAGSA, VA
 USALSA, Wash, DC
 Stu, TJAGSA, VA
 Stu, TJAGSA, VA
 Ft Hood, TX
 Ft Meade, MD
 Ft Sam Houston, TX
 Stu, TJAGSA, VA
 EMB, Paris
 Stu, TJAGSA, VA
 Kwajalein Missile Range
 Panama
 Stu, TJAGSA, VA
 Ft Monroe, VA
 Stu, TJAGSA, VA
 USALSA, Wash, DC
 Schofield Barracks, HI

CORK, Timothy	Schofield Barracks, HI	Stu, TJAGSA, VA
DOOLEY, Stephen	TDS, Ft Devens, MA	Stu, TJAGSA, VA
DUFFY, Thomas	Stu, TJAGSA, VA	Ft McPherson, GA
ELKINS, Estel	TDS, Panama	Stu, TJAGSA, VA
ESTEY, Russell	Stu, TJAGSA, VA	Ft Sill, OK
FAGGIOLI, Vince	USAREUR	Stu, TJAGSA, VA
FELMET, Bryan	TDS, Ft Gordon, GA	Ft Monmouth, NJ
FIORE, Uldric	Ft Monmouth, NJ	Korea
FISCHER, William	Stu, TJAGSA, VA	TDS, Ft Stewart, GA
FITZPATRICK, John	Stu, Indianapolis, IN	Ft Carson, CO
FLACHS, Patrick	TDS, Schofield Barracks, HI	Stu, TJAGSA, VA
FLETCHER, Douglas	Korea	Stu, TJAGSA, VA
FROTHINGHAM, Edward	Stu, TJAGSA, VA	Arlington Hall, VA
GALLIGAN, John	USALSA, Wash, DC	Stu, TJAGSA, VA
GAYDOS, Lawrence	TDS, Europe	Stu, TJAGSA, VA
GRUCHALA, Harry	Stu, TJAGSA, VA	USAREUR
GUILFORD, Jeffrey	Stu, TJAGSA, VA	USAREUR
HAHN, Alan	USAREUR	Stu, TJAGSA, VA
HARDERS, Robert	USALSA, Wash, DC	Korea
HEFFELFINGER, Harlan	Stu, TJAGSA, VA	S&F, TJAGSA, VA
HOFFMAN, Michael	Korea	Ft Meade, MD
HOLLAND, Robert	Stu, TJAGSA, VA	OTJAG, Wash, DC
HORTON, Larry	USAREUR	Stu, TJAGSA, VA
HUBBARD, George	USAREUR	Stu, TJAGSA, VA
ISAACSON, Scott	Stu, TJAGSA, VA	TDS, Ft Lewis, WA
JENNINGS, James	Stu, TJAGSA, VA	TDS, Ft Hood, TX
JEPPERSON, Jon	Ft Huachuca, AZ	Stu, TJAGSA, VA
JONES, John	USAREUR	Stu, TJAGSA, VA
JONES, William	Ft Campbell, KY	Stu, TJAGSA, VA
KELLER, Thomas	Stu, TJAGSA, VA	OTJAG, Wash, DC
KINDER, Larry	Fort Leonard Wood, MO	Stu, TJAGSA, VA
KING, John	Ft Lewis, WA	Stu, TJAGSA, VA
KING, Ward	TDS, Ft Bragg, NC	Stu, TJAGSA, VA
KNIGHT, Scott	TDS, Europe	Stu, TJAGSA, VA
KRIPNER, George	Korea	Presidio, CA
KRUMP, John	USALSA, Europe	Ft Monmouth, NJ
LEDERER, Calvin	OTJAG, Wash, DC	Stu, TJAGSA, VA
LITTLEWOOD, Theodore	Stu, TJAGSA, VA	Schofield Barracks, HI
LOWER, Philip	Ft Meade, MD	Stu, TJAGSA, VA
MACINNES, Douglas	USAREUR	USALSA, Wash, DC
MACKO, Andrew	Korea	Schofield Barracks, HI
MARVIN, Dale	Stu, TJAGSA, VA	USAREUR
MARVIN, Joanne	Ft Meade, MD	USAREUR
McDonald, Peter	Kwajalein Missile Range	Stu, TJAGSA, VA
McELLIGOTT, Michael	TDS, Korea	Stu, TJAGSA, VA
McKAY, Bernard	Stu, TJAGSA, VA	St Louis, MO
McQUARRIE, Claude	Korea	Ft Lewis, WA
McQUARRIE, Patricia	Korea	Ft Lewis, WA
McQUEEN, Jay	Korea	Ft Knox, KY

MILLER, Paula	TDS, Europe	TDS, Ft Dix, NJ
MILLER, Joel	Stu, TJAGSA, VA	USAREUR
MORGAN, Roderick	TDS, Ft McNair	Stu, TJAGSA, VA
MURRELL, James	Stu, TJAGSA, VA	S&F, TJAGSA, VA
NEALEY, Vincent	Stu, TJAGSA, VA	Korea
NYPAVER, Stephen	Ft Carson, CO	Stu, TJAGSA, VA
ODOWD, John	Stu, TJAGSA, VA	S&F, TJAGSA, VA
PALMER, Randall	USALSA, Wash, DC	Stu, TJAGSA, VA
PARSONS, Gregory	Stu, TJAGSA, VA	Ft Meade, MD
PAVLICK, John	Ft Riley, KS	Stu, TJAGSA, VA
PELUSO, Ernest	Stu, TJAGSA, VA	TDS, Ft Bragg, NC
PHARR, John	TDS, Korea	Ft Lewis, WA
PORTLEY, Maurice	TDS, Ft Dix, NJ	TDS, Ft Huachuca, AZ
RAYMOND, William	Presidio, CA	Korea
REED, Steven	TDS, Ft Campbell	Ft Shafter, HI
REYNA, Louie	Ft Carson, CO	Stu, TJAGSA, VA
RINI, Cheryl	AFIP, Wash, DC	Fitzsimmons AMC, CO
ROGERS, Donald	TDS, Ft Stewart, GA	Stu, TJAGSA, VA
ROTHLEIN, Julius	Stu, TJAGSA, VA	S&F, TJAGSA, VA
RUCKER, John	Korea	Stu, TJAGSA, VA
RUSSELL, James	Schofield Barracks, HI	Stu, TJAGSA, VA
SCHNEIDER, Michael	Stu, TJAGSA, VA	S&F, TJAGSA, VA
SCHON, Alan	USALSA, Wash, DC	OCLL, Wash, DC
SEAMAN, Richard	Stu, TJAGSA, VA	OTJAG, Wash, DC
SELBY, Edwin	Korea	Stu, TJAGSA, VA
SMITH, Gary	USAREUR	Stu, TJAGSA, VA
SMITH, Gregory	Fitzsimmons AMC, CO	Stu, TJAGSA, VA
SMITH, Stephen	Stu, TJAGSA, VA	S&F, TJAGSA, VA
STEINBECK, Mark	Stu, TJAGSA, VA	S&F, TJAGSA, VA
SULZYNSKY, Wolokymyr	Stu, TJAGSA, VA	OTJAG, Wash, DC
THOMAS, John	Ft Sheridan, IL	Stu, TJAGSA, VA
THOMASON, Terry	Ft Shafter, HI	Stu, TJAGSA, VA
THOMSON, Paul	USALSA, Wash, DC	Stu, TJAGSA, VA
TIDWELL, Gary	TDS, Ft. Jackson,	S&F, USMA, NY
TOTTEN, Richard	Korea	Stu, TJAGSA, VA
URECH, Everett	Stu, TJAGSA, VA	USAREUR
VAN SEVENTER, Susan	Ft Bragg, NC	S&F, UCMA, NY
WAGNER, David	Stu, TJAGSA, VA	S&F, TJAGSA, VA
WALLIS, William	Ft Lewis, WA	Stu, TJAGSA, VA
WARREN, Michael	Ft Jackson, SC	Stu, TJAGSA, VA
WEISE, James	USALSA, Wash, DC	Stu, TJAGSA, VA
WHEELER, Courtney	USALSA, Wash, DC	Stu, TJAGSA, VA
WINTER, Marion	Ft Meade, MD	Stu, TJAGSA, VA
WITTMAN, Craig	Stu, Indianapolis, IN	Ft Campbell, KY\$
WITTMAYER, Chris	Stu, TJAGSA, VA	OTJAG, Wash, DC
WOLSKI, Chris	Stu, TJAGSA, VA	Ft Jackson, SC
ZUCKER, Karin	USAREUR	AFIP, Wash, DC

2. Promotions**LIEUTENANT COLONEL**

BAILEY, James E. VERNON, Albert E.

MAJOR

CURTIS, Robert W.	MARCHAND, Michael	READE, Robert
FINCH, William L.	MILLER, Joel D.	THOMSON, Paul
LAUSE, Glen D.	NACCARATO, Timothy	ZUCKER, Karin

CW3

TOPP, John J.

3. Retirements**COLONEL**

CULPEPPER, Vernon M. **CW3**
VELEZ, Manuel

CLE News**1. ATLA CLE Presentation**

The Association of Trial Lawyers of America (ATLA) will present criminal law seminars at Camp Lejeune, NC (22-24 April 81) and Fort Sam Houston, TX (24-26 June 81). The program at both seminar locations will focus on various aspects of trial advocacy and the latest appellate decisions. Active military and civilian trial practitioners will analyze the roles of the prosecutor, defense counsel, and the trial judge. This year for the first time Army judge advocates will take part in presenting the Fort Sam Houston seminar. Both TJAG and Chief Judge Everett are expected to be at Fort Sam Houston. Other Army judge advocates will participate in the program. For more information contact: ATLA, P.O. Box 3717, Washington, DC 20007, Tel: (202) 965-3500.

2. Resident Course Quotas

Attendance at resident CLE courses conducted at The Judge Advocate General's School is restricted to those who have been allocated quotas. Quota allocations are obtained from local training offices which receive them from the MACOM's. Reservists obtain quotas through their unit or RCPAC if they are non-unit reservists. Army National Guard

personnel request quotas through their units. The Judge Advocate General's School deals directly with MACOM and other major agency training offices. Specific questions as to the operation of the quota system may be addressed to Mrs. Kathryn R. Head, Nonresident Instruction Branch, The Judge Advocate General's School, Army, Charlottesville, Virginia 22901 (Telephone: AUTOVON 274-7110, extension 293-6286; commercial phone: (804) 293-6286; FTS: 938-1304).

3. TJAGSA CLE Courses

May 4-8: 60th Senior Officer Legal Orientation (Army War College) (5F-F1).

May 4-8: 3d Military Lawyer's Assistant (512-71D20).

May 11-15: 1st Administrative Law for Military Installations (TBD).

May 18-June 5: 22nd Military Judge (5F-F33).

June 1-12: 88th Contract Attorneys (5F-F10).

June 8-12: 61st Senior Officer Legal Orientation (5F-F1).

June 15-26: JAGSO Reserve Training.

July 6-17: JAGC RC CGSC.

July 6-17: JAGC BOAC (Phase IV).

July 20-31: 89th Contract Attorneys (5F-F10).

July 20-August 7: 23d Military Judge Course (5F-F33).

July 26-October 2: 96th Basic Course (5-27-C20).

August 10-14: 62nd Senior Officer Legal Orientation (5F-F1).

August 17-May 22, 1982: 30th Graduate Course (5-27-C22).

August 24-26: 5th Criminal Law New Developments (5F-F35).

September 8-11: 13th Fiscal Law (5F-F12).

September 21-25: 17th Law of War Workshop (5F-F42).

September 28-October 2: 63d Senior Officer Legal Orientation (5F-F1).

4. Civilian Sponsored CLE Courses

July

1-3: NCLE, Estate Planning Institute, Vail, CO.

5-31: NJC, General Jurisdiction — General, Reno, NV.

5-17: NJC, The Judge and the Trial — Graduate.

5-10: NJC, Court Management—Managing Delay—Specialty, Reno, NV.

6-10: AAJE, Appellate Judges Writing Program, Durango, CO.

6-10: ALIABA, Environmental Litigation, Boulder, CO.

6-10: ALIABA, Labor and Employment Law, Boulder, CO.

6-10: AAJE, Trial Judges Writing Program, Durango, CO.

8-10: PLI, Federal Estate Tax Return, Chicago, IL.

11-19: PLI, Trial Advocacy, New York City, NY.

12-17: NJC, Alcohol and Drugs — Specialty, Reno, NV.

12-31: NITA, Tenth Annual Intense National Session on Trial Advocacy, Boulder, CO.

13-17: SBT, Advanced Civil Trial, Houston, TX.

13-17:FBA, Government Contracts, Denver, CO.

15-16: AICLE, Recent Legal Developments, Mobile, AL.

16-17: PLI, Antitrust Institute, Chicago, IL.

16-17: PLI, Managing the Medium Sized Law Firm, Los Angeles, CA.

16-17: PLI, Managing the Small Law Firm, Los Angeles, CA.

16-17: PLI, Managing the Large Law Firm, Los Angeles, CA.

17-18: KCLE, Estate Planning, Lexington, KY.

19-31: NJC, New Trends — Graduate, Reno, NV.

19-24: NJC, Criminal Law — Graduate, Reno, NV.

20-21: PLI, Legal Assistant Workshops, Los Angeles, CA.

20-24: SBT, Advanced Civil Trial, Dallas, TX.

20-24: AAJE, Jurisprudence, The Humanities and Judging, Lexington, VA.

23-24: PLI, Basic Tax Planning, New York City, NY.

26-31: NJC, Evidence — Graduate, Reno, NV.

26-8/3: MCLNEL, Trial Advocacy, Springfield, MA.

27-8/7: AAJE, Trial Judges Academy, Charlottesville, VA.

27-31: AAJE, Citizen Judges Academy, Charlottesville, VA.

29-31: PLI, Federal Estate Tax Return, San Francisco, CA.

30-31: PLI, Environmental Law & Practice, San Francisco, CA.

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

AAA: American Arbitration Association, 140 West 51st Street, New York, NY 10020.

AAJE: American Academy of Judicial Education, Suite 437, Woodward Building, 1426 H Street NW, Washington, DC 20005. Phone: (202) 783-5151.

ABA: American Bar Association, 1155 E. 60th Street, Chicago, IL 60637.

AICLE: Alabama Institute for Continuing Legal Education, Box CL, University, AL 36486.

ALIABA: American Law Institute-American Bar Association Committee on Continuing Professional Education, 4025 Chestnut Street, Philadelphia, PA 19104.

ARKCLE: Arkansas Institute for Continuing Legal Education, 400 West Markham, Little Rock, AR 72201.

ATLA: The Association of Trial Lawyers of America, 20 Garden Street, Cambridge, MA 02138.

BCGI: Brandon Consulting Group, Inc., 1775 Broadway, New York, NY 10019.

BNA: The Bureau of National Affairs Inc., 1231 25th Street, N.W., Washington, DC 20037.

CALM: Center for Advanced Legal Management, 1767 Morris Avenue, Union, NJ 07083.

CCEB: Continuing Education of the Bar, University of California Extension, 2150 Shattuck Avenue, Berkeley, CA 94704.

CCH: Commerce Clearing House, Inc., 4025 W. Peterson Avenue, Chicago, IL 60646.

CCLE: Continuing Legal Education in Colorado, Inc., University of Denver Law Center, 200 W. 14th Avenue, Denver, CO 80204.

CLEW: Continuing Legal Education for Wisconsin, 905 University Avenue, Suite 309, Madison, WI 53706.

DLS: Delaware Law School, Widener College, P.O. Box 7474, Concord Pike, Wilmington, DE 19803.

FBA: Federal Bar Association, 1815 H Street, N.W., Washington, DC 20006. Phone: (202) 638-0252.

FJC: The Federal Judicial Center, Dolly Madison House, 1520 H Street, N.W., Washington, DC 20003.

FLB: The Florida Bar, Tallahassee, FL 32304.

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

GCP: Government Contracts Programs, George Washington University Law Center, Washington, DC.

GICLE: The Institute of Continuing Legal Education in Georgia, University of Georgia School of Law, Athens, GA 30602.

ICLEF: Indiana Continuing Legal Education Forum, Suite 202, 230 East Ohio Street, Indianapolis, IN 46204.

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

IPT: Institute for Paralegal Training, 235 South 17th Street, Philadelphia, PA 19103.

KCLE: University of Kentucky, College of Law, Office of Continuing Legal Education, Lexington, KY 40506.

LSBA: Louisiana State Bar Association, 225

- Baronne Street, Suite 210, New Orleans, LA 70112.
- MCLNEL:** Massachusetts Continuing Legal Education—New England Law Institute, Inc., 133 Federal Street, Boston, MA 02108, and 1387 Main Street, Springfield, MA 01103.
- MOB:** The Missouri Bar Center, 326 Monroe, P.O. Box 119, Jefferson City, MO 65101. 65101.
- NCAJ:** National Center for Administration of Justice, Consortium of Universities of the Washington Metropolitan Area, 1776 Massachusetts Ave., NW, Washington, DC 20036. Phone: (202) 466-3920.
- NCATL:** North Carolina Academy of Trial Lawyers, Education Foundation Inc., P.O. Box 767aleigh, NC. 27602.
- NCCDL:** National College of Criminal Defense Lawyers and Public Defenders, Bates College of Law, University of Houston, Houston, TX 77004.
- NCDA:** National College of District Attorneys, College of Law, University of Houston, Houston, TX 77004. Phone: (713) 749-1571.
- NCJFCJ:** National Council of Juvenile and Family Court Judges, University of Nevada, P.O. Box 8978, Reno, NV 89507.
- NCLE:** Nebraska Continuing Legal Education, Inc., 1019 Sharpe Building, Lincoln, NB 68508.
- NDAA:** National District Attorneys Association, 666 North Lake Shore Drive, Suite 1432, Chicago, IL 60611.
- NITA:** National Institute for Trial Advocacy, University of Minnesota Law School, Minneapolis, MN 55455.
- NJC:** National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89507.
- NPI:** National Practice Institute Continuing Legal Education, 861 West Butler Square, 100 North 6th Street, Minneapolis, MN 55403. Phone: 1-800-328-4444 (In MN call (612) 338-1977).
- NPLTC:** National Public Law Training Center, 2000 P. Street, N.W., Suite 600, Washington, D.C. 20036.
- NWU:** Northwestern University School of Law, 357 East Chicago Avenue, Chicago, IL 60611.
- NYSBA:** New York State Bar Association, One Elk Street, Albany, NY 12207.
- NYSTLA:** New York State Trial Lawyers Associations, Inc., 132 Nassau Street, New York, NY 12207.
- NYULT:** New York University, School of Continuing Education, Continuing Education in Law and Taxation, 11 West 42nd Street, New York, NY 10036.
- OLCI:** Ohio Legal Center Institute, 33 West 11th Avenue, Columbus, OH 43201.
- PATLA:** Pennsylvania Trial Lawyers Association, 1405 Locust Street, Philadelphia, PA 19102.
- PBI:** Pennsylvania Bar Institute, P.O. Box 1027, 104 South Street, Harrisburg, PA 17108.
- PLI:** Practising Law Institute, 810 Seventh Avenue, New York, NY 10019. Phone: (212) 765-5700.
- SBM:** State Bar of Montana, 2030 Eleventh Avenue, P.O. Box 4669, Helena, MT 59601.
- SBT:** State Bar of Texas, Professional Development Program, P.O. Box 12487, Austin, TX 78711.
- SCB:** South Carolina Bar, Continuing Legal Education, P.O. Box 11039, Columbia, SC 29211.
- SLF:** The Southwestern Legal Foundation, P.O. Box 707, Richardson, TX 75080.
- SNFRAN:** University of San Francisco, School of Law, Fulton at Parker Avenues, San Francisco, CA 94117.
- TBI:** The Bankruptcy Institute, P.O. Box 1601,

Grand Central Station, New York, NY 10017. Education, 425 East First South, Salt Lake City, UT 84111.

UDCL: University of Denver College of Law, 200 West 14th Avenue, Denver, CO 80204. VACLE: Joint Committee of Continuing Legal Education of the Virginia State Bar and The Virginia Bar Association, School of Law, University of Virginia, Charlottesville, VA 22901.

UHCL: University of Houston, College of Law, Central Campus, Houston, TX 77004. VUSL: Villanova University, School of Law, Villanova, PA 19085.

UMLC: University of Miami Law Center, P.O. Box 248087, Coral Gables, FL 33124.

UTCLE: Utah State Bar, Continuing Legal

Current Materials of Interest

1. Regulations

NUMBER	TITLE	CHANGE	DATE
AR 27-4	Judge Advocate General Service Organization Organization, Training, Employment and Administration		1 Jan 81
AR 135-5	Army Reserve Forces Policy Committee		1 Feb 81
AR 135-91	Service Obligations, Methods of Fulfillment, Participation Requirements, and Enforcement Procedures	7	15 Jan 81
ARC 135-133	Army National Guard and Army Reserve, Ready Reserve Screening, Qualification Records System, and Change of Address Reports	901	18 Feb 81
AR 135-175	Separation of Officers	902	18 Feb 81
AR 140-158	Army Reserve, Enlisted Personnel Classification, Promotion & Reduction	903	17 Feb 81
AR 190-30	Military Police Investigations	901	20 Feb 81
AR 210-65	Alcoholic Beverages	901	1 Dec 78
AR 230-1	The Nonappropriated Fund System	8	1 Mar 81
AR 230-60	The Management and Administration of The US Army Club System		1 Mar 81
AR 230-65	Nonappropriated Funds-Accounting and Budgeting Procedures	902	10 June 77
AR 550-51	Authority and Responsibility for Negotiating, Concluding, Forwarding, and Depositing of International Agreements.		1 Mar 81
AR 600-200	Enlisted Personnel Management System	901	17 Feb 81
AR 680-150	Personnel Information Systems Reserve Components Officers Eligible for Promotion Consideration	101	23 Feb 81
DA Pam 27-174	Military Justice Jurisdiction of Courts-Martial	1	1 May 80
DA Pam 310-2	Index of Blank Forms		15 Dec 80

2. Note

Microfiche. The following publications are now being converted to microfiche. Users should be advised to requisition necessary viewers immediately. See DA Circular 310-80-7 for acquisition procedure details.

AR 310-25	AR 340-18-16
AR 310-50	AR 340-20
AR 340-4	AR 340-21-2
AR 340-5	AR 340-21-3
AR 340-8	AR 340-21-5
AR 340-9	AR 340-21-6
AR 340-10	AR 340-21-9
AR 340-15	AR 340-21-10
AR 340-18-2	AR 340-21-12
AR 340-18-3	AR 340-21-13
AR 340-18-4	AR 340-21-14
AR 340-18-6	AR 1-17
AR 340-18-7	AR 55-61
AR 340-18-8	AR 55-354
AR 340-18-10	AR 55-355
AR 340-18-11	AR 55-357
AR 340-18-13	AR 55-358
AR 340-18-14	AR 55-359
AR 340-18-15	

3. New Law

On 23 December 1980 the President signed into law the Military Pay and Allowances Benefits Act of 1980 as Pub. L. No. 96-579. Among other provisions, the law changes the term of the judges presently serving on the United States Court of Military Appeals. It provides that the period of service will end either on the judge's present expiration date or ten years after the date on which the judge took office, whichever is later. The Act also applies the Ethics in Government Act of 1978 to judges of the Court.

4. Publication.

Bibliography for Prosecutors. The National College of District Attorneys annually publishes the *Bibliography for Prosecutors* with a supplemental edition at mid-year. A copy of the 1980 edition will be provided to any JA office requesting it, free of charge. Some back editions are available and may also be requested. No back supplemental issues are available. Copies may be obtained by writing: National College of District Attorneys, College of Law, University of Houston, Houston, Texas 77004.

By Order of the Secretary of the Army:

E.C. MEYER
General, United States Army
Chief of Staff

Official

J. C. PENNINGTON
Major General, United States Army
The Adjutant General

