



**the army**

**LAWYER**

**HEADQUARTERS, DEPARTMENT OF THE ARMY**

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27-50-86  
February 1980**

**Financial Disclosure Reporting  
and Review Requirements of the  
Ethics in Government Act of 1978:  
Problems Encountered**

*LTC Wendell R. Gideon  
Chief, General Law Branch  
Administrative Law Division, OTJAG*

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**The Army Lawyer (ISSN 0364-1287)**

A. General. The Ethics in Government Act of 1978<sup>1</sup> ("the Act") was signed into law on 26 October 1978 and was designed to preserve and promote the accountability and integrity of public officials (Legislative, Executive and Judicial). Two titles of the Act contain provisions of primary interest to DA personnel. Title II established a comprehensive financial disclosure reporting and review requirement for all O-7/GS-16's and above.<sup>2</sup> Title V revised a current criminal statute pertaining to "Post Employment Conflict of Interest" (18 U.S.C. 207).<sup>3</sup> This article is concerned only with the financial disclosure reporting and review requirements of the Act (i.e., Title II) and has a twofold purpose. First, it will briefly summarize the Army implementation of the Act to include the role that key individuals play in the reporting and review process. Second, it will highlight some of the major problems that have been encountered during the review process by The Judge Advocate General in CY 1979 and thus provide a checklist for all judge advocates and legal advisors to use when performing duties relating to financial disclosure reporting and review. Because of the mandatory filing sus-

*(Continued on page 3)*



DEPARTMENT OF THE ARMY  
OFFICE OF THE JUDGE ADVOCATE GENERAL  
WASHINGTON, D.C. 20310

REPLY TO  
ATTENTION OF:

DAJA-ZA

15 January 1980

TO ALL MEMBERS OF THE JUDGE ADVOCATE GENERAL'S CORPS

Beginning with this issue of The Army Lawyer I will use this means to share some thoughts with you from time to time.

For many years the Corps has been limited to 765 Regular Army spaces. Most of you know that during the last few years we have been unable to grant RA status to some deserving officers, due for the most part to this limitation. I am pleased to report that in January the number of authorized RA spaces was increased by 185, which will be apportioned within the various grades. These additional spaces will go a long way toward reducing the year group problems that have plagued us.

In the January issue of The Army Lawyer PP&TO published the results of the last Career Status Board. I approved recommendations of this board that of the 53 OBV officers who applied for career status 39 be granted RA status and 13 be granted VI status; of the 25 VI officers who applied for RA status, 24 were approved. This should be encouraging to all of us. We are making progress in expanding our number of career officers, particularly by granting RA status to deserving officers who apply.

The next Career Status Board will convene in May of this year and I encourage all of you who are thinking about applying to do so.

Lastly, as some of you may know, we recently held a meeting in OTJAG of selected JAGC women officers, including Major Sharon Best, who is now assigned to PP&TO. I believe this was a beneficial meeting and will definitely aid in recruiting women lawyers and retaining them. A more detailed report will be provided in the near future.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alton H. Harvey", is written over the typed name.

ALTON H. HARVEY  
Major General, USA  
The Judge Advocate General

(Continued from page 1)

penses<sup>4</sup> and the public release requirements<sup>5</sup> established by the Act, it is essential that judge advocates and legal advisors be knowledgeable of the provisions of the Act and its implementing procedures. By ensuring that submitted reports are timely, administratively correct, and that all conflicts are identified and resolved, judge advocates and legal advisors will be contributing immeasurably to fulfilling the purposes of the Act and, at the same time, protecting senior Army officials (reporting individuals) and the Army from possible embarrassment.

**B. Army Implementation of the Act.** Upon passage of the Act, DOD indicated that the military departments were to proceed directly with their own implementation of the Title II provisions. The following is a summary of DA actions designed to carry out these requirements.

1. By Memorandum dated 16 February 1979, the Secretary of the Army (SA) designated the Army General Counsel (AGC) to administer the provisions of Title II of the Act within DA. This included the authority to review financial disclosure reports submitted by senior Army officials (0-7/GS-16's and above). The SA au-

thorized the AGC to delegate certain functions to other officials or agencies within DA.

2. By Memorandum dated 7 March 1979, the AGC delegated to TJAG the authority to review financial disclosure reports submitted by 0-7/GS-16's and above (with the exception of certain senior officials, e.g., CSA, VCSEA, DAS, and persons within the Army Secretariat). Thus, TJAG is responsible for reviewing and signing a great majority of the financial disclosure reports filed each year by senior Army officials.

3. By HQDA Letter 600-79-2, dated 30 March 1979, the Army established detailed filing and review procedures for Financial Disclosure Reports (SF 278 and SF 278A—copies reproduced at Appendix 1 and Appendix 2, respectively). The HQDA Letter also established the mechanism (by Inclosures 3 and 4—copies reproduced at Appendix 3 and Appendix 4, respectively) for a preliminary review of the reports by Deputy Standards of Conduct Counselors (DSCC's) and supervisors. This preliminary review process was to ensure that financial disclosure reports were correct and that conflicts would be identified and resolved, thus enabling TJAG to complete his action as "Reviewing Official"<sup>6</sup> within the time limit established by the Act.<sup>7</sup> HQDA Letter 600-79-2 continues

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

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to be a primary source for guidance regarding the submission and review of financial disclosure reports and will continue to be until AR 600-50 is revised.<sup>8</sup> It is anticipated that the procedures established in the revised AR 600-50 will follow those presently contained in the HQDA Letter.

*C. Problems Encountered in Reviewing Financial Disclosure Reports.* During CY 1979 TJAG reviewed and signed some 800 annual/termination Financial Disclosure Reports (SF 278) and some 200 nomination/assumption of position reports (SF 278A) submitted by senior Army officials. During this review, numerous errors were noted which required correction either by contacting the reporting individual or his/her Deputy Standards of Conduct Counselor. This corrective action was necessary to enable TJAG to complete his review as well as to avoid possible embarrassment to the reporting individual and the Army resulting from release to the public of inaccurate or incomplete reports. The following are the most common errors noted in the review of these reports.

1. *Lack of internal consistency.* Property (e.g., stocks, bonds, rental homes, etc.) reported in the income section of the report (i.e., Section I, SF 278) usually requires reporting in another section. For example, a former residence being held as rental property which has produced rental income (or a stock interest which has produced dividends) in excess of \$100 during the year would be reported in the income section; if the real property (or stock interest) was still held at the end of the year, it would also be reported in the property interests and assets section (e.g., Section III, SF 278); if it was disposed of during the year it would be reported in the purchase, sale and exchange of property section (e.g., Section V, SF 278). On many forms rental property and stock interests were reported as producing income (i.e., rental income or dividends) but no entries appeared elsewhere in the report. Similar discrepancies were noted with respect to income reported from bonds and personal savings accounts. (It should be noted that, except for certain exclusions, each interest in *real* and *personal* property being held in a trade or business, for in-

vestment, or the production of income and which had a fair market value in excess of \$1,000 at the end of the reporting period, must be reported in the property interests and assets section, i.e., Section III, SF 278 or Section II, SF 278A. Such reporting is required whether or not the property requires an entry in the income section.)

2. *Failure to fully identify and report property interests.* Securities should be listed by complete corporate name as shown on the stock certificate or other official records. No abbreviations (other than those like "Co.," "Corp.," "Ltd.") should be used. Real property interests (e.g., rental property and undeveloped land) should be identified by giving the address and a brief description of the property. When reporting trust income or assets, other than from "excepted trusts" whose holdings need not be reported, the particular holdings (stocks, bonds, etc.) comprising the trust must be specified. When listing income from or holdings in limited partnerships or similar organizations, the general nature of the organization's activities should be described (e.g., real estate, oil & gas drilling).

3. *No indication of supervisor's review.* Although HQDA Letter 600-79-2 specified that the immediate supervisor of the reporting individual would consider the reported financial interests as they relate to the individual's duties, it did not specify whether an entry should be made by the supervisor to reflect that such review had been conducted and the results of such review. Many of the financial disclosure reports reflected the supervisor's review (on the form itself or on an attachment); however, in many instances there was no indication of such review. A sample form for use by supervisors to reflect their review is attached (Appendix 5).

4. *Erroneous signature in the "Reviewing Official" block.* The "Reviewing Official" for most financial disclosure reports is TJAG. Supervisors of reporting individuals should not sign as "Reviewing Official." However, they should review the form and reflect the results of their review as specified in paragraph C. 3., *supra*.

5. *Gratuitous comments.* In some instances, reporting individuals made gratuitous comments on their reports objecting to the release of the reported information to the public or stating that the reporting requirements violated their privacy rights. Although such comments may reflect the individual's true feelings, it must be recognized that the reporting requirement is imposed by law and that the forms, to include any comments contained therein, are subject to public disclosure. Further, such release could be a source of embarrassment to the individual as well to the Army.

6. *Improper disqualification.* In some cases reporting individuals determined that a potential conflict of interest existed with respect to their duties and their financial interests and then attempted to resolve the conflict by disqualifying themselves; however, they assigned responsibility for the subject matter relating to the disqualification to one of their subordinates. Paragraph 2-1g, AR 600-50 indicates that in instances where an individual is disqualified, the responsibilities relating to the subject matter of the disqualification will be performed by someone who is not subordinate to the disqualified person.

7. *Miscellaneous omissions and errors.* The following were additional problems which DSCC's should be alert to detect and resolve.

a. *Filing incorrect form.* SF 278 should be used for annual and termination reports; SF 278A should be used for nomination/assumption of position reports.

b. *Failure to identify and resolve potential conflicts.* If reporting individuals hold interests in entities doing business (or attempting to do business) with their organization or activity, or they hold interests in business entities within their area of responsibility or expertise, this creates the appearance of a conflict of interests as well as the potential for actual conflicts. Such conflicts must be identified and resolved by the reporting individual, his/her supervisor, and DSCC's.

c. *Failure to list financial interests of spouse and dependent children.* Assets held by a

spouse or dependent child generally must be reported in the same manner as if held by the reporting individual (various exceptions are provided for on the information sheet of the forms). Note, however, that the individual's reported interests of a spouse or dependent need not be specifically identified as being the interests or holdings of such spouse or dependent.

d. *Failure to attach position descriptions.* The Act requires that a position description for the reporting individual be attached to the report, if available. Only in rare cases would a position description not be available (e.g., where the position description is classified).

e. *Listing incorrect dates for the reporting period.*

f. *Failure to check the blocks indicating the category of amount or value of listed interest.*

D. *Summary.* Judge advocates and legal advisors should thoroughly familiarize themselves with the financial disclosure reporting and review requirements of the Act as well as its implementing procedures. When performing the functions of Deputy Standards of Conduct Counselor, it is particularly important to ensure that all financial disclosure reports are administratively correct.<sup>9</sup> Avoiding the common errors noted in paragraph C, *supra*, should assist in this regard. Judge advocates and legal advisors must not only advise and assist reporting individuals in completing their reports correctly and in a timely manner, they must also ensure that potential conflicts are identified and resolved through appropriate methods (e.g., disqualification, divestiture, etc.) (copy of a sample disqualification statement is at Appendix 6). In order to identify potential conflicts, it is essential that all personnel concerned (reporting individual and his/her DSCC as well as the reporting individual's supervisor and his/her DSCC) carefully analyze the reported interests in the light of the reporting individual's assigned duties (as reflected in his/her position description accompanying the report). Careful review and sound advice by judge advo-

cates and legal advisors in this important area will reap huge dividends. It will ensure that complete, accurate and timely reports are filed, thus enabling TJAG to finalize his review expeditiously and avoiding embarrassment to DSCC's and reporting individuals who have to be contacted when errors are discovered by OTJAG. Also, in some instances the early identification and resolution of conflicts might help reporting individuals avoid the damaging impact of apparent conflicts or taking actions in their official capacity which would amount to a violation of the criminal law.<sup>10</sup> Should questions arise concerning financial disclosure reporting or review, they should be addressed through established legal technical channels. At HQDA, the OTJAG point of contact for matters relating to military personnel (e.g., 0-7's and above) is Major Wayne Johnston, Administrative Law Division (AU 225-4341/3315); the OTJAG point of contact for matters relating to civilian personnel (e.g., GS-16's and above) is Major John Karjala, Labor and Civilian Personnel Law Office (AU 225-9481).

## FOOTNOTES

<sup>1</sup> Pub. L. 95-521, 26 October 1978, as amended by Pub. L. 96-19, 13 June 1979 and Pub. L. 96-28, 22 June 1979.

<sup>2</sup> The new financial disclosure reporting requirements of the Act replace the DD Form 1555 (Confidential Statement of Affiliations and Financial Interests) filing requirements for individuals required to file the new Financial Disclosure Reports (SF 278 or SF 278A). Unlike the DD Form 1555, the new financial disclosure reports are subject to public release under the Act (see Sec. 205, Title II of the Act).

<sup>3</sup> For a detailed summary of these new post employment restrictions, see Chap. 3, *Reference Guide to Prohibited Activities of Military and Former Military Personnel*, DAJA-AL 1979/3333, 13 September 1979.

<sup>4</sup> See Sec. 201, Title II of the Act. Annual Financial Disclosure Reports (SF 278) must be filed (to reach

HQDA, DAAG-ZX) no later than 15 May of each year; termination (retirement) Financial Disclosure Reports (SF 268) must be filed (to reach HQDA, DAAG-ZX) no later than 30 days after the last day of Federal employment. For suspenses relating to the filing of nomination/assumption of position Financial Disclosure Reports (SF 268A), see HQDA Letter 600-79-2 (paras. 3b, 4), dated 30 March 1979.

<sup>5</sup> See note 2, *supra*.

<sup>6</sup> Although Deputy Standards of Conduct Counselors and supervisors review the reports submitted by reporting individuals, only TJAG or other designated official (e.g., the Army General Counsel) signs Financial Disclosure Reports (SF 278 and SF 278A) in the block designated for "Reviewing Official" (see also para. C. 4. of text).

<sup>7</sup> Sec. 206, Title II of the Act requires that reports be reviewed within 60 days after filing.

<sup>8</sup> Proponency for AR 600-50 was transferred from ODCSPER to OTJAG on 5 November 1979. At this time both DOD Directive 5500.7 ("Standards of Conduct") and AR 600-50 ("Standards of Conduct for Department of the Army Personnel") are being staffed for revision.

<sup>9</sup> DA level review of the reports is designed not only to ensure that no conflicts are present but also to detect and correct administrative errors and thus avert the public release of incomplete and inaccurate reports. However, because Sec. 205(b)(1), Title II of the Act requires reports to be furnished or made available to the public within 15 days after receipt by the Agency, such reports are subject to public disclosure prior to completion of DA (OTJAG) review. For this reason it is particularly important that DSCC's detect and eliminate errors before the reports are forwarded to DA.

<sup>10</sup> 18 U.S.C. 208 requires executive branch personnel to refrain from personal and substantial participation as Government personnel through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise in any particular matter in which, to their knowledge, they, their spouse, minor children, or partners have financial interests or in which business or nonprofit organizations with which such personnel are connected or seeking employment have financial interests. See also, para. VII., DC Dir. 5500.7, 15 January 1977; para. 2-1, AR 600-20 October 1977.

## INFORMATION SHEET

## Financial Disclosure Report for Executive Branch Personnel

The Ethics in Government Act of 1978  
(Public Law 95-521, October 26, 1978)

## STANDARD FORM 278 For use by Officers and Employees filing annual and termination of employment reports.

**Who Must File:** The following officers and employees, if they have served 61 days or more during the preceding calendar year:

- The President;
- The Vice President;
- Officers and employees (including special government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS-16 (step 1);
- Members of the uniformed services whose pay grade is 0-7 or above;
- Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;
- Administrative law judges;
- Employees in the excepted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics;
- The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16; and
- The Director of the Office of Government Ethics and each designated agency ethics official.

**When to File:** No later than May 15 annually. In the event an individual terminates employment, and does not accept another position listed above, the report must be filed no later than the 30th day after termination, covering:

- a. the preceding calendar year if the annual May 15 report has not been filed, and
- b. the portion of the present calendar year up to the date of termination.

**Where to File:** With the designated ethics agency official at the agency in which the individual is employed, except that the President and the Vice President shall file their reports with the Director of the Office of Government Ethics and members of the uniformed services shall file their reports with the Service Secretary concerned. Note: A copy of the report filed by each individual specified below shall be transmitted to the Office of Government Ethics by the agency receiving the report: (a) designated agency ethics officials; (b) nominees to and holders of positions which require confirmation by the Senate or both Houses of Congress (other than members of the uniformed services); and (c) the Postmaster and Deputy Postmaster General, and the Governors of the Board of Governors of the U.S. Postal Service.

**Definitions:** The terms employed in the financial disclosure report are defined as follows:

1. **Income**—All income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (see "Business

Income" below); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;

2. **Gift**—Anything of value, including a payment, advance, forbearance, or deposit of money, unless consideration of at least equal value is given to the donor, but not including:
  - a. bequest or other form of inheritance;
  - b. suitable mementos of a function honoring the reporting individual;
  - c. food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;
  - d. food and beverages consumed at banquets, receptions, or similar events; or
  - e. communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals;
3. **Personal hospitality of any individual**—Hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family, or on property or facilities owned by that individual or his family;
4. **Reimbursement**—Any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are:
  - a. provided by the United States Government;
  - b. required to be reported by the reporting individual under section 7342 of Title 5, United States Code (pertaining to receipt and disposition of foreign gifts and decorations);
  - c. required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);
5. **Dependent Child**—Any individual who is a son, daughter, stepson, or stepdaughter and who:
  - a. is unmarried and under age 21 and is living in the household of the reporting individual; or
  - b. is a dependent child of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954. If a reporting individual is permitted to take a tax deduction for a child under the provisions of section 152, that individual is a "dependent" and his or her financial interests must be disclosed.
6. **Relative**—An individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, step-

APPENDIX 1

7

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daughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and, for this report, the fiancé(e) of the reporting individual;

7. **Secretary concerned**—The meaning set forth in section 101(8) of Title 10, United States Code, and:
  - a. the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and
  - b. the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service;
8. **Designated agency ethics official**—An officer or employee who is designated by an agency to administer the provisions of the Act.

**Method of Valuation:** Give the current market value, if reasonably available. Otherwise give fair value as determined in good faith, or using:

1. the purchase price and purchase date of real property;
2. the book value of a corporation whose stock is not publicly traded;
3. the net worth of a business partnership;
4. the equity value of an individually owned business;
5. for other holdings, any recognized indication of value; or
6. the assessed value of an item for tax purposes adjusted to reflect its market value if the assessed value is computed at less than 100 percent of such market value.

If 5 or 6 is utilized, give a full description of the method used in determining value. Personal indebtedness with respect to an asset should be disclosed separately as a liability and not deducted from the value of the property. An appraisal of property is not necessary, but may be used.

**Trusts:** (A) *In general.* Report the assets and income of a trust as if the assets were held directly. It is not necessary to list the settlor or other beneficiaries. Report trust assets by listing either: (a) each trust asset valued in excess of \$1,000 and its category of value, and stating the percentage of the total interest in the trust held by the individual (plus spouse and dependents); or (b) each asset as to which the value of the individual's interest (plus that of spouse and dependents) is in excess of \$1,000. In the latter case, for example, an individual with a one-fifth interest would report each asset valued in excess of \$5,000 (since the value of one-fifth interest would be in excess of \$1,000) and a category of value that reflects such interest.

(B) *Excepted trusts.* Report the category of value of the total income from—but not the separate assets or items of interest from—the following:

1. A trust not created by the reporting individual, spouse, or dependent child, and where none of these individuals knows the holdings or sources of income of the trust. (Section 202(f)(2) of the Act.)
2. A "qualified blind trust", approved in advance by the Director of the Office of Government Ethics and qualified under Section 202(f)(3) of the Act. In general, such a trust must: (a) have as trustee an independent financial institution, lawyer, accountant, or broker; (b) be free of restrictions on the disposition of assets; and (c) be based on an instrument which restricts certain communications from the trustee to preclude disclosure of assets.
3. A specially restricted blind trust for an individual (or the spouse or dependent child of such person) nominated or appointed by the President to an office requiring the advice and consent of the Senate, if the Director of the Office of

Government Ethics and the Attorney General determine in advance that the trust meets the requirements of Section 202(f)(4)(B) of the Act. A nominee intending to create this type of trust must notify the congressional committee considering his or her nomination at the time the financial report is filed.

For further information on the formation and specific characteristics of excepted trusts, obtain copies of Section 202(f) of the Act from a designated agency ethics official or the Office of Government Ethics.

**Spouse and Dependent Child Disclosure:** A reporting individual is required to provide information concerning his or her spouse and dependent children. Reporting is not, however, required to the extent described below:

1. No reporting is required of an *interest in property or a liability*: (a) which is the sole interest or responsibility of the spouse or dependent child, and the reporting individual has no detailed knowledge of it; (b) which was not in any way derived from the income, assets or activities of the reporting individual; and (c) from which the reporting individual neither derives or expects to derive any financial or economic benefit. (A reporting individual would derive benefit, for example, if income from the item was used for family vacations, the education of dependents, or the maintenance of a family home, or if there is an imminent likelihood of inheritance by the reporting individual.)
2. No reporting is required with respect to a *spouse living separate and apart* from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations arising from the dissolution of a marriage or permanent separation from a spouse.
3. No report need be made of a *gift* which is received by a spouse if the receipt was totally independent of the spouse's relationship to the reporting individual. If it was not independent, it must be reported to the same extent and in the same manner as if it had been received by the reporting individual. Do not report gifts received by a dependent child.
4. No report need be made of a *reimbursement*, the receipt of which is totally independent of the spouse's relationship to the reporting individual. Otherwise give the identity, source and brief description of the reimbursement.
5. With respect to *earned income of a spouse*, only the source need be provided as indicated in Section 1(B) of the form. Do not report the income of a dependent child.
6. It is *not necessary to identify* reported interests as belonging to a spouse or dependent child, except for income earned by the spouse. Items may be designated with an "S" or "D", if desired.

**Business Income:** Report the "gross income" of a trade or business as defined in section 61 of the Internal Revenue Code. You should also show the net income of such business.

If the interest in a business is passive, such as a limited partnership involving no managerial responsibility, and if the interest is one of several offered on substantially similar terms to a number of participants, the business interest should be reported under Section III, and any income from it should be reported under Section I(B). In such a case, gross business income need not be reported.

**Where to Secure Assistance:** Assistance may be obtained from a designated agency ethics official or the Office of Government Ethics.



FINANCIAL DISCLOSURE REPORT

Agency Use  
Only

PRIVACY ACT STATEMENT

The Ethics in Government Act of 1978, Public Law 95-521, requires the reporting of this information. This information will be reviewed by Government officials to determine compliance with the intent of the Act and may be disclosed upon request to any requesting person pursuant to Section 205 of the Act or as otherwise authorized by law. Knowing or willful failure to file or report information required to be reported by Section 202 of the Act may subject you to a civil penalty of not more than \$5,000 and to disciplinary action by your employing agency or other appropriate authority. U.S.C. 1001, leading to a fine of not more than \$10,000 or imprisonment for not more than five years or both.

**Instructions:** Read the information sheet first, then complete this financial disclosure report. Attach additional sheets if needed; identify each sheet by showing your name, position, and the section being continued.

A. Name		B. Position for which filing	C. Department or agency, if applicable	D. Date of appointment to present position
E. Positions held during the preceding calendar year (if different from present position)		F. Dates of employment in position(s)		
G. Termination date (if applicable)				

SECTION I. INCOME

A. List each source of gross income from which dividends, rent, interest or capital gains exceeded \$100 in amount or value. If none so state. You may exclude capital gains from the sale or exchange of the personal residence of you, your spouse, or dependent child.

SPOUSE AND DEPENDENT CHILDREN: Report each source of income of the kind and amount described above which is received by a spouse or dependent child and is derived from an asset required to be reported in Section III.

Source of Income (Name and Address) (When identifying securities give name of issuing company; if not listed on stock exchange, give address and nature of business)	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Type of Income (✓)	Category of Amount or Value (✓)
							\$100,000 Over
							\$50,001 to \$100,000
							\$15,001 to \$50,000
							\$5,001 to \$15,000
							\$2,501 to \$5,000
							\$1,001 to \$2,500
							\$101 to \$1,000
							\$10 or less

B. List any other income, including honoraria, not reported in Section I(A) which from any source exceeded \$100 in amount or value. If none, so state. Report business income as indicated in the information sheet, p. 2.

**SPOUSE:** Report the source (not the amount) of earned income received by a spouse which exceeded \$1,000. If a spouse is self-employed in a business or profession, report only the nature of the business or profession, e.g., law firm or real estate. Designate those items of earned income re-

ceived by a spouse with an (S). You may exclude your income from current employment by the United States Government; state "Government income excluded".

Source of Income (Name and Address)	Amount	Type (✓) (e.g. compensation for services, annuities, distributive shares of partnership income)	Date (Only if Honoraria)

## SECTION II. GIFTS and REIMBURSEMENTS

List gifts and reimbursements, in the appropriate category below, and the source. Distinguish between gifts and reimbursements. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** See the information sheet, p. 2.

**EXCLUSIONS:** Do not include gifts (1) of \$35 or less in value; (2) from a relative; (3) of personal hospitality; or (4) which total less than the amount specified in each section.

### A. Lodging, Transportation, Food, and Entertainment—Which from each source listed totals \$250.00 or more in value.

Source (Name and Address)	Brief Description	Approximate value, if known

### B. All Other Gifts—Which from each source listed totals \$100.00 or more in value.

Source (Name and Address)	Brief Description	Value

### C. Reimbursements—Which from each source listed totals \$250.00 or more in amount or value.

Source (Name and Address)	Brief Description	Approximate value, if known

**SECTION III. PROPERTY INTERESTS AND ASSETS (REAL AND PERSONAL)**

List each interest in real or personal property held in a trade or business, for investment, or the production of income which had a fair market value in excess of \$1,000 as of the close of the preceding calendar year. Give the fair market value, or a good faith estimate of value as described in the attached information sheet. (If you use the tax assessment method or the price and date of purchase of real property, report actual amounts.) For all other methods report the category of value. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** Report all property interests of a spouse or dependent child. (See the information sheet for exemptions.)

**EXCLUSIONS:** (1) A personal liability owed to you by a relative; (2) Deposits in personal savings accounts if the total of all accounts is less than \$5,000. (If the total amount exceeds \$5,000, report all accounts. A per-

sonal savings account includes certificates of deposit or any other form of deposit in a bank or any similar institution.); and (3) Personal property not held for business, investment or the production of income. (Examples include household goods, non-interest bearing checking accounts, automobiles, paintings, jewelry, and life insurance policies. However, if an individual is in the business of buying and selling any such items for profit, their category of value must be disclosed.)

Identification of Property (Name and Address) (When identifying real property, describe improvements on land, e.g., ten-story apartment building; when identifying securities, give name of issuing company; if not listed on stock exchange, give address and nature of business)	Valuation Method	Category of Amount or Value (✓)					
		\$1,001 to \$5,000	\$5,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	Over \$250,000

**SECTION IV. LIABILITIES**

List the total liabilities owed to any creditor which exceeded \$10,000 at any time during the preceding calendar year. If none, so state. Report only those revolving charge accounts with an outstanding liability exceeding \$10,000 as of the close of the preceding calendar year.

**SPOUSE AND DEPENDENT CHILDREN:** Report liabilities of a spouse and dependent child. (See the information sheet for exemptions.)

**EXCLUSIONS:** (1) Liabilities owed a relative; (2) A mortgage on the personal residence of you or your spouse; and (3) A loan which is secured by and does not exceed the purchase price of a personal motor vehicle, household furniture or appliance.

Name and Address of Creditor	Type of Liability (e.g. promissory note, margin account) Give interest rate and, if applicable, term.	Category of Amount or Value (✓)				
		\$10,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	Over \$250,000

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**EXCLUSIONS:** (1) Transactions involving the personal residence of you or your spouse or dependent children; and (2) Transactions solely between you, your spouse, or dependent children.

## SECTION VI. POSITIONS HELD

**FIRST REPORT:** If you are filing your first report list positions held during the current calendar year and the two preceding calendar years.  
**SPOUSE AND DEPENDENT CHILDREN:** No report.

[illegible]

**SECTION VII. COMPENSATION IN EXCESS OF \$5,000 PAID BY ONE SOURCE**

Complete this section ONLY if you are filing your first report. Identify the source and briefly describe the nature of the duties performed or services rendered for any person, other than the United States Government, from whom you received compensation in excess of \$5,000 in any of the two

preceding calendar years. If none, so state. This section does not apply to the President and Vice-President.

**EXCLUSIONS:** (1) Information to the extent that it is considered confidential as a result of a privileged relationship established by law; and (2)

Information about persons for whom services were provided by a firm or an association of which you were a member, partner or employee unless you were directly involved in the provision of the services.

**SPOUSE AND DEPENDENT CHILDREN:** No report.

Source (Name and Address)	Brief Description of Duties

**SECTION VIII. RELATIONSHIPS WITH OTHER EMPLOYERS**

List the date, parties to, and terms of any agreement or arrangement which you have with respect to: future employment, a leave of absence during the period of your Government service, continuation of payments

by a former employer other than the United States Government or continuing participation in an employee welfare or benefit plan maintained by a former employer. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** No report.

Date	Parties to Agreement	Terms of Agreement

# SECTION IX. ADDITIONAL INFORMATION

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A. Are there any interests in property or liabilities of a spouse or dependent child which you have not reported but which would be reportable, if held by you?.....

If "yes", do you certify that:

1. They represent solely your spouse's or dependent child's financial interest or responsibility;
2. They are not in any way, past or present, derived from your income, assets, or activities;
3. You neither derive, nor expect to derive, any financial or economic benefit from them; **and**
4. You do not have knowledge in detail as to the composition of such interests or liabilities? .....

YES	NO

B. Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?.....

If "yes", have you reported the income from the trust? .....

If "yes", have you reported the assets of the trust?.....

If "yes", is this trust an "excepted" trust?.....

YES	NO

## CERTIFICATION

I CERTIFY that the statements I have made are true, complete and correct to the best of my knowledge and belief.

Signature

Date

Office Address

Office Telephone Number

## REVIEWING OFFICIAL

The information contained in this report discloses no conflict of interest under applicable laws and regulations.

Signature

Date

Office of Government Ethics  
Use Only

Signature

Date

Comments

DA Pam 27-50-86

## INFORMATION SHEET

### Financial Disclosure Report

The Ethics in Government Act of 1978  
(Public Law 95-521, October 26, 1978)

**STANDARD FORM 278A** For use by candidates for nomination or election to the office of President or Vice President, newly appointed or elected Officials, and Presidential nominees to positions requiring the advice and consent of the Senate.

#### I. Who Must File

- A. Candidates for nomination or election to the office of President or Vice President.
- B. Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial office or for appointment to a rank in the uniformed services at a pay grade of 0-6 or below.
- C. The following newly elected or appointed officials:
  - The President;
  - The Vice President;
  - Officers and employees (including special government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS-16 (step 1);
  - Members of the uniformed services whose pay grade is 0-7 or above;
  - Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;
  - Administrative law judges;
  - Employees in the excepted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics;
  - The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16; and
  - The Director of the Office of Government Ethics and each designated agency ethics official.

#### II. When to File:

- A. Within 30 days after becoming a candidate for nomination or election to the office of President or Vice President or by May 15 of that calendar year, whichever is later, and on or before May 15 of each succeeding year that such an individual continues to be a candidate.
- B. Within 5 days after the transmittal by the President to the Senate of the nomination of an individual referred to in paragraph IB, above.
- C. Within 30 days after assuming the position of an officer or employee designated under Paragraph IC unless such an individual has left another position designated under paragraph IC within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (paragraph IB) or as a candidate for the position (paragraph IA).

#### III. Where to File:

- A. Candidates for President and Vice President, with the Federal Election Commission.
- B. The President and Vice President, with the Office of Government Ethics.
- C. Members of a uniformed service, with the Service Secretary concerned.
- D. All others, with the designated agency ethics official at the agency in which the individual is employed or in which he or she will serve.

Note: A copy of the report filed by each individual specified below is to be transmitted to the Office of Government Ethics by the agency receiving the report: (a) designated agency ethics officials; (b) nominees to and holders of positions which require confirmation by the Senate or both Houses of Congress (other than members of the uniformed services); and (c) the Postmaster General and the Deputy Postmaster General, and the Governors of the Board of Governors of the U.S. Postal Service.

**Definitions:** The terms employed in the financial disclosure report are defined as follows:

1. **Income**—All income from whatever source derived, including but not limited to the following items: compensation for services, including fees, commissions, and similar items; gross income derived from business (see "Business Income" below); gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from an interest in an estate or trust;
2. **Gift**—Anything of value, including a payment, advance, forbearance, or deposit of money, unless consideration of at least equal value is given to the donor, but not including:
  - a. bequest or other form of inheritance;
  - b. suitable mementos of a function honoring the reporting individual;
  - c. food, lodging, transportation, and entertainment provided by a foreign government within a foreign country or by the United States Government;
  - d. food and beverages consumed at banquets, receptions, or similar events; or
  - e. communications to the offices of a reporting individual, including subscriptions to newspapers and periodicals;

Note: Gifts received are not reportable.

3. **Personal hospitality of any individual**—Hospitality extended for a nonbusiness purpose by an individual, not a corporation or organization, at the personal residence of that individual or his family, or on property or facilities owned by that individual or his family;

4. **Reimbursement**—Any payment or other thing of value received by the reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are:
  - a. provided by the United States Government;
  - b. required to be reported by the reporting individual under section 7342 of Title 5, United States Code (pertaining to receipt and disposition of foreign gifts and decorations);
  - c. required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

*Note:* Reimbursements received are not reportable.
5. **Dependent Child**—Any individual who is a son, daughter, stepson, or stepdaughter and who:
  - a. is unmarried and under age 21 and is living in the household of the reporting individual; or
  - b. is a dependent child of such reporting individual within the meaning of section 152 of the Internal Revenue Code of 1954. If a reporting individual is permitted to take a tax deduction for a child under the provisions of section 152, that individual is a "dependent" and his or her financial interests must be disclosed.
6. **Relative**—An individual who is related to the reporting individual, as father, mother, son, daughter, brother, sister, uncle, aunt, great uncle, great aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, or who is the grandfather or grandmother of the spouse of the reporting individual, and, for this report, the fiancé(e) of the reporting individual.
7. **Candidate**—An individual is a candidate for Federal office, whether or not elected, whenever any of the following events occur:
  - a. the individual has taken the action necessary, under relevant State law, to qualify in a primary, runoff, special or general election, convention, or caucus; or
  - b. the individual has accepted contributions or made expenditures, or has given his or her consent for any other person to receive contributions or make expenditures, with a view toward bringing about his or her election; or
  - c. if after written notification by the Federal Election Commission that any other person is accepting contributions or making expenditures on the individual's behalf, the individual fails to disavow this activity by letter to the Commission within 30 days of receipt of the notification. (2 U.S.C. 431; 11 C.F.R. 100.2)
8. **Secretary concerned**—The meaning set forth in section 101(8) of Title 10, United States Code, and:
  - a. the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration; and
  - b. the Secretary of Health, Education, and Welfare, with respect to matters concerning the Public Health Service;
9. **Designated agency ethics official**—An officer or employee who is designated by an agency to administer the provisions of the Act.

**Method of Valuation:** Give the current market value, if reasonably available. Otherwise, give fair value as determined in good faith, or using:

1. the purchase price and purchase date of real property;
2. the book value of a corporation whose stock is not publicly traded;
3. the net worth of a business partnership;
4. the equity value of an individually owned business;
5. for other holdings, any recognized indication of value; or
6. the assessed value of an item for tax purposes adjusted to reflect its market value if the assessed value is computed at less than 100 percent of such market value.

If 5 or 6 is utilized, give a full description of the method used in determining value. Personal indebtedness with respect to an asset should be disclosed separately as a liability and not deducted from the value of the property. An appraisal of property is not necessary, but may be used.

**Trusts:** (A) *In general.* Report the assets and income of a trust as if the assets were held directly. It is not necessary to list the settlor or other beneficiaries. Report trust assets by listing either: (a) each trust asset valued in excess of \$1,000 and its category of value, and stating the percentage of the total interest in the trust held by the individual (plus spouse and dependents); or (b) each asset as to which the value of the individual's interest (plus that of spouse and dependents) is in excess of \$1,000. In the latter case, for example, an individual with a one-fifth interest would report each asset valued in excess of \$5,000 (since the value of one-fifth interest would be in excess of \$1,000) and a category of value that reflects such interest.

(B) *Excepted trusts.* Report the category of value of the total income from—not the separate assets or items of interest from—the following:

1. A trust not created by the reporting individual, spouse, or dependent child, and where none of these individuals knows the holdings or sources of income of the trust. (Section 202(f)(2) of the Act.)
2. A "qualified blind trust", approved in advance by the Director of the Office of Government Ethics and qualified under Section 202(f)(3) of the Act. In general, such a trust must: (a) have as trustee an independent financial institution, lawyer, accountant, or broker; (b) be free of restrictions on the disposition of assets; and (c) be based on an instrument which restricts certain communications from the trustee to preclude disclosure of assets.
3. A specially restricted blind trust for an individual (or the spouse or dependent child of such person) nominated or appointed by the President to an office requiring the advice and consent of the Senate, if the Director of the Office of Government Ethics and the Attorney General determine in advance that the trust meets the requirements of Section 202(f)(4)(B) of the Act. A nominee intending to create this type of trust must notify the congressional committee considering his or her nomination at the time the financial report is filed.

For further information on the formation and specific characteristics of excepted trusts, obtain copies of Section 202(f) of the Act from a designated agency ethics official or the Office of Government Ethics.

**Spouse and Dependent Child Disclosure:** A reporting individual is required to provide information concerning his or her spouse and dependent children. Reporting is not, however, required to the extent described below:

1. No reporting is required of an *interest in property* or a *liability*: (a) which is the



4. It is not necessary to identify reported interests as belonging to a spouse or dependent child, except for income earned by the spouse. Items may be designated with an "S" or "D", if desired.

**Business Income:** Report the "gross income" of a trade or business as defined in section 61 of the Internal Revenue Code. You should also show the net income of such business.

If the interest in a business is passive, such as a limited partnership involving no managerial responsibility, and if the interest is one of several offered on substantially similar terms to a number of participants, the business interest should be reported under Section II, and any income from it should be reported under Section I(B). In such a case, gross business income need not be reported.

**Where to Secure Assistance:** Assistance may be obtained from a designated agency ethics official or the Office of Government Ethics.

2. No reporting is required with respect to a spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation; or with respect to any income or obligations arising from the dissolution of a marriage or permanent separation from a spouse.
  3. With respect to *earned income of a spouse*, only the source need be provided as indicated in Section I(B) of the form. Do not report the income of a dependent child.
- sole interest or responsibility of the spouse or dependent child, and the reporting individual has no detailed knowledge of it; (b) which was not in any way derived from the income, assets or activities of the reporting individual; and (c) from which the reporting individual neither derives nor expects to derive any financial or economic benefit. (A reporting individual would derive benefit, for example, if income from the item was used for family vacations, the education of dependents, or the maintenance of a family home, or if there is an imminent likelihood of inheritance by the reporting individual.)

**Agency Use Only**

## PRIVACY ACT STATEMENT

The Ethics in Government Act of 1978, Public Law 95-521, requires the reporting of this information. This information will be reviewed by Government officials to determine compliance with the intent of the Act and may be disclosed upon request to any requesting person pursuant to Section

205 of the Act or as otherwise authorized by law. Knowing or willful failure to file or report information required to be reported by Section 202 of the Act may subject you to a civil penalty of not more than \$5,000 and to disciplinary action by your employing agency or other appropriate authority.

Knowing and willful falsification of information required to be filed by Section 202 of the Act may also subject you to criminal prosecution under 18 U.S.C. 1001, leading to a fine of not more than \$10,000 or imprisonment for not more than five years or both.

**Instructions:** Read the Information sheet first, then complete this financial disclosure report. Attach additional sheets if needed; identify each sheet by showing your name, position, and the section being continued.

**Reporting Period:** Information is generally required to be reported as of a "closing date" (selected and specified by you in block E), which may not be more than thirty-one days prior to the date of filing. Specifically, information is required to be reported on each section as follows: Section 1—

the preceding calendar year and the period up to the closing date; Sections II and III—as of the closing date. Sections IV and V—for the current calendar year up to the filing date and for the two prior calendar years if this is a first report. Section VI—as of the filing date.

A. Name		B. Position for which filing	C. Department or agency, if applicable	D. Date of appointment, candidacy, election, or date nomination sent to Senate
E. Reporting period "closing date"	Answer F and G ONLY if you are a Presidential nominee subject to Senate confirmation.	F. Congressional Committee considering your nomination	G. Do you intend to create a trust which meets the requirements of Section 202(f)(4)(B)? (See the information sheet, p. 2.)	<input type="checkbox"/> Yes <input type="checkbox"/> No

## SECTION I. INCOME

List each source of gross income from which dividends, rent, interest or capital gains exceeded \$100 in amount or value. Report for the preceding calendar year and up to the closing date. If none, so state. **You may ex-**

**clude capital gains from the sale or exchange of the personal residence of you, your spouse, or dependent child.**

**SPOUSE AND DEPENDENT CHILDREN:** Report each source of income of the kind and amount described above which is received by a spouse or

dependent child and is derived from an asset required to be reported in Section II.

**TRUSTS:** See the information sheet, p. 2.

[illegible]

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B. List any other income, including honoraria, not reported in Section I(A) which from any source exceeded \$100 in amount or value. Report for the preceding calendar year and up to the closing date. If none, so state. Report business income as indicated in the information sheet, p.2.

**SPOUSE:** Report the source (not the amount) of earned income received by a spouse which exceeded \$1,000. If a spouse is self-employed in a business or profession, report only the nature of the business or profession, e.g., law firm or real estate. Designate those items of earned income re-

ceived by a spouse with an (S). **You may exclude** your income from current employment by the United States Government; state "Government income excluded".

Source of Income (Name and Address)	Amount	Type (e.g. compensation for services, annuities, distributive shares of partnership income)	Date (Only if Honoraria)

## SECTION II. PROPERTY INTERESTS AND ASSETS (REAL AND PERSONAL)

List each interest in real or personal property held in a trade or business, for investment, or the production of income which had a fair market value in excess of \$1,000 as of the closing date. Give the fair market value, or a good faith estimate of value as described in the attached information sheet. (If you use the tax assessment method or the price and date of purchase of real property, report actual amounts.) For all other methods report the category of value. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** Report all property interests of a spouse or dependent child. (See the Information sheet for exemptions.)

**EXCLUSIONS:** (1) A personal liability owed to you by a relative; (2) Deposits in personal savings accounts if the total of all accounts is less than \$5,000. (If the total amount exceeds \$5,000, report all accounts. A per-

sonal savings account includes certificates of deposit or any other form of deposit in a bank or any similar institution.); and (3) Personal property not held for business, investment or the production of income. (Examples include household goods, non-interest bearing checking accounts, automobiles, paintings, jewelry, and life insurance policies. However, if an individual is in the business of buying and selling any such items for profit, their category of value must be disclosed.)

Identification of Property (Name and Address) (When identifying real property, describe improvements on land, e.g., ten-story apartment building; when identifying securities, give name of issuing company; if not listed on stock exchange, give address and nature of business)	Valuation Method	Category of Amount or Value (✓)					
		\$1,001 to \$5,000	\$5,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	Over \$250,000

## SECTION III. LIABILITIES

List the total liabilities owed to any creditor which exceeded \$10,000 as of the closing date. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** Report liabilities of a spouse and dependent child. (See the information sheet for exemptions.)

**EXCLUSIONS:** (1) Liabilities owed a relative; (2) A mortgage on the personal residence of you or your spouse; and (3) A loan which is secured by and does not exceed the purchase price of a personal motor vehicle, household furniture or appliance.

Name and Address of Creditor		Type of Liability (e.g., promissory note, margin account) Give interest rate and, if applicable, term.	Category of Amount or Value (←)
			\$10,001 to \$50,000
			\$50,001 to \$100,000
			\$100,001 to \$250,000
			Over \$250,000

## SECTION IV. POSITIONS HELD

**FIRST REPORT:** If you are filing your first report list positions held during the current calendar year and the two preceding calendar years.

**SPOUSE AND DEPENDENT CHILDREN:** No report.

**SPOUSE AND DEPENDENT CHILDREN: No report.**

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[illegible]

**SECTION V. COMPENSATION IN EXCESS OF \$5,000 PAID BY ONE SOURCE**

Complete this section ONLY if you are filing your first report. Identify the source and briefly describe the nature of the duties performed or services rendered for any person, other than the United States Government, from whom you received compensation in excess of \$5,000 in any of the two

preceding calendar years. If none, so state. This section does not apply to the President and Vice-President.

**EXCLUSIONS:** (1) Information to the extent that it is considered confidential as a result of a privileged relationship established by law; and (2)

Information about persons for whom services were provided by a firm or an association of which you were a member, partner or employee unless you were directly involved in the provision of the services.

**SPOUSE AND DEPENDENT CHILDREN:** No report.

Source (Name and Address)	Brief Description of Duties

**SECTION VI. RELATIONSHIPS WITH OTHER EMPLOYERS**

List the date, parties to, and terms of any agreement or arrangement which you have with respect to: future employment, a leave of absence during the period of your Government service, continuation of payments

by a former employer other than the United States Government or continuing participation in an employee welfare or benefit plan maintained by a former employer. If none, so state.

**SPOUSE AND DEPENDENT CHILDREN:** No report.

Date	Parties to Agreement	Terms of Agreement

# **SECTION VII. ADDITIONAL INFORMATION**

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- A.** Are there any interests in property or liabilities of a spouse or dependent child which you have not reported but which would be reportable, if held by you?.....
- If "yes", do you certify that:
1. They represent solely your spouse's or dependent child's financial interest or responsibility;
  2. They are not in any way, past or present, derived from your income, assets, or activities;
  3. You neither derive, nor expect to derive, any financial or economic benefit from them; **and**
  4. You do not have knowledge in detail as to the composition of such interests or liabilities? .....

YES	NO

- B.** Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?.....
- If "yes", have you reported the income from the trust? .....
- If "yes", have you reported the assets of the trust?.....
- If "yes", is this trust an "excepted" trust?.....

YES	NO

<p><b>CERTIFICATION</b> I CERTIFY that the statements I have made are true, complete and correct to the best of my knowledge and belief.</p>	<p>Signature</p>	<p>Date</p>
<p>Office Address</p>	<p>Office Telephone Number</p>	
<p><b>REVIEWING OFFICIAL</b> The information contained in this report discloses no conflict of interest under applicable laws and regulations.</p>	<p>Signature</p>	<p>Date</p>
<p><b>Office of Government Ethics Use Only</b></p>	<p>Signature</p>	<p>Date</p>
<p>Comments</p>		

## APPENDIX 3

## CERTIFICATE OF ORGANIZATION—CONTRACTOR BUSINESS RELATIONSHIPS

As the Deputy Standards of Conduct Counsel or/Agency Ethics Counselor for the organization/activity within which \_\_\_\_\_, the reporting individual, performs duties, I hereby certify that, except as listed below, none of the business entities in which a financial interest has been reported on the attached Financial Disclosure Statement (SF 278/278A) are doing or attempting to do business (either in their own name or through wholly owned or controlled subsidiaries\*) with this organization/activity.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(NAME)  
(TITLE)  
(ORGANIZATION)

\*Corporate affiliations are compiled in corporate listing services available in most libraries.

## APPENDIX 4

## CERTIFICATE OF PRELIMINARY REVIEW

1. As the designated Deputy Standards of Conduct Counselor/Agency Ethics Counselor of \_\_\_\_\_, the immediate supervisor of \_\_\_\_\_, the reporting individual, I hereby certify that I have thoroughly reviewed the Financial Disclosure Statement (SF 278 or SF 278A), dated \_\_\_\_\_, submitted by the reporting individual, with attachments. I have instituted, through the reporting individual's immediate supervisor, any necessary corrective action. My review considered the reported financial interests in light of the individual's duties (past, present, or prospective, as applicable) to ensure the absence of both actual and apparent conflicts of interest.

2. The results of my preliminary review disclose:

a. The submitted form is administratively correct (e.g., dates (such as report ending periods) have been computed and entered correctly; submitted information is consistently reported (i.e., sources of income also are entered as currently held or recently disposed of property, if applicable); and all entries appear complete).

b. A position description (in sufficient detail to accomplish a meaningful review) and other pertinent attachments are attached to the Financial Disclosure Statement.

c. With regard to reported interests in property held in a trade or business or for investment or the production of income (check as appropriate):

(1) \_\_\_\_\_ None reported.

(2) \_\_\_\_\_ Reported interests are unrelated to assigned, prospective or past duties, and no conflict is perceived. (This conclusion is based on an affirmative determination that no business entities in which a financial interest has been reported are doing or attempting to do business, in their own name or through wholly owned or controlled subsidiaries, with any organization/activity over which it is possible for the reporting individual to exercise substantial influence.)

(3) \_\_\_\_\_ Duties require participation in matters involving or which may reasonably appear to involve certain of the reported interests. This actual or apparent conflict will be resolved by:

(a) \_\_\_\_\_ Divestiture of the interest and disqualification (if necessary) pending divestiture.

(b) \_\_\_\_\_ Change in assigned duties.

(c) \_\_\_\_\_ Formal disqualification (copy attached).

(d) \_\_\_\_\_ Other.

A factual summary of the perceived conflict and justification for the prescribed corrective action is attached. (Notice of completed corrective action will be forwarded no later than \_\_\_\_\_.)

(4) \_\_\_\_\_ Reported interests are related to assigned or prospective duties, but have been determined by the reporting individual's immediate supervisor (UP 18 USC 208(b) and paragraph 2-1g, AR 600-50) to be not so substantial as to affect the integrity of the individual's service. A comprehensive determination and finding is attached.

d. With regard to all items reported except those covered by paragraph 2c, above (check as appropriate):

(1) \_\_\_\_\_ None reported.

(2) \_\_\_\_\_ Items reported are unrelated to assigned, prospective or past duties, or the individual's official position, and no conflict is perceived.



(3) \_\_\_\_\_ Duties require participation in matters involving or which may involve certain of the items reported. This actual or apparent conflict will be resolved by:

(a) \_\_\_\_\_ Termination of the reported/underlying relationship and disqualification (if necessary) pending termination of the relationship.

(b) \_\_\_\_\_ Change in assigned duties.

(c) \_\_\_\_\_ Formal disqualification (copy attached).

(d) \_\_\_\_\_ Other.

A factual summary of the perceived conflict and justification for the prescribed corrective action is attached. (Notice of completed corrective action will be forwarded no later than \_\_\_\_\_.)

(4) \_\_\_\_\_ Items reported are related to assigned or prospective duties, but have been determined by the reporting individual's immediate supervisor (UP 18 USC 208(b) and paragraph 2-1g, AR 600-50), to be not so substantial as to affect the integrity of the individual's service. A comprehensive determination and finding is attached.

e. Additional comments which will expedite final review within Headquarters, Department of the Army, are:

3. Based on the results of my review, I hereby certify that, except as noted above, the information contained in the Financial Disclosure Statement identified in paragraph 1, above, discloses no conflict of interest under applicable laws and regulations.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

(NAME)

(TITLE)

(ORGANIZATION)

(TELEPHONE NUMBER)

## APPENDIX 5

1. As the immediate supervisor of \_\_\_\_\_ (Rank) (Name)  
\_\_\_\_\_, the reporting individual,  
I have reviewed the Financial Disclosure Report (SF 278 or SF 278A), dated \_\_\_\_\_,  
with attachments, submitted by the reporting individual and have instituted  
any necessary corrective action to resolve any identified conflicts (actual or apparent). My re-  
view considered the reported financial interests in light of the individual's duties (past, pres-  
ent, or prospective, as applicable) to ensure the absence of both actual and apparent conflicts  
of interest.

2. Based on the results of my review, I hereby certify that, except as noted below, the informa-  
tion contained in the Financial Disclosure Report identified in paragraph 1 discloses no conflict  
of interest (actual or apparent) under applicable laws and regulations:

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
(Rank)(Name)  
(Title)  
(Organization)  
(Telephone Number)

## APPENDIX 6

MEMORANDUM FOR IMMEDIATE SUPERIOR  
IMMEDIATE SUBORDINATES

SUBJECT: Disqualification Statement

1. This is to notify you that I have financial interests in the following organizations and, pursuant to the provisions of AR 600-50, I am required to disqualify myself from official actions related to them:

(list applicable organizations)

2. Accordingly, I may not participate personally and substantially in any official actions affecting these organizations if that would create a conflict, or even the appearance of a conflict, with my official duties. My participation would be "personal" whether I act directly or through others. My participation would be "substantial" in any case in which my decision, approval, disapproval, recommendation, investigation, advice, or any other activity may contribute to or influence the official action affecting an organization in which I have an interest. My participation would create a conflict, or at least the appearance of one, whenever it appears reasonably possible that my official functions will affect the organization, whether by action on a particular matter affecting the specific organization, or by actions involving policies, standards, objectives or other matters of general application which may substantially affect the organization.

3. Any such matters in our office should be handled without my knowledge or participation.

**"Be it ever so Humble, There's no Place Like Home."***United States v. Davis*, 8 M.J. 79 (C.M.A. 1979)

Major Stephen A.J. Eisenberg  
 Senior Instructor, Criminal Law Division  
 The Judge Advocate General's School,  
 U.S. Army

Recently, the Court of Military Appeals in *United States v. Davis*<sup>1</sup> rendered a significant decision in the area of fourth amendment practice. The question before the Court was whether the warrantless apprehension of the accused in his barracks room was proper absent exigent circumstances.<sup>2</sup> Unfortunately, recognition and appreciation of the importance of the issue examined was greatly diminished due to the summary disposition format utilized by the court.<sup>3</sup> In order to spotlight the legal and practical implications of the action, a brief review of this case is in order.

**The Facts**

A C.I.D. Special Agent was provided information which led him to believe that a specifically described individual possessed heroin in a particular barracks room. The agent secured an authorization to search from the commander and proceeded to the barracks room to carry out its mandate. Upon arriving at the room the area was secured, and the appellant, meeting the description of the alleged felon, was searched as was his wall locker. Heroin was discovered in both places. At trial the judge found the search authorization invalid due to a lack of sufficient information upon which the commander could predicate probable cause. Nevertheless, the searches of the person and locker were upheld as being incident to a legal apprehension. The Army Court of Military Review affirmed the trial court's evidentiary findings. The Court of Military Appeals set aside the findings and sentence, and dismissed the charge.

**The Law**

In its resolution of the granted search issue

the Court associated itself with a growing trend on the part of civilian jurisdictions<sup>5</sup> as well as a singular Army Court of Military Review decision.<sup>6</sup> These holdings require, absent the need for immediate police initiative, an impartial individual to find probable cause and authorize a suspect to be taken into custody when that individual was located within a private dwelling. The rationale for this requirement is easily understood.

Since the Fourth Amendment speaks equally to both searches and seizures, and since an arrest, the taking hold of one's person, is quintessentially a seizure, it would seem that the constitutional provision should impose the same limitations upon arrests that it does upon searches. . . . Logic therefore would seem to dictate that arrests be subject to the warrant requirement at least to the same extent as searches.<sup>8</sup>

The requirement for a neutral evaluation remains intact even though the statutory scheme which provides law enforcement officers with the authority to apprehend<sup>9</sup> does not recognize the need for different procedures depending on the place of apprehension, i.e., a public versus private place. Thus, the Court of Military Appeals in adopting<sup>10</sup> the *Jamieson*<sup>11</sup> opinion specifically incorporated the opinion's mandate that:

[A]bsent exigent circumstances, appropriate authorization by a responsible commander based upon probable cause must be obtained before a private dwelling may be entered to make an arrest even though the person entering possesses authority to arrest and has probable cause to do so.<sup>12</sup>

### The Questions

The superficial treatment of the constitutional issue leaves a number of unanswered questions for practitioners in the field. These include:

1. Who is a "responsible commander"?
2. What does the responsible commander's authorization encompass?
3. Who can authorize an apprehension when the immediate commander concerned seeks to personally apprehend?
4. May the authority to grant the apprehension authorization be delegated to another?

The first question underscores the notion that various commanders might have the requisite ability to authorize an apprehension. Article 7 of the Uniform Code of Military Justice authorizes any commissioned, warrant, or non-commissioned officer to apprehend. Unlike authority to authorize a search, control over a geographical area is not an essential element.<sup>13</sup> Hence, do commanders over an area, such as installation commanders, and commanders of personnel, such as company commanders, have equal authority? The two do not necessarily coalesce. If a person and a tangible item are constitutionally equal for the purposes of a "seizure," and any "officer" can apprehend, perhaps it is more prudent for practice purposes to have the commander who holds the additional qualification of exercising authority over the place where the individual is located, as a prerequisite for the authority, to issue the appropriate order.

The second question is easier to resolve, although perhaps not absolutely clear at first from the decision. The commander concerned is *not* merely giving permission to enter a particular residence. The official involved is making a formal probable cause determination just as he or she would with a request for a search authorization.<sup>14</sup>

Question three must be considered in two lights, *nonexigent* and *exigent* circumstances.

In a *nonexigent* circumstance there appears to be no difference in the neutrality question which the Court of Military Appeals has considered in the *Ezell*<sup>15</sup> line of search cases. It seems that a commander who is involved in self-authorization may well be characterized as a non-neutral law enforcement agent who didn't possess the required degree of impartiality. On the contrary, where there are exigent circumstances, the commander although biased acts properly as a police person to immediately apprehend without judicial "blessing."<sup>16</sup>

The last question is the most difficult. The Court has permitted commanders to delegate their authority to search.<sup>17</sup> The cases which allow this are bottomed on paragraph 152, MCM, 1969 (Rev'd). There is no similar provision dealing with apprehension orders. Indeed, a strong argument can be advanced that it is impermissible to delegate a judicial function.<sup>18</sup> Until this matter is resolved, the prudent course of action would dictate that commanders be advised not to delegate their authority to issue apprehension orders.

### Conclusion

As with any other modification to the law, judicial changes bring within them a certain unsettled state of affairs. This is particularly so in the absence of a Supreme Court decision<sup>19</sup> on the question of warrantless apprehensions within private dwellings. A conservative approach by command judge advocates in the application of *Davis*<sup>20</sup> will ameliorate any difficulties until the court can amplify its holding.

### FOOTNOTES

<sup>1</sup> 8 M.J. 79 (C.M.A. 1979); *petition for reconsideration filed by government* (22 Oct. 1979).

<sup>2</sup> *United States v. Davis*, 4 M.J. 15 (C.M.A. 1977).

<sup>3</sup> The Court has an additional opportunity before it to amplify its position in a factually similar case. See *United States v. Mitchell*, 7 M.J. 676 (A.C.M.R.), *pet. granted*, 7 M.J. 380 (C.M.A. 1979). (*Mitchell* is dissimilar only due to the off-post location of appellant's apartment.)

<sup>4</sup> *United States v. Davis*, 8 M.J. 79 (C.M.A. 1979).

<sup>7</sup> See *United States v. Houle*, 603 F.2d 1297 (8th Cir. 1979); *United States v. Prescott*, 581 F.2d 1343 (9th Cir. 1978); *United States v. Reed*, 572 F.2d 412 (2nd Cir. 1978); *Dorman v. United States*, 435 F.2d 385 (D.C. Cir. 1970).

<sup>8</sup> *United States v. Jamieson*, 2 M.J. 906 (A.C.M.R. 1976).

<sup>9</sup> "Private dwelling" encompasses either a residence outside of the barracks environment or a room within the barracks. The court has not ruled on the situation where a bay area is involved. The incorporation by reference of *United States v. Jamieson*, 2 M.J. 906 (A.C.M.R. 1976) within *United States v. Davis*, 8 M.J. 79 (C.M.A. 1979) implicitly supports this definition.

<sup>10</sup> *United States v. Watson*, 423 U.S. 411, 427-29 (1976) (Powell, J. concurring).

<sup>11</sup> Uniform Code of Military Justice art. 7, 10 U.S.C. § 807 (1976); Manual for Courts-Martial, United States, 1969 (Rev. ed.) para. 19.

<sup>12</sup> It is imperative to observe that the precise bounds of the action are unclear due to the varied approaches of the judges and the present structure of the Court. Chief Judge Fletcher concurred in the result with no opinion. Judge Cook concurred in the result, specifically not ruling on the issue in question. He agreed only because of the prejudicial effect on findings of

other evidence which was admitted, but not salient to the issue. Finally, Judge Perry's departure from the court neutralizes its precedential value.

<sup>13</sup> 2 M.J. 906 (A.C.M.R. 1976).

<sup>14</sup> *Id.* at 909-10. The Court used the term "arrest" improperly. In the context presented the word "apprehension" would have been correct.

<sup>15</sup> Manual for Courts-Martial, United States, 1969 (Rev. ed.), para. 152.

<sup>16</sup> See fns. 5 and 12, *supra*.

<sup>17</sup> *United States v. Ezell*, 6 M.J. 307 (C.M.A. 1979).

<sup>18</sup> Cf. *United States v. Campbell*, 581 F.2d 22 (2d Cir. 1978); *United States v. Flickenger*, 573 F.2d 1349 (9th Cir. 1978) (exigent circumstances provided basis for immediate arrest).

<sup>19</sup> *United States v. Albright*, 7 M.J. 473 (C.M.A. 1979); *United States v. Bowling*, 8 M.J. 76 (C.M.A. 1979).

<sup>20</sup> See generally, *United States v. Drew*, 35 C.M.R. 421 (C.M.A. 1965) (Ferguson, J. dissenting); 46 Am. Jur. 2d, Judges § 23 (1969).

<sup>21</sup> *Payton v. New York*, cert. granted, 24 Cr. L. 4132 (12/11/78); argued, 25 Cr. L. 4010 (3/26/79); re-argued, 26 Cr. L. 4053 (10/9/79).

<sup>22</sup> 8 M.J. 79 (C.M.A. 1979).

## International Law and the American Hostages in Iran

by Dr. Walter L. Williams, Jr.\*

For over ten weeks at this writing, the Iranian Government has held fifty-three United States citizens in close confinement. Fifty-one of these Americans have privileged status as U.S. embassy personnel.<sup>1</sup> The Iranian Government has held these Americans hostage for the return to Iran of Mohammed Riza Shah Pahlavi, the former Iranian Head of State. The Iranian demand upon the U.S. Government for return of the Shah, made when he was permitted to visit the U.S. solely to secure emergency medical treatment, continues now, although the Shah has departed U.S. territory.

The seizure of these Americans and the resulting crisis in U.S.-Iranian relations have drawn the close attention of governments and peoples around the world. In modern times, probably no other event has more compellingly raised the questions of international legal re-

sponsibility for protection of aliens in their person and their civil liberties, and of the permissible sanctions of self-help available to a government to protect its nationals abroad. Those two questions are the focus of this brief article for the *Army Lawyer*.

These are important questions for military lawyers to consider. Although the current Iranian crisis is a dramatic illustration of the pertinency of these questions, an appraisal of the turbulent world scene suggests that in the immediate future the United States and other countries must expect other instances of substantial mistreatment of their nationals abroad, including those having diplomatic status. The military strategies that governments may employ to protect their nationals abroad obviously will give rise to a wide range of legal problems

calling for the services of military lawyers. Further, situations threatening serious personal deprivation to American citizens may arise where U.S. military elements are on the immediate scene and able to offer effective protection if employed immediately. The emergency situation may not permit the luxury of awaiting authorization to act from high governmental levels. In that context, military commanders will have to rely upon their lawyers for advice as to the permissibility under international law of military action to protect American citizens abroad. Thus, for military lawyers, a basic understanding of international law concerning the protection of aliens is vital. In dealing with the situation of the American hostages in Iran, this article discusses one of the most critical situations that arise: foreign governmental action intentionally taken against American citizens that causes them substantial personal deprivation and threatens them with still more extreme deprivation.

To show that the Iranian Government has engaged in multiple major violations of international law in the case of the American hostages does not require a lengthy legal brief. First, the confinement of the Americans clearly is an act chargeable to the Iranian Government. A well-organized group of Iranian private citizens, reported to be students, conducted the initial seizure of the American Embassy in Teheran and confinement therein of American citizens. To the present, this writer is unaware of any conclusive evidence that, prior to the seizure, the Ayatollah Ruhollah Mussavi Khomeini (at that time the actual if not formally proclaimed Head of Government) or any other Iranian official ordered, authorized, or with foreknowledge passively permitted the seizure. However, regardless of its involvement in the initial seizure of the Embassy and the American citizens, the Iranian Government failed to take any action whatsoever to terminate the seizure. Further, the Ayatollah Khomeini and lesser officials quickly approved and expressly adopted as governmental action the seizure and the continued confinement of the American citizens, as well as the characterization of their status as hostages for the return of the Shah to Iran. The

Iranians holding the Americans hostage have repeatedly said that they would release the Americans at the Ayatollah Khomeini's direction, but that direction has not been given. Thus, under any analysis the holding of the American hostages is an act of the Iranian Government.

The Iranian seizure and confinement of the Americans is a gross violation of conventional and customary international law. In our brief survey of the law here, we should note that, fundamentally, we are confronted with serious deprivations of civil liberties accorded by international law to these American citizens present in Iran. At this point in the analysis, we are not concerned with the special privileged status of most of these Americans as embassy personnel. Under the U.S.—Iranian *Treaty of Amity, Economic Relations, and Consulate Rights*,<sup>2</sup> all American citizens presents in Iran are entitled to "receive the most constant protection and security" within the territory of Iran. If held "in custody," which presumes custody by properly empowered officials pursuant to regular process and for reasonable cause, Americans are "in every respect" to "receive reasonable and humane treatment." On their demand their diplomatic or consular representatives is to be "accorded full opportunity to safeguard" their interests. Each is to be "promptly informed of accusations against him, allowed full facilities reasonably necessary to his defense and given a prompt and impartial" determination of his case.

These foregoing rights of the American hostages have been outrageously violated. This pertains not only to the specific details of their confinement, but as to the confinement itself. From the outset of their seizure, the publicly pronounced objective has been to hold the Americans as hostages for the return of the Shah to Iran, with various threats of increased deprivation to them (criminal proceedings, prison confinement, even death) if the Shah does not return. Additionally, emphatic threats have been made that the hostages will be killed if the U.S. government attempts any use of force to release them. Under the laws of all states, if a guard were to deliberately kill a defenseless prisoner, that would be murder.

Further, as regards holding these Americans as hostages, even under the law of war in situations of armed conflict, two of the most important prohibitions in the *Geneva Convention Relative to the Protection of Civilians in Time of War*<sup>3</sup> (both Iran and the U.S. are parties) are the express prohibitions against the holding of civilians as hostages and of taking reprisals against civilians. These prohibitions, resulting from the massive cruelties against civilians in World War II, dramatize the unlawful conduct of the Iranian government in holding these Americans as hostages and in subjecting them to continuous deprivations as reprisal for the failure of the U.S. Government to return the Shah to Iran. Those deprivations include confinement in circumstances closely approximating solitary confinement; subjecting them to threats of possible long-term imprisonment or execution, and continuously exposing them to the possibility of death or injury if the incessantly demonstrating Iranian crowds should get out of control.

As regards the various Iranian assertions that the hostages might or will be tried for crimes of espionage if the Shah does not return to Iran, the very fact that conducting the trials turns on the return of the Shah shows that the true objective for holding the Americans is not for the purpose of trial for alleged crimes. Further, no formal charges have been made against any individual nor, to this writer's knowledge, has any specific act of criminal espionage by any individual even been formally alleged. At this point, the special status of virtually all of the American captives as U.S. embassy personnel becomes relevant. Under the *Vienna Convention on Diplomatic Relations*,<sup>4</sup> to which the U.S. and Iran are parties, these Americans, regardless of the particular subcategory of privileged status that applies to each individual, all share in a minimum "floor" of protection under that convention: the immunity from any form of arrest or detention and from criminal prosecution for acts performed in the course of their duties.<sup>5</sup> The appropriate remedy for the Iranian Government, if it in good faith believed that at least some of the American captives had committed criminal espionage, would

be to demand that the U.S. government withdraw those persons from Iran.<sup>6</sup> Indeed, under the Vienna Convention, even in time of armed conflict, the host state is obligated not only to allow these personnel to depart at their will, but also, to provide adequate facilities to assist in their departure.<sup>7</sup>

These foregoing rights are also, in general, long-standing hallowed rights under customary international law, which have been incorporated into these bilateral and multilateral international agreements.<sup>8</sup> The conduct of the Iranian Government has rightly been condemned as a violation of international law by the general world community, through statements of governmental officials, and by the chief authoritative judicial and political agencies of the United Nations Organization, the International Court of Justice and the Security Council. All have called for the immediate release of the Americans.

With the Iranian Government standing in violation of international law, the question is what are the permissible sanctions that may be employed against that government to terminate continuing deprivations against the American citizens. First, the principal sanctioning goals in a situation of violation of international law of protection of aliens are (a) immediate deterrence and (b) restoration, that is, sanctions may be employed first, to deter a government from acting to cause impermissible deprivation to aliens or to increase the level of such deprivation and, second, to terminate an impermissible deprivation, where the target government's action is one of continuing nature, *e.g.*, unlawful confinement. The anticipated or actual deprivation may range from very minor effect to grave injury or death. The nature and extent of the deprivation obviously affects the nature of the sanction that may lawfully be employed.

As regards the range of permissible sanctions in the Iranian situation, we should first consider the employment of sanctions by community agencies acting for the global community under the U.N. Charter. Undoubtedly, in either the situation of immediate deterrence or of restoration, the Security Council acting under Chapter



VII of the U.N. Charter could either authorize or order the employment of non-military sanctions by any or all member states and could authorize the employment of military sanctions of whatever degree of coerciveness it judged necessary to deter or to terminate the Iranian Government's unlawful conduct against American citizens. The U.S. Government indeed requested the Security Council to order economic sanctions against Iran, in light of the Iranian Government's failure to obey the orders of the Security Council and of the International Court of Justice to release the American hostages. However, events have highlighted the difficulties of exclusive reliance on community sanctions. These difficulties include (a) where aliens are threatened with imminent deprivation, securing timely deterrent community action by the Security Council under even the optimum of operating circumstances; (b) the Council's lack of authority to order the national employment of military forces, or itself to deploy a U.N. military unit, absent prior agreement by member states to place military forces at the Council's disposal, and (c) the power of any Permanent Member of the Security Council to exercise a veto to prevent the Council from characterizing the propriety of the offending state's conduct and/or deciding to authorize or order *any* sanctions. The Soviet veto of the Council's resolution ordering economic sanctions against Iran is therefore characteristic of these systemic difficulties. In view of the U.S. Government's prominent role in the tidal wave of world condemnation of the Soviet Union's massive act of aggression in unlawfully invading Afghanistan, a Soviet veto was largely foregone.

What then are the permissible sanctions in self-help to deter or to terminate unlawful deprivations by a foreign government against aliens? Traditional customary international law permitted the state to which the alien owed allegiance to use all necessary forms of sanctioning strategies from harsh diplomatic notes to the substantial application of armed force.<sup>9</sup> Today, under the U.N. Charter, a state clearly may employ in self-help all sanctioning strategies short of the threat or use of armed force,

without prior authorization by the Security Council.<sup>10</sup> Thus, in the Iranian situation, the U.S. Government already has lawfully employed certain diplomatic and economic sanctions against Iran and lawfully may intensify those sanctions in the future. Also, military strategies that do not constitute a present threat of use or actual use of armed force against a state likewise are permissible. Examples are strategies already employed by the U.S. Government in the Iranian situation, such as the alerting of military units or the movement of military units under conditions indicating that although the future use of military force may be a possibility, no present threat of use or actual use of force is intended.

The crucial question concerning use of sanctions in self-help to protect nationals abroad is whether the threat of use or use of armed force against the offending state is permissible under the U.N. Charter. The text of the Charter is the starting point for analysis. The principal relevant clauses of the Charter are Articles 2(4) and 51. Article 2(4), the principal prohibition on the use of force, provides that, "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." In turn, Article 51 states, "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. . . ." Further, both the letter and the spirit of the language of the Purposes of the U.N. Charter and of the Charter provisions in general, are that states are expected to settle their disputes without resort to force. If a continuing unresolved dispute situation is a threat to international peace, the issue should be taken before the Security Council, as the authoritative community agency empowered to characterize the situation and to determine appropriate action.

In discussing the question of the impact of

these U.N. Charter provisions upon the use of force in self-help to protect nationals abroad in situations similar to the Iranian case, we shall consider first, the use of force for the goal of immediate deterrence. In the situation where that goal is operative, the features we posit here for discussion are that the alien is threatened with imminent, substantial personal deprivation, yet at least a reasonable expectation exists that if his government acts swiftly the deprivation can be prevented. Although the situation may occasionally be one in which the alien has not yet suffered any deprivation, our model's factual prerequisites of notice to his government of the emergency and of his government being able to mount a timely military action suggest that the situation more generally will be one in which the alien already has suffered some deprivation, *e.g.*, seizure, and at a later date is threatened with an imminent substantial increase in deprivation, *e.g.*, serious bodily harm or death or a significant period of penal confinement. In our posited situation, the objective is one of conservation of vital human values in an emergency situation threatening destruction or substantial damage to those values.

When the posited emergency situation arises, does Article 2(4) bar use of force in self-help to protect one's nationals abroad? Many authorities<sup>11</sup> have asserted that Articles 2(4) and 51 should be counterpoised, with the result that only one objective for the use of force in self-help would be permissible under the Charter, the use of force in individual or collective self-defense, until such time as the Security Council takes effective action. Moving from that premise, some authorities have relied on the concept of self-defense to justify the use of force to protect one's nationals abroad.<sup>12</sup> Others have challenged whether situations of protection of nationals abroad could be viewed, literally or in policy, as a response to an "armed attack" against the sanctioning state.<sup>13</sup> From the latter perspective, if the Security Council does not act or cannot act with sufficient swiftness, and if use of military force were necessary to prevent substantial harm to aliens, their state must either passively permit their death or grave

damage or else be in violation of the Charter by using force unlawfully. That view obviously interprets the intent of the framers of the Charter to be that regardless of the emergency conditions, it would be preferable that any number of human lives be destroyed or damaged rather than risk the potential abuses of forcible self-help in international relations, even in the limited instances of emergency situations.<sup>14</sup>

One understands, then, why some authorities have relied on the principle of self-defense. First, since the principle is enshrined in Article 51, it provides a convenient device to opt out of the challenge of confronting head-on the question of interpretation of the prohibition on the use of force in Article 2(4) in the context of use of force in self-help to protect one's nationals, and it allows one to continue to preserve at least an apparent verbal symmetry of these Charter provisions. Secondly, the use of force in protection of nationals, especially in emergency protection, is related to use of force in self-defense; there is much that is analogous. Both are illustrations of self-help to conserve, to protect interests from substantial deprivations by the target state, and in situations like the Iran case, where Embassy premises and personnel are seized, the symbolic identification of those persons with their state is closer than if, for example, fifty American tourists had been seized. When one is considering the use of forcible self-help to deter substantial deprivation of national by a foreign government in an emergency situation, as we are here, the temptation to merge the two is especially strong.

However, the contexts for these two forms of self-help are decidedly different and confusion of the forms by treating both as self-defense is bad thinking and bad policy. It is an argument that, "equates the protection of nationals abroad with the preservation of the state itself."<sup>15</sup> The context for the development of policy and law as to self-defense against armed attack pertains to response to unlawful use of armed force against the territorial integrity or political independence of the defending state. "Self-defense, properly understood, is but the most dramatic of self-help . . . the test for law-

fulness commonly applied is that the target state . . . is faced with a threat to its territorial integrity or political independence so imminent that it must itself immediately resort to the unilateral use of the military instrument in order to protect itself."<sup>16</sup> The context of the use of force in self-help to protect one's nationals abroad involves various forms of unlawful action of the offending government occurring in its own territory against groups of aliens varying in many characteristics (*e.g.*, number, age, sex, reasons for presence in foreign country, nature of relationship to their own government) and having differing forms and extents of personal deprivation (*e.g.*, loss of freedom of movement, psychic trauma, physical injury). None of these features appears to bear close relation to the objective features of the conduct of the offending state in the self-defense context, the substantial use of force in "armed attack," nor to the major interests involved in the very continuation of the existence of the defending state, its territorial integrity and political independence. Further, the sense of crisis level in the perspectives both of officials and of the body politic is very high in avowed situations of self-defense, and wide latitude is granted by international law to the defending state in its determination of the necessary and proportionate response of unlawful armed attack. These factors might well result in excessive force (in destructiveness, in duration and/or in geographic ambit) being used in self-help to protect nationals abroad, where a more restrictive perspective on necessity and proportionality would seem to be required.<sup>17</sup> Indeed, one could argue that the news media's highlighting of the rather casual reference to Article 51 of the U.N. Charter by U.S. Government spokesmen in press conferences early in the Iranian situation has served unduly to heighten the sense of crisis and of grievance in the American public. Correspondingly, this may make it more difficult politically for the U.S. Government at some future date to continue to opt for non-use of military force in the Iranian situation.

Thus, the conclusion here is that Article 51 of the U.N. Charter does not apply to forcible self-help to protect nationals abroad. However,

this does not mean that Article 2(4) of the Charter bars forcible self-help in the emergency deterrence situation we are discussing. In brief, the framers of the Charter, as rational persons, obviously realized that emergencies might arise in which aliens could be killed or suffer other serious deprivation by unlawful coercion before effective U.N. action could be taken. Further, no basis in policy or practice exists to suggest that national officials of the world community, at the establishment of the United Nations or today, would interpret Article 2(4) to prohibit their use of force to protect their nationals from such unlawful coercion where forcible self-help was the only hope for timely action. "Laws are made for men and not for creatures of the imagination."<sup>18</sup> To interpret Article 2(4) to require a "forced sacrifice" of human values, indeed of human lives, on the altar of absolutism in applying the general principle prohibiting forcible self-help would not only invite the contemptuous repudiation of governments. That interpretation would deny the ultimate goal to which Article 2(4) and the entirety of the Charter are committed: the promotion of fundamental human dignity throughout the world community. Even in the early years of the United Nations organization, so fervent a supporter of the Charter limitations on unilateral use of force as Professor Philip C. Jessup, distinguished professor of international law and later a member of the International Court of Justice, recognized the exceptional situation of forcible self-help in the emergency deterrence situation. "It would seem that the only possible argument against the substitution of collective measures under the Security Council for individual measures by a member state would be the inability of the international organization to act with the speed requisite to preserve life."<sup>19</sup> Thus, properly interpreted, Article 2(4), like any proscription of law, is subject to limitations in application by exceptional situations, here the need for forcible self-help to protect nationals in an emergency deterrence situation. As regards the Iranian situation, if the crisis were to escalate, for example, by the threat of imminent death or injury to the

American hostages, and a reasonable appraisal of the circumstances indicated that immediate forcible self-help without the delay of securing Security Council authorization or other community action was the only means of preventing this new and more serious deprivation to American citizens, forcible self-help would be permissible under the Charter. Of course, the U.S. Government would be obligated to give immediate notice to the Council and would be subject to Council appraisal of the decision to use force and the manner in which force was used in the situation.

We have been discussing the permissibility, under the Charter, of forcible self-help to protect nationals in an emergency deterrence situation. What of the situation where a foreign government already is subjecting aliens to unlawful, continuing coercion that is not so injurious as manifestly to threaten imminent death or serious injury, yet is a very substantial deprivation of their rights in the protection of their person and of their civil liberties? Undoubtedly, this describes the situation of the American hostages in Iran, as of this writing. In that situation, the sanctioning goal of the U.S. Government is not that of emergency deterrence, but of restoration, the termination of the continuing, unlawful confinement of the American hostages and of the deprivational consequences and risks associated with that confinement under the current circumstances in Iran. The question is whether forcible self-help by the U.S. Government in this restoration situation would be permissible under the U.N. Charter. Obviously, if the Security Council authorizes the United States to act, forcible self-help in accord with whatever conditions were set by the Council would be permissible. (Here, action by the United States would be both in self-help and to vindicate Security Council authority under the Charter.) Correspondingly, if the Council, exercising its Charter authority to which the U.S. Government is subject, refused to authorize forcible self-help by the United States, then U.S. use of force would be impermissible. The Council would have authoritatively characterized the current Iran situation

as one not presently justifying the use of armed force.

However, what if the Council was prevented from functioning to authorize forcible self-help by the United States, due to the exercise of the veto power by one of the Permanent Members? We have already noted the Soviet veto of the U.S. request for Security Council economic sanctions against Iran. Just as likely is the probability of a Soviet veto of any proposal that the Council authorize forcible self-help. Our conclusion is that whenever the Council, rather than acting by majority vote to disapprove the use of forcible self-help, is prevented by the veto power from acting to express existing majority support for authorizing forcible self-help, unilateral decision to use force in self-help is permissible under the Charter. "A rational and contemporary interpretation of the Charter must conclude that Article 2(4) suppresses self-help insofar as the organization assumes the role of enforcement. When it cannot, self-help prerogatives revive."<sup>20</sup> Much of the preceding discussion concerning the permissibility of forcible self-help in an emergency deterrence situation when timely community action is impossible under optimum operation conditions applies with even greater vigor to the problem of the failure of the Council to be able to function due to the exercise of the veto power.<sup>21</sup> That this is the proper interpretation of the limitation on use of force under Article 2(4) is supported both by interpretation in accord with the principle of effectiveness in implementing the principal purposes of the U.N. Charter and with the principal of subsequent conduct of the parties to the Charter for nearly thirty-five years.<sup>22</sup> To interpret the Charter otherwise would be "an invitation to lawbreakers who would anticipate a paralysis in the Security Council's decision dynamics."<sup>23</sup> Indeed, with the inability of the Council to act, to hold that a state "can, with impunity, attack the nationals . . . of other states without any fear of response . . . is simply to honor lawlessness."<sup>24</sup>

We have concluded that forcible self-help to protect nationals from substantial unlawful deprivation by foreign government is permissible

under the U.N. Charter in emergency deterrence situations and, if the Security Council is prevented by veto from functioning to authorize forcible self-help, in restoration situations. This conclusion does not suggest that, if not barred by the Charter, forcible self-help is without limits. Under contemporary conventional and customary international law, all uses of armed force, in any context, are subject to the requirements of necessity and proportionality. As regards the question of forcible self-help by the United States at some point in the Iranian situation, factors to be considered in the situation existing at that time would include: (a) the present extent of deprivation in terms of such criteria as the type of deprivation and the number, sex, age and health of the nationals; (b) the imminency of further deprivations and their anticipated extent under the same criteria; (c) the outcome of prior attempts to secure lawful conduct of the offending government and the anticipated outcome of any further attempts to protect one's nationals without use of force; (d) the degree of expectation that forcible self-help would achieve the goal of protection, involving such criteria as the anticipated extent of resistance by the offending government to the military operation; the extent of violence that the offending government or its citizens might exercise against the foreign nationals because of the exercise of forcible self-help, and the extent of the risk of death or injury to one's nationals by the self-help operation itself; (e) the destructiveness of the weaponry to be employed, and the planned duration and geographic ambit of the military operation, and (f) the extent of the risks of death or injury to noncombatant citizens of the offending state or of third states. If a good faith, knowledgeable appraisal of the then-existing Iranian situation under this framework of analysis provided an affirmative response to the requirements of necessity and proportionality, United States use of forcible self-help would be permissible. If not, then regardless of the threshold question of U.N. Charter limits on forcible self-help, forcible self-help in the particular instance would be impermissible under international law.

## FOOTNOTES

- \* Professor of Law, Marshall-Wythe School of Law, College of William and Mary, B.A., M.A., LL.B., University of Southern California; LL.M., J.S.D., Yale University.
- <sup>1</sup> Fifty Americans are confined in the U.S. embassy building in Teheran, and three in the premises of the Iranian Foreign Ministry. Two of the Americans at the embassy are private citizens.
- <sup>2</sup> *Treaty of Amity, Economic Relations, and Consular Rights Between the United States of America and Iran*, 8 U.S.T. 899. All quoted provisions of the Treaty are from Article II.
- <sup>3</sup> *Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949*. T.I.A.S. 3365. Article 34 prohibits taking civilians as hostages and Article 33 prohibits reprisals.
- <sup>4</sup> *Vienna Convention on Diplomatic Relations*. 500 U.N.T.S. 95; 23 U.S.T. 3227; T.I.A.S. 3227.
- <sup>5</sup> Articles 29, 31 and 37.
- <sup>6</sup> Article 9.
- <sup>7</sup> Article 44.
- <sup>8</sup> As regards the customary international law on the protection of aliens, see concise discussion and authorities cited in Lillich, "Forcible Self-Help by States to Protect Human Rights," 53 *Iowa L.R.* 325, 326 et seq. (1967); Mirvahabi, "Entebbe: Validity of Claims in International Law," XVII-4 *The Military Law and Law of War Review* 627, 648 (1978).
- <sup>9</sup> See authorities cited *supra*, note 8. See, also, Lillich, "Humanitarian Intervention: A Reply to Ian Brownlie and a Plea for Constructive Alternatives," in Moore (ed.), *Law and Civil War in the Modern World* 229 (1974), citing various authorities.
- <sup>10</sup> Thomas & Thomas, *Non-Intervention* 312 (1956); Lillich, *supra*, note 8. Both in drafting and in practice for nearly thirty-five years under the Charter, the state parties have restricted the Charter limitation on sanctions in self-help to those involving threat or use of armed force.
- <sup>11</sup> See discussion in Lillich, *supra*, note 8, at 334, 337; Mirvahabi, *supra*, note 8, at 645; Wright, "The Legality of Intervention Under the United Nations Charter," 51 *Am. Soc'y Int'l L. Proceedings* 79, 88 (1957). "Apart from self-defense and collective self-defense, self-help by states is now illegal." Brownlie, "Humanitarian Intervention," in Moore (ed.), *supra*, note 9, 217.
- <sup>12</sup> E.g., Bowett, *Self-Defence in International Law* 92 (1958); Waldock, "The Regulation of the Use of Force by Individual States in International Law," 81 *Recueil des Cours* 455 (II-1952); Fenwick, "The Dominican Republic: Intervention or Collective Self-Defense," 60 *Am. J. Int'l L.* 64 (1966); Mirvahabi, *supra*, note 8, at 632-637.

<sup>13</sup> See discussion in Lillich, *supra*, note 8, at 337; Brownlie, *International Law and the Use of Force by States* 299-301 (1963).

<sup>14</sup> "It is true that the protection of nationals presents particular difficulties and that a government faced with a deliberate massacre of a considerable number of nationals in a foreign state would have cogent reasons of humanity for acting, and would also be under very great political pressure. The possible risks of denying the legality of action in a case of such urgency, an exceptional circumstance, must be weighed against the more calculable dangers of providing legal pretexts for the commission of breaches of the peace in the pursuit of national rather than humanitarian interests." Brownlie, *supra*, note 13 at 301.

<sup>15</sup> Lillich, *supra*, note 8, at 336.

<sup>16</sup> McDougal, "Authority to Use Force on the High Seas," *XX Naval War College Review* 19, 29 (Dec. 1967). Mirvahabi, *supra*, note 8, at 632-637, applies the concept of self-defense extensively in analyzing the permissibility of the Israeli use of forcible self-help in the Entebbe situation, with no apparent recognition of the differing contexts of use of force in self-defense and in protection of nationals abroad, yet gives only cursory mention to the application of self-help to protect nationals as a sanctioning strategy under the international law of protection of aliens, at 648.

<sup>17</sup> "The use of self-defense terminology instead of hu-

manitarian intervention phraseology, however, evokes more readily national security fears that occasionally may lead to more extensive uses of force." Lillich, *supra*, note 8, at n. 77, 337-338.

<sup>18</sup> Westlake, *International Law* 306 (1902).

<sup>19</sup> Jessup, *A Modern Law of Nations* 170 (1949).

<sup>20</sup> Reisman, *Nullity and Revision* 850 (1971). See also, Lillich, *supra*, note 9; Nanda, "The United States' Action in the 1965 Dominican Crisis: Impact on World Order—Part I," 43 *Denver L.J.* 439, 458 (1966); McDougal, *supra*, note 16, at 28-29; Lillich, *supra*, note 8, at 344-345.

<sup>21</sup> "Surely to require a state to sit back and watch the slaughter of innocent people in order to avoid violating blanket prohibitions against the use of force is to stress blackletter at the expense of far more fundamental values. . . . Furthermore, it is a realistic assumption that no state with the capability to act will allow its own nationals and the nationals of other states to be killed or injured abroad. . . ." Lillich, *supra*, note 8, at 344-345.

<sup>22</sup> See McDougal, *supra*, note 16, at 28-29; Lillich, *supra*, notes 8 and 9.

<sup>23</sup> Reisman, "Sanctions and Enforcement," in III, Black and Falk (eds.), *The Future of the International Legal Order* 273, 332-333 (1971).

<sup>24</sup> McDougal, *supra*, note 16, at 28.

## The Small OSJA

LTC Archibald M. McColl  
MTMC Western Area, Oakland, CA

There are many experiences all, or almost all, of us have shared, Trial Counsel, Defense Counsel, Project Officer, Reports of Survey Reviewer, Administrative Law Opinion Writer, Speech Writer, Claims Officer and so on. And yet few of us have had the privilege of being SJA with a small OSJA, although with present personnel limitations this may be, like Legal Centers, the wave of the future. For the benefit of those who haven't yet so honored, and perhaps never will, the following may prove useful.

Nothing more professionally rewarding can be found than being SJA of an active command and having an infinitesimal shop. You cannot delegate almost everything to an exemplary deputy and staff and keep yourself free to work

on the "Big Picture;" you cannot because any deputy and staff you may have are already grossly over-worked and there is plenty of additional work which requires doing. You do it yourself. You will end up doing at one time or another almost everything that has to be done.

How many SJA's themselves, draft court martial charges and even Article 15's, as well as Advices and Reviews? You will. It is an excellent and intimate look at basic principles, a detailed refresher course in military justice. Not only do you have to put the right words in the blanks, so to speak, and make sure that things like jurisdiction are properly pleaded, but you must also go over the preliminary investigation carefully, to be sure that there is adequate evidence to prove each and every ele-

ment of the offense, which you, yourself, are writing up, and that you include everything that should be included. There is an excellent chance you personally will have worked with the Company Commander, the First Sergeant, and MPI in making sure everything, including but not limited to Article 31 warnings and search and seizure, is done correctly. You will be reminded of the vast difference between theory and the application thereof in a totally practical situation. A little extra time spent in giving instruction to appropriate personnel will save hours of detailed individual briefings. And what happiness there is when you get the whole charge sheet right and realize that not only are you an SJA but a good legal clerk as well! It is this total synthesis of the legal profession that is so rewarding.

In Administrative Law, too, there is much to be learned, relearned and unlearned. Regulations change. That which one remembers fondly from one's days as a Lieutenant or Captain project officer may, or may not, and most likely may not, be the same. Memory is, or can be, almost a liability. You, yourself, must dig out the Regs in their latest iteration and be sure that the answer you give is correct. Then there are problems which don't quite fit into situations considered and resolved by Regulation. The Army Lawyer is a magnificent help. When it comes to writing new post, camp or station regulations yourself, being able to get hold of what has been done elsewhere in response to similar situations is time saving, but you must make sure your final product is completely responsive to the peculiar requirements of your command.

You will find that your MACOM and OTJAG are superbly helpful, and in my opinion should never be hesitant in turning to either, or both.

Equally, at your installation, other members of the Staff may well have experience in fields with legal overtones, and their expertise should be sought and utilized in their areas of past and present expertise.

Legal Assistance can be fun, but there are traps for the unwary, and Legal Assistance is

second only to Defense as an area which must be delegated. (Reservists can be used to give legal assistance, which is most helpful.) If you establish an attorney-client relationship with an active duty soldier or his or her dependent, and later that person becomes a matter of command interest, even for a totally different matter, you may well find yourself ethically disqualified from acting as SJA for the Command. It is better to delegate your Legal Assistance function rather than to delegate your SJA function, and it is better to learn of this possible problem area by hearing about it rather than by experiencing it. Equally, if you are not entirely familiar with the laws of the country or state in which you are stationed, what you learned in law school and other assignments may not be relevant.

Claims can be a superb refresher course in rather basic mathematics, among other things. You do not merely review other people's work, with assurance that the person who did the work is a mathematical whiz, and with the answer, probably correct, duly included. You get to do it all yourself, and then carefully to review what you have done.

Administration of your office is another challenge. Of course, I am assuming that the people in your office are superbly competent; mine are. But there is still a lot that usually doesn't fall into the job description of your average SJA. Personally writing job descriptions to upgrade your civilian positions (not your civilian holding the position) (it would be helpful if there were a course in How to Deal with CPOs), preparing Schedule Xs, trying to get up-to-date office equipment, making sure your library is current and that you have the reporters you need and no more, all of this and more, done personally, gives the SJA of a small shop a far wider knowledge of his or her field than usual.

With few people authorized, when there are further personnel shortages, the situation can become drastic. You as SJA must somehow fill the gaps and continue to function.

Use of reservists can be helpful. Two-week active duty reservists, either individually or as



units, are in my experience ready to be put in the firing line along with everybody else and can be counted on to do a magnificent job. SJA assistance and instruction plus access to precedent files may be necessary, but any time so spent is repaid many times over.

Weekend reservists can, as indicated, supply legal assistance, and their knowledge of local law, procedure and reality is highly useful. The regular presence of the SJA on weekends, to assure such reservists of their welcome and to express appreciation is recommended.

Weekend reservists are not necessarily limited to legal assistance; provided you give them adequate backup, they can do an outstanding job on research projects, administrative law opinions, review of procurement actions, advice and reviews and so on. You can perhaps expect that they will be at first a little slower than their active Army counterparts, due to unfamiliarity with the system, and possibly for the same reason, more thorough.

When there are shortages, do not overlook the possibility of placing your subordinates in more challenging roles. I am well aware that CPO types may not approve, to put it mildly, but even low level civilian employees can respond nobly to added duties. You must, of course, explain why such are essential to accomplishing the mission, and give all the assistance you can. In my experience, the results can be the difference between success and failure.

Not changing the subject, years ago, and I cannot recall when or where, I came across a report that, when the Duke of Wellington lay dying, he was asked what he would do differently if he could do it all over again. He replied: "I would give more praise." This may be worth remembering.

Then there are new areas of law. Small shops generally are attached to Commands with unusual legal problems. Medical, medical malpractice, bankruptcy, intelligence, international, customs, admiralty and transportation law, and an infinite variety of labor law challenges involving inter alia Longshoremens and Teamsters, and their overseas counterparts, are examples. Of course, you will have subject matter experts, and they are invaluable. But you will still have to learn a lot in a hurry.

This brings us to the subject of leave. Leave is a plague which is inevitable. No matter how quiet things are when your subject matter expert starts his or her leave, you can expect that you will have to function brilliantly in his or her field while he or she is on a well-deserved leave. That he or she was shaking, and a study in pale grey and lavender, at the start of the leave and full of bounce on return, is some consolation.

The greatest reward of all, however, is the knowledge that you really can function at all levels of our profession, not only in popular fields but in arcane fields as well, that the old magic you thought you had as a junior officer can still exist, and that you can not only command the unit, so to speak, but also lay and fire the artillery on target, drive the tanks and fire the main gun accurately, snipe, cook and deliver the rations, tend the sick and wounded and still be able to take a moment to write articles like this, in hopes that such will be not only helpful but also inspirational. After all, being in on and participating personally in everything in the legal business and doing most of it yourself, is great fun, professionally rewarding and personally gratifying.

## A Matter of Record

*Notes from Government Appellate Division, USALSA*

### 1. Charges and Specifications:

a. The trial notebook is an important tool in assisting counsel in monitoring all facets of the

court-martial. A recent case illustrates the need for utilizing such a notebook. The accused was charged with several offenses. During an Ar-



ticle 39(a) session, the military judge inquired whether the three specifications of Additional Charge IV constituted an improper joinder of minor offenses with the other major offenses. After discussing Specification 2, the judge stated that she would entertain a motion to dismiss Specification 3. The motion was made and granted, and the parties moved on to a discussion of Specification 3. The accused then pleaded guilty to the remaining charges and specifications. The defense is now alleging that the accused was improperly found guilty of a specification that had been dismissed (Specification 3), and that the plea of guilty to another specification (Specification 2) was improvident as the judge failed to inquire into the facts of the specification (thinking that she had previously dismissed it). This allegation of error could have been prevented if the trial counsel had kept a trial notebook containing a list of charges and their disposition at trial. Trial counsel would then have known which charges had been dismissed and which were still pending.

b. Trial counsel should give due consideration to the appellate process and its potential impact on the case. He should fully contest all motions which may have a detrimental effect during appellate review, and should be careful which charges he allows to be dismissed. An accused was charged with the specific intent offense of

willful damage to personal property (Article 109, UCMJ), and the general intent offense of reckless driving causing damage to personal property (Article 111, UCMJ). The trial counsel allowed the general intent charge to be dismissed. At trial, the accused was ultimately convicted of the specific intent crime. The appellant is again alleging that he did not specifically intend to damage the property. Should the accused be successful in his argument, there is no longer any general intent offense on which the Government may rely.

## 2. Jurisdiction/Personal:

Trial counsel should be aware of the jurisdictional effect of a reenlistment. The accused transferred heroin to a Government agent on 26 January 1979. On 29 January, he was discharged in order to reenlist on 30 January. He was tried on the transfer charge on 26 June 1979. The court did not have jurisdiction over the accused as the discharge barred prosecution for an offense committed prior to discharge. The only exception is covered by Article 3(a), UCMJ. *United States v. Ginyard*, 16 USCMA 512, 37 CMR 132 (1967). This is not an isolated problem as several similar cases have been received recently. Trial counsel should ensure that all investigative agencies and unit commanders are aware of this rule and carefully examine all charges and specifications before trial.

## Judiciary Notes

### *U.S. Army Judiciary*

#### Digests—Article 69, UCMJ, Application

1. The case of *Saulsberry*, SPCM 1979/4492, involved the question of excluding from evidence a camera and the accused's pretrial statement. PFC S, the accused's roommate, spied a camera in the accused's open wall locker. Suspecting the camera might have been stolen from another soldier in the unit, PFC S reported the incident to the Training NCO and the Executive Officer. The Executive Officer called the military police to obtain the serial number of the missing

camera. They returned to the accused's room, removed the camera, and determined that the serial number matched that of the stolen camera. Upon his return from field training two days later, the accused was interviewed by a CID agent; he claimed that he found the camera in the latrine. He was interviewed again two weeks later and admitted stealing the camera.

The camera and its serial number were obtained as a direct result of the illegal seizure

of the camera from the applicant's wall locker. It was concluded that this was a warrantless search which did not meet any of the warrantless search requirements. This was harmless error, however, because the Government's misconduct in seizing the camera did not prevent the later interrogation of the accused.

Looking to *US v. Foecking*, 22 USCMA 46, 46 CMR 46 (1972), the crucial inquiry is whether the statements were procured solely by exploitation of the earlier misconduct. It was determined that they were not. Even without the seizure, it is reasonable to assume that, upon his return from the field, the accused would have been interviewed based solely upon the reported observation of the camera by PFC S. The same logic applies to the subsequent confession, and for the additional reason that it was not obtained until three weeks after the seizure.

It was concluded that the testimony of the victim and PFC S, together with the accused's confession, was sufficient to support the findings of guilty, even in the absence of the camera itself. Relief was denied.

2. In *Comins*, SPCM 1979/4547, the accused contended that the military judge erred by failing, prior to findings, to instruct the court members, *sua sponte*, that they will not draw any inference adverse to the accused from the fact he did not elect to take the stand as a witness. The defense presented no witnesses on the merits. The defense counsel did not request an instruction from the military judge on the accused's failure to testify.

The Fifth Amendment to the United States Constitution forbids either adverse comment by the prosecution on the accused's silence or instructions by the court that such silence is evidence of guilt. *Griffin v. California*, 380 US 609 (1965). To offset any inference of guilt from the failure to testify, an accused, upon request, is entitled that the court members be instructed that his silence be disregarded. The giving of such an instruction over the accused's objection is not error. *Lakeside v. Oregon*, 435 US 333 (1978). But, the Supreme Court noted

"[i]t may be wise for a trial judge not to give such a cautionary instruction over a defendant's objection." *Id.* at 340. A recent decision of a military appellate court is in accord with the preceding comments. *US v. Charette*, 4 MJ 602 (ACMR 1977). A petition for review on this issue has been granted. *See US v. Charette*, 4 MJ 343 (CMA 1978).

The prevailing rule is that the trial judge is not required to give an unrequested instruction on the accused's decision not to testify. *US v. Mallow*, 7 USCMA 116, 21 CMR 242 (1956). This gives the fullest possible meaning to the accused's constitutional privilege not to testify. Relief was denied.

### Certificate of Innocence

In an application for relief under Article 69, UCMJ, *McDaniel*, GCM 1979/4552, the accused requested The Judge Advocate General to issue a certificate of innocence under 28 USC 2513. The accused had been convicted at his original trial by general court-martial of wrongful possession of ten packets of heroin found lying on a dresser in a bedroom of his family quarters in Mannheim, Germany. The accused was thereafter imprisoned at the United States Disciplinary Barracks at Fort Leavenworth, Kansas, until the Army Court of Military Review set aside the findings and sentence because the military judge had denied a requested defense witness on a defense motion to suppress the heroin. Upon rehearing, the accused testified that someone must have broken into his quarters and planted the heroin because he had no knowledge of the heroin prior to its discovery by the military police in a search of his quarters. The accused was acquitted by the court members; he thereafter requested the military judge to issue a certificate of innocence. The military judge refused to issue the certificate.

After the military judge refused to issue a certificate of innocence, the accused unsuccessfully applied to the Army Court of Military Review for extraordinary relief. *McDaniel v. Stewart*, 7 MJ 929 (ACMR 1979). The accused then requested The Judge Advocate General to issue a certificate of innocence, contending that

his acquittal on the merits entitled him to the issuance of the certificate. The Judge Advocate General determined that jurisdiction existed under Articles 61 and 69, UCMJ, to issue a certificate of innocence in an appropriate case.

A person who has been unjustly convicted of an offense against the United States and imprisoned may bring an action for damages against the United States. 28 USC 1495. To recover any damages under 28 USC 1495, a person must allege and prove that "his conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction. . . ." 28 USC 2513(a)(1). In addition, such a person must allege and prove that he did not commit any of the acts charged, or that his acts, deeds or omissions in connection with the offense charged constituted no offense against federal or state law, and that he did not by misconduct or neglect cause or bring about his own prosecution. 28 USC 2513(a)(2).

Any person suing under 28 USC 1495 may prove the requisite facts solely by "a certificate of the court . . . wherein such facts are alleged to appear. . . ." 28 USC 2513(b).

The issuance of a certificate of innocence lies within the sound discretion of the proper forum and is more than a mere ministerial act. *Forrest v. United States*, 3 MJ 173 (CMA 1977). The standard for issuing a certificate of innocence is not mere failure of proof beyond a reasonable doubt to establish guilt. The applicant must affirmatively establish that he is truly innocent. *Hall v. United States*, 4 MJ 603 (ACMR 1977); *Forrest v. United States*, 2 MJ 870 (ACMR 1976), *aff'd*, 3 MJ 173 (CMA 1977).

In the case of *McDaniel, supra*, the accused failed to affirmatively establish that he did not possess the heroin found in his quarters. It was considered simply incredible that an unknown person would break into the accused's quarters and plant ten packets of heroin in his bedroom. His acquittal did not equate with an affirmative showing of his innocence. The Judge Advocate General denied the application.

### Legal Assistance Items

*Major Joel R. Alvarey, Major Joseph C. Fowler, and Major Steven F. Lancaster,  
Administrative and Civil Law Division, TJAGSA*

#### 1. Legal Assistance—General

The American Bar Association's Standing Committee On Legal Assistance To Military Personnel met in Early December 1979. Several topics of interest to Legal Assistance attorneys were discussed. Of primary interest was the progress of legislation to provide a statutory basis for the legal assistance program. H.R. 4001 and S. 1130 have again been introduced for congressional action, but encouraging differences this year from previous years are that the bills have been introduced earlier in the congressional session than at any previous session and that all of the TJAG's are support-

ing the legislation. All that remains before congressional consideration of these bills is the report from the Office of Management and Budget.

The Committee is now actively studying the possibility of establishing a nation-wide "Operation Stand-By" similar to a program presently being used in Florida. The purpose of the program would be to allow military attorneys to contact civilian attorneys for advice on procedural and substantive issues which may be unique to that particular civilian jurisdiction. As the idea is developed, more information will appear in this column.

## 2. Decedents' Estates and Survivors' Benefits—Survivors' Benefits—Dependency and Indemnity Compensation

On 28 November 1979 the President signed into law the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979. This act raises the survivors' dependency and indemnity compensation benefits as follows:

Pay Grade	Monthly Rate	Pay Grade	Monthly Rate
E-1	\$326	W-4	\$468
E-2	337	O-1	413
E-3	345	O-2	426
E-4	367	O-3	457
E-5	377	O-4	482
E-6	386	O-5	532
E-7	404	O-6	598
E-8	426	O-7	648
E-9	446	O-8	710
W-1	413	O-9	763
W-2	430	O-10	835
W-3	442		

[Ch. 16, DA Pam 27-12]

## 3. Consumer Law—Truth in Lending Act

The Truth in Lending Act (12 U.S.C. 1601 *et seq*) is not applicable when credit is extended for business purposes. *Poe v. 1st National Bank of DeKalk County*, 597 F2d 895 (1979).

The defendant bank loaned \$3,000 to Ansel Poe and Associates, Inc., requiring both Mr. and Mrs. Ansel Poe to sign the note as guarantors and required the family home, which was owned entirely by Mrs. Poe, to be pledged as security. Mr. Poe was the principal stockholder of the corporation and Mrs. Poe owned no stocks at all. The defendant did not make the required Truth in Lending Act disclosures and the Poes based their lawsuit upon such.

The defendants argued the credit transaction did not fall within the purview of the Truth in Lending Act since that Act covers only credit extended to natural persons for a personal, fam-

ily, household, or agricultural purpose. The plaintiffs asserted the Act was applicable, there being both a commercial and personal purpose in obtaining the loan, as evidenced by the requirements that they both guaranteed the loan and that the private residence was held as security. The court disagreed with the plaintiffs, looking solely to the purpose of the loan and not to the other factors argued by the plaintiffs. The purpose was purely business. [Chapter 10, DA Pam 27-12]

## 4. Consumer Law—Equal Credit Opportunity Act

The Equal Credit Opportunity Act, 15 U.S.C. 1691 *et seq*, prohibits creditors from discriminating against applicants for credit on the basis of sex or marital status. *Markham v. Colonial Mortgage Service Co.*, 605 F2d 566 (U.S. Crt of App, DC, 1979).

Plaintiffs, after announcing their marital engagement, began househunting. They found a residence in Washington, D.C., signed a contract to purchase it, and applied for a mortgage loan with the defendant. The loan was denied since they were not yet married, their separate incomes not being sufficient to allow approval. The defendant told them that approval was contingent upon their being married and at trial admitted that the incomes would have been aggregated if both had been married.

The court held that this was a violation of the above referenced statute because the defendant had treated the plaintiffs differently solely because of their marital status. This was precisely the type of discrimination the statute prohibited. Since they applied for their mortgage jointly, they would have been jointly and severally liable on the debt. The court distinguished this from the situation where a single person applied for credit individually and claimed income from a third party for purposes of determining credit worthiness. [Chapter 10, DA Pam 27-12]

## Administrative and Civil Law Section

### *Administrative and Civil Law Division, TJAGSA*

#### **The Judge Advocate General's Opinion**

(Information and Records, Release and Access) **Report Of Administrative Investigation Releasable In Its Entirety.** DAJA-AL 1979/2831, 6 July 1979.

An administrative investigation concerning installation-level management practices was conducted pursuant to AR 15-6. The processing installation sought to withhold two portions of the report based upon Exemptions 5, 6 and 7 of FOIA.

The Judge Advocate General acknowledged that the discussion portion of the report nominally fell within Exemption 5. Normally Exemption 5 would permit withholding of predecisional matters used in the course of agency decisionmaking. However, the commander's actions vitiated any privilege which could have been asserted. By approving the report of investigation and telling the requestor what actions had been taken, the commander expressly adopted or incorporated by reference the predecisional report of investigation. The Judge Advocate General also noted that purely factual matters such as those contained in the discussion portion of the report could not be withheld under Exemption 5.

The second portion sought to be withheld was

the summarized testimony of witnesses. Exemptions 6 and 7(C) were rejected by The Judge Advocate General on the basis that the nature of the information sought would not result in an invasion of privacy within the intent of the exemptions. The information also could not be withheld to protect the identity of the witnesses because their identities were already known to the requestor.

Finally, the investigating officer's assurance to the witnesses that their statements would be withheld did not provide a basis for withholding. While such promises are recognized under AR 340-21, the regulation implementing the Privacy Act, they are limited to compelling circumstances in specific types of cases. The investigation in question was considered not to be within the categories enumerated as it did not concern law enforcement, employment suitability determinations or promotion potential evaluations. Compelling circumstances were not present because the Investigating Officer's assurance of confidentiality was routinely made to every witness and there was no indication that the testimony would not have been obtained but for the promise of confidentiality. Because no exemption permitted withholding, the portions sought to be withheld were releasable in their entirety.

## **Reserve Affairs Items**

### *Reserve Affairs Department, TJAGSA*

#### **1. Mobilization Designee Vacancies**

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

Reservists should submit Application for Mobilization Designation Assignment (DA Form 2976) to The Judge Advocate General's School, ATTN: Colonel William L. Carew, Reserve Affairs Department, Charlottesville, Virginia 22901.

Current positions available are as follows:

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
LTC	36C	04	01	Legal Officer	Ofc DCS Opns Plans	Washington
LTC	18	01C	01	Legal Officer	DCS Personnel	Washington
LTC	09	04	01	JA	USALSA	Falls Church
MAJ	09	06	03	JA	USALSA	Falls Church
LTC	05A	02	01	Deputy Chief	USA Clms Svc	Ft Meade
LTC	05B	03	02	Clms JA	USA Clms Svc	Ft Meade
MAJ	04	01A	01	Asst SJA	HQ Western Area, MTMC	Oakland
CPT	14	03	01	Leg Asst Off E	Anniston Army Depot	Anniston
MAJ	26C	01A	01	Legal Advr	USA TSARCOM	St Louis
LTC	04H	02	01	Deputy SJA	USA CERCOM	Ft Monmouth
CPT	08C	01A	01	Trial Counsel	172d Inf Bde	Ft Richardson
CPT	08C	01A	02	Trial Counsel	172d Inf Bde	Ft Richardson
CPT	08C	02A	01	Defense Counsel	172d Inf Bde	Ft Richardson
CPT	08C	02A	02	Defense Counsel	172d Inf Bde	Ft Richardson
CPT	03B	02	01	Asst SJA	USA Garrison	Ft Ord
LTC	03	01	01	SJA	101st ABN Div	Ft Campbell
CPT	03A	02	04	Trial Counsel	101st ABN Div	Ft Campbell
MAJ	03B	01	01	Ch, Def Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	01	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	02	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	03	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03B	02	04	Defense Counsel	101st ABN Div	Ft Campbell
CPT	03C	02	01	Asst SJA	101st ABN Div	Ft Campbell
LTC	03	02	01	Deputy SJA	USA Garrison	Ft Hood
CPT	03B	03	01	Defense Counsel	5th Inf Div	Ft Polk
CPT	03B	03	02	Defense Counsel	5th Inf Div	Ft Polk
CPT	03B	03	03	Defense Counsel	5th Inf Div	Ft Polk
CPT	03B	03	04	Defense Counsel	5th Inf Div	Ft Polk
CPT	03B	04	02	Trial Counsel	5th Inf Div	Ft Polk
CPT	03B	04	03	Trial Counsel	5th Inf Div	Ft Polk
CPT	03B	04	04	Trial Counsel	5th Inf Div	Ft Polk
MAJ	02A	02	01	Ch, Def Counsel	USA Garrison	Ft Riley
MAJ	02B	03	01	Ch, Legal Asst	USA Garrison	Ft Riley
CPT	02B	04	01	Asst JA	USA Garrison	Ft Riley
CPT	02C	02	01	Asst JA	USA Garrison	Ft Riley
LTC	03	02	01	Asst SJA	USA Garrison	Ft Carson
MAJ	03B	04	01	Ch, Def Counsel	USA Garrison	Ft Carson
CPT	03B	06	01	Defense Counsel	USA Garrison	Ft Carson
CPT	03B	06	02	Defense Counsel	USA Garrison	Ft Carson
CPT	03B	06	03	Defense Counsel	USA Garrison	Ft Carson
CPT	03B	06	04	Defense Counsel	USA Garrison	Ft Carson
CPT	03B	07	02	Trial Counsel	USA Garrison	Ft Carson
CPT	03B	07	03	Trial Counsel	USA Garrison	Ft Carson
CPT	03B	07	04	Trial Counsel	USA Garrison	Ft Carson
MAJ	03C	01	01	Asst SJA	USA Garrison	Ft Carson
CPT	03D	04	01	Asst SJA	USA Garrison	Ft Carson

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	03B	03	01	Judge Advocate	Ft McCoy	Sparta, WI
CPT	03B	03	02	Judge Advocate	Ft McCoy	Sparta, WI
CPT	03B	03	03	Judge Advocate	Ft McCoy	Sparta, WI
CPT	03B	03	04	Judge Advocate	Ft McCoy	Sparta, WI
MAJ	03C	01	01	Mil Aff Leg Asst O	Ft McCoy	Sparta, WI
CPT	03C	02	01	Mil Aff Leg Asst O	Ft McCoy	Sparta, WI
CPT	03C	02	02	Mil Aff Leg Asst O	Ft McCoy	Sparta, WI
MAJ	66	02	01	Judge Advocate	Ft McCoy	Sparta, WI
LTC	03A	01	01	Ch, Crim LawBr	USA Garrison	Ft Lewis
CPT	03D	03	01	Asst SJA	USA Garrison	Ft Lewis
MAJ	03E	01	01	Ch, Leg Asst Br	USA Garrison	Ft Lewis
CPT	21J	01	01	Judge Advocate	USA Garrison	Ft Lewis
MAJ	05F	04	01	Instr (Inf Br)	TJAGSA	Charlottesville
MAJ	03B	01	01	Chief	USA Garrison	Ft Buchanan
CPT	03B	02	01	Judge Advocate	USA Garrison	Ft Buchanan
MAJ	03D	01	01	Ch, JA	USA Garrison	Ft Buchanan
CPT	03D	02	01	Judge Advocate	USA Garrison	Ft Buchanan
CPT	03E	02	01	Judge Advocate	USA Garrison	Ft Buchanan
CPT	03B	03	01	Asst JA Instr	USA Transportation Cen	Ft Eustis
MAJ	04A	03	01	Sr, Def Counsel	USA Inf Cen	Ft Benning
CPT	04A	05	01	Defense Counsel	USA Inf Cen	Ft Benning
LTC	04B	02	01	Asst Ch, MALAC	USA Inf Cen	Ft Benning
CPT	04B	04	01	Admin Law Off	USA Inf Cen	Ft Benning
CPT	04B	05	01	Admin Law Off	USA Inf Cen	Ft Benning
CPT	04B	05	02	Admin Law Off	USA Inf Cen	Ft Benning
CPT	04B	07	03	Legal Asst Off	USA Inf Cen	Ft Benning
CPT	04B	08	01	Claims Off	USA Inf Cen	Ft Benning
MAJ	09A	02	01	Asst SJA	USA Signal Cen	Ft Gordon
MAJ	09B	02	02	Asst SJA	USA Signal Cen	Ft Gordon
CPT	22D	22	01	Instr OCS Tng DI	USA Signal Cen	Ft Gordon
CPT	22D	22	02	Instr OCS Tng DI	USA Signal Cen	Ft Gordon
CPT	07A	03	01	Judge Advocate	AVN Center	Ft Rucker
CPT	07A	03	02	Judge Advocate	AVN Center	Ft Rucker
CPT	07A	04	01	Mil Judge	AVN Center	Ft Rucker
MAJ	38A	01	01	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	01	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	02	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	03	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	04	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	05	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	06	Asst SJA	USA Garrison	Ft Chaffee
CPT	38A	03	07	Asst SJA	USA Garrison	Ft Chaffee
MAJ	38B	02	01	Admin Law Off	USA Garrison	Ft Chaffee
MAJ	38B	02	02	Admin Law Off	USA Garrison	Ft Chaffee
CPT	38B	03	01	Proc FscL Law O	USA Garrison	Ft Chaffee
CPT	38B	04	01	Asst SJA	USA Garrison	Ft Chaffee
CPT	38B	04	02	Asst SJA	USA Garrison	Ft Chaffee
CPT	38B	04	03	Asst SJA	USA Garrison	Ft Chaffee

GRD	PARA	LIN	SEQ	POSITION	AGENCY	CITY
CPT	05A	04	01	Trial Counsel	USA FA Cen	Ft Sill
CPT	05A	04	02	Trial Counsel	USA FA Cen	Ft Sill
CPT	05A	07	01	Defense Counsel	USA FA Cen	Ft Sill
CPT	05A	07	02	Defense Counsel	USA FA Cen	Ft Sill
CPT	05A	07	03	Defense Counsel	USA FA Cen	Ft Sill
MAJ	05B	03	01	Admin Law Off	USA FA Cen	Ft Sill
MAJ	05B	03	02	Admin Law Off	USA FA Cen	Ft Sill
CPT	05B	05	01	Proc Fis Law Off	USA FA Cen	Ft Sill
CPT	05B	07	01	Legal Asst Off	USA FA Cen	Ft Sill
CPT	05B	07	02	Legal Asst Off	USA FA Cen	Ft Sill
CPT	05B	07	03	Legal Asst Off	USA FA Cen	Ft Sill
MAJ	28B	04	01	Trial Counsel	USA FA Cen	Ft Bliss
CPT	28C	03	01	Defense	USA FA Cen	Ft Bliss
MAJ	05	01A	01	Deputy SJA	USA Admin Cen	Ft B Harrison
CPT	05	03A	01	Asst JA	USA Admin Cen	Ft B Harrison
CPT	11D	06	01	Instr	USA Intel Cen Sch	Ft Huachuca
CPT	11D	06	02	Instr	USA Intel Cen Sch	Ft Huachuca
CPT	11D	06	03	Instr	USA Intel Cen Sch	Ft Huachuca
MAJ	04A	05	01	Instr Mid East	USAIMA CA Satl Sch E	Ft Bragg
MAJ	12	02	01	Asst JA	ARNG TSA Cp Atterbury	Edinburg, IN
MAJ	12	02	02	Asst JA	ARNG TSA Cp Atterbury	Edinburg, IN
MAJ	01N	01A	01	JA	Fitzsimons AMC	Denver
MAJ	01N	01A	02	JA	Fitzsimons AMC	Denver
CPT	01N	02A	01	JA	Fitzsimons AMC	Denver
LTC	04	01	01	Asst Counsel	DCASR	Boston
LTC	02	01	01	Asst Counsel CA	DCASR	Cleveland
CW4	02	03	01	Leg Admin Tech	1st Inf Div	Ft Riley
CW4	03A	01	01	Leg Admin Tech	USA Garrison	Ft Hood
CW4	03A	01	01	Leg Admin Tech	5th Inf Div	Ft Polk
CW4	01G	01	01	Leg Admin Tech	Cdr, Ft McCoy	Sparta, WI
CW4	04	10	01	Leg Admin Tech	USA Garrison	Ft Sam Houston
CW4	04	04	01	Leg Admin Tech	USA Garrison	Ft Bragg
CW4	03	03	01	Leg Admin Tech	101st ABN Div	Ft Campbell

## 2. JAGSO Contract Law and International Law Teams

JAGSO Detachment Contract Law and International Law Teams will attend Annual Training 1980 at The Judge Advocate General's School from 16-27 June 1980. The 1157th USAR School from Schenectady, New York, will be hosting the training. Enlisted personnel who are not attorneys will *not* attend AT at TJAGSA. Courses have not been scheduled at Fort Benjamin Harrison for this summer. Request for orders should specify only the per-

sonnel indicated above. Orders should reflect assignment to the 1157th USAR School with duty station at TJAGSA for pay purposes.

## 3. BOAC and JARCGSC Resident Phases

The Judge Advocate General's Branch Officer Advanced Course (Phase II) and the Judge Advocate Reserve Components General Staff Course (Resident Phase) will be held at The Judge Advocate General's School from 7-18 July 1980. The 3285th USAR School from Charlotte, North Carolina, will be hosting the



courses. Requests for orders should reflect assignment to the 3285th USAR Schol with duty station at TJAGSA for pay purposes.

#### 4. Reserve Component Technical (On-Site) Training (Revised Schedule) A/Y 1979-80

The revised "on site" schedule which follows sets forth the training sites, dates, subjects, and local action officers for the remainder of academic year 1979-80.

All judge advocates (active and reserve component) are reminded of the importance of this program and encouraged to attend the training. Reserve Component judge advocates in unit positions will attend this training (paragraph I-3, Appendix I, FORSCOM Regulation 350-2). Non-unit judge advocates should attend to remain proficient as judge advocates (AR 135-

316 and FORSCOM Regulation 350-2); such officers will receive two retirement/retention points for attending subject training. Civilian attorneys, Reserve Component judge advocates of other services, and Reserve Component personnel who are attorneys, but not judge advocates, are invited to attend this training.

Local action officers and host commanders will insure that necessary coordination is initiated to insure that all eligible personnel are invited to attend subject training. Further guidance may be found in the October *Army Lawyer*. Questions concerning this program of instruction should be referred to the local action officer, to the unit commander or to CPT James E. McMenis, Chief, Unit Liaison and Training Office, Reserve Affairs Department, TJAGSA, Charlottesville, VA 22901. Telephone numbers are (804) 293-6121 or Autovon 274-7110.

<i>City, Host Unit &amp; Training Site</i>	<i>Date &amp; Time</i>	<i>Subjects</i>	<i>Action Officer, Address &amp; Phone No.</i>
10 Washington, DC 10th Mil Law Cen/310th TAACOM/97th ARCOM Building 3755 HQS, 459th Tactical Airlift Wing Andrews Air Force Base	9-10 Feb 80	Int'l Law (9 Feb) Contr Law (10 Feb) Adm&Civ Law (10 Feb) Crim Law (9 Feb)	MAJ George R. Borsari 6107 Princeton Avenue Glen Echo, MD 20768 Ofc: 202-296-8900 Home: 301-229-4555
San Juan, Puerto Rico Conference Room HQ Puerto Rico National Guard	11-12 Feb 80 1830-2230	Int'l Law Crim Law Contr Law Adm&Civ Law Int'l Law (Tape)	LTC Otto Riefkohl G.P.O. Box 4867 Old San Juan, PR 00936 Ofc: 809-763-3313 Home: 809-793-8821
11 Atlanta, GA (includes all GA and FL personnel) Ramada Inn Hartsfield International Airport Atlanta, GA (In conjunction with 81st ARCOM/213th Mil Law Cen Regional Conference)	23-24 Feb 80	Adm&Civ Law Int'l Law Crim Law	MAJ Kenneth A. Griffiths P.O. Drawer 1734 (Code M10L) Atlanta, GA 30301 Ofc: 404-898-3270 Home: 404-457-7935

<i>City, Host Unit &amp; Training Site</i>	<i>Date &amp; Time</i>	<i>Subjects</i>	<i>Action Officer, Address &amp; Phone No.</i>
			LTC Alden N. Drucker (for Miami, FL personnel) 420 Lincoln Road, Suite 601 Miami Beach, FL 33139 Ofc: 305-538-1401 Home: 305-756-7535
			LTC Charles Prather (for Orlando, FL personnel) 17 South Lake Avenue, Suite 103 Orlando, FL 32801 Ofc: 305-843-3170 Home: 305-876-2607
			MAJ James R. Livingston 445 South Commerce Avenue Sebring, FL 33870 Ofc: 813-385-5156 Home: 813-385-0327
12 Birmingham, AL JAG Dets/121st ARCOM USAR Center 142 W. Valley Avenue Birmingham, AL 35209	1 Mar 80	Adm&Civ Law Crim Law (Tape)	LTC Edwin A. Strickland 213 Jefferson County Courthouse Birmingham, AL 35203 Ofc: 205-325-5688 Home: 205-322-3936
Jackson, MS 11th Mil Law Cen	2 Mar 80	Adm&Civ Law Crim Law (Tape)	LTC Edward L. Cates 1022 Deposit Guaranty Plaza P.O. Box 2005 Jackson, MS 39205 Ofc: 601-948-2333 Home: 601-362-2263
13 Denver, CO Bldg T-339 FAMC Denver, CO 00240	8 Mar 80	Adm&Civ Law Crim Law Contr Law (Tape)	LTC Stevens P. Kinney II 50 South Steele Street Denver, CO 80203 Ofc: 303-320-1005 Home: 303-422-4637

<i>City, Host Unit &amp; Training Site</i>	<i>Date &amp; Time</i>	<i>Subjects</i>	<i>Action Officer, Address &amp; Phone No.</i>
Salt Lake City, UT 87th Mil Law Cen Bldg 107 Ft. Douglas, UT 84113	9 Mar 80 0800-1700	Crim Law Adm&Civ Law	LTC Jimi Mitsunaga 2649 Dearborne Street Salt Lake City, UT 84106 Ofc: 801-322-3551 Home: 801-467-8711
14 Memphis, TN USAR Center 360 W. California Avenue Memphis, TN 38106	15 Mar 80	Contr Law Adm&Civ Law	LTC Robert G. Drewry 251 Adams Avenue Memphis, TN 38103 Ofc: 901-526-0542 Home: 901-726-4753
Tulsa, OK 29th and 35th JAG Dets John N. Reese Jr., USAR Center 400 East 15th Street Tulsa, OK 74112	16 Mar 80	Int'l Law (Tape) Contr Law	LTC Clifford O. Stone 2934 East 48th Place Tulsa, OK 74105 Ofc: 918-560-6151 Home: 918-749-4945
Louisville, KY 148th JAG Det Hangar #7, Bowman Field Louisville, KY 40205 (includes 143d JAG Det, 100th Tng Div)	16 Mar 80	Adm&Civ Law Crim Law (Tape) Contr Law (Tape)	MAJ Robert Harrison Route 4 Scottsville, KY 42164 Ofc: 502-237-4522 Home: 502-622-4838
15 Philadelphia, PA (includes Norristown) 153d Mil Law Cen/79th ARCOM Room 210, Bldg 140 Willow Grove NAS, PA 19090	22 Mar 80	Crim Law Adm&Civ Law	CPT Charles M. J. Nester RFD #1, Old Schuylkill Rd, Lot #2 Pottstown, PA 19464 Ofc: 215-431-6315/6316/ 6317 Home: 215-326-7983
16 New York, NY 4th Mil Law Cen/77th ARCOM Patterson USAR Center 2181 Loring Place North Bronx, NY	29 Mar 80	Int'l Law (Tape) Adm&Civ Law Crim Law	LTC Michael Bradie 26 Riveria Court Malverne, NY 11565 Ofc: 516-295-3344 Home: 516-593-2018
17 Hartford, CT USAR Center West Hartford CT 06110	12 Apr 80	Int'l Law (Tape) Crim Law (Tape) Adm&Civ Law	LTC Jason Pearl 19 South High Street New Britain, CT 06050 Ofc: 203-229-1603 Home: 203-224-0740

<i>City, Host Unit &amp; Training Site</i>	<i>Date &amp; Time</i>	<i>Subjects</i>	<i>Action Officer, Address &amp; Phone No.</i>
Boston, MA Boston USAR Center 666 Summer Street Boston, MA 02210	12-13 Apr 80	Int'l Law (Tape) Crim Law Adm&Civ Law	CW4 Paul Kennedy c/o SJA Ft. Devens, MA 01433 Ofc: 617-796-2063
18 Harrisburg, PA Bldg #42 New Cumberland Army Depot	27 Apr 80	Adm&Civ Law	CPT Peter J. Curry 827 Briarwood Lane Camp Hill, PA 17011 Ofc: 717-255-7637 Home: 717-761-0987
19 Minneapolis, MN (In conjunction with Minne- apolis Chapter of FBA) 214th Mil Law Cen/88th ARCOM Bldg #501 Ft. Snelling, MN	26 Apr 80	Adm&Civ Law Crim Law Contr Law (Tape)	MAJ Gerald Duffy Suite 580, Northwestern National Bank Building St. Paul, MN 55101 Ofc: 612-291-1611 Home: 612-777-4234
Detroit, MI USAR Center West Eleven Mile Road Southfield, MI	27 Apr 80	Contr Law (Tape) Adm&Civ Law Crim Law	LTC Mark A. Loush 1151 Hollywood Grosse Pointe Woods, MI 48236 Ofc: 313-226-6070 Home: 313-886-3087
20 Richmond, VA USAR Center 1305 Sherwood Avenue Richmond, VA	3 May 80	Contr Law (Tape) Adm&Civ Law	MAJ Robert H. Cooley 628 High Street Petersburg, VA 23803 Ofc: 804-732-4667 Home: 804-861-2478
21 New Orleans, LA 2d Mil Law Cen USAR Center 5010 Leroy Johnson Drive New Orleans, LA 70146	10 May 80	Adm&Civ Law Crim Law (Tape)	CPT H. Bruce Shreves One Shell Square, 43rd Floor New Orleans, LA 70139 Ofc: 504-522-3030 Home: 504-283-8629
22 Pittsburgh, PA 42d Mil Law Cen Hay Armory 950 Sawmill Run Blvd. Pittsburgh, PA 15226	10 May 80	Adm&Civ Law Int'l Law	CPT Arthur Kellum 6508 Frank's Town Avenue Pittsburgh, PA 15206 Ofc: 412-362-6900 Home: 412-243-2737

City, Host Unit & Training Site	Date & Time	Subjects	Action Officer, Address & Phone No.
23 Norfolk, VA Norfolk USAR Center East 29th and Gazel Streets Norfolk, VA 23504	18 May 80 0800-1700	Crim Law (Tape)	LTC John M. Cloud 214 Executive Bldg, Janaf Shopping Center Norfolk, VA 23502 Ofc: 804-461-6803 or 461-2316 Home: 804-428-9822

### JAGC Personnel Section

#### PP&TO, OTJAG

#### 1. Reassignments

##### MAJOR

##### FROM

##### TO

PLAUT, Peter

TJAGSA

Korea

##### CAPTAIN

ENGLAND, Thomas  
HARING, John G.  
KERN, John A.  
LaFRANCE, Margaret  
MOULIN, Francis  
OLGIN, Dennis  
PINE, Louis F.  
WARTHEN, John G.  
WILLIAMS, Donald

Ft. Hood, TX  
Ft. Polk, LA  
Ft. Sam Houston, TX  
Europe  
Korea  
Ft. Knox, KY  
Korea  
Ft. Benning, GA  
Europe

OTJAG  
Ft. Sam Houston, TX  
ASBCA, Wash, DC  
USALSA  
Ft. Carson, CO  
Ft. Gillem, GA  
Ft. Sam Houston, TX  
Canal Zone  
Ft. Bliss, TX

#### 2. Diversion

##### CAPTAIN

HARRIS, Jeffrey

Korea

Ft. Carson, CO

#### 3. RA Promotions

##### LIEUTENANT COLONEL

HAMEL, Robert D.  
MURRAY, Robert E.  
MYERS, Walter K.  
WICKER, Raymond K.

6 Jan 80  
5 Jan 80  
4 Jan 80  
4 Jan 80

##### CAPTAIN

SNELL, Landon P., III

9 Jan 80

#### 4. AUS Promotions

##### CAPTAIN

DRONEN, Elyce K.  
LLOYD, Robert B.

7 Jan 80  
21 Jan 80

CW3

CAMIRE, Walter L.

11 Dec 79

## 5. U.S. Army War College

JAGC officers interested in applying for the U.S. Army War College Correspondence Studies Course, AY 80-82, should submit applications IAW AR 351-11 thru channels to HQDA

(DAJA-PT), Washington, D.C. 20310. Prerequisites for enrollment are contained in AR 351-11. Applications from qualified active duty JAGC officers must be received at HQDA NLT 15 April 1980.

## CLE News

### 1. TJAGSA CLE Courses

March 3-14: 83d Contract Attorneys' (5F-F10).

March 10-14: 14th Law of War Workshop (5F-F42).

March 17-20: 7th Legal Assistance (5F-F23).

March 31-April 4: 52d Senior Officer Legal Orientation (5F-F1).

April 8-9: 2d U.S. Magistrate's Workshop (5F-53).

April 9-11: 1st Contract, Claims, Litigation & Remedies (5F-F13).

April 21-25: 10th Staff Judge Advocate Orientation (5F-F52).

April 21-May 2: 84th Contract Attorneys' Course (5F-F10).

April 28-May 1: 53d Senior Officer Legal Orientation (War College) (5F-F1).

May 5-16: 2d International Law II (5F-F41).

May 7-16: 2d Military Lawyer's Assistant (512-71D20/50).

May 19-June 6: 20th Military Judge (5F-F33).

May 20-23: 11th Fiscal Law (5F-F12).

May 28-30: 1st SJA Responsibilities Under New Geneva Protocols (5F-F44).

June 9-13: 54th Senior Officer Legal Orientation (F5-F1).

June 16-27: JAGSO.

June 16-27: 2d Civil Law (5F-F21).

July 7-18: USAR SCH/JARC C&GSC.

July 14-August 1: 21st Military Judge (5F-F33).

July 21-August 1: 85th Contract Attorneys' (5F-F10).

August 4-October 3: 93d Judge Advocate Officer Basic (5-27-C20).

August 4-8: 10th Law Officer Management (7A-713A).

August 4-8: 55th Senior Officer Legal Orientation (5F-F1).

August 25-27: 4th Criminal Law New Developments (5F-F35).

September 10-12: 2d Legal Aspects of Terrorism (5F-F43).

September 22-26: 56th Senior Officer Legal Orientation (5F-F1).

### 2. Civilian Sponsored CLE Courses

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

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

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

AGAI: The Attorney General's Advocacy Institute, Washington, D.C. 20530.

ALI-ABA: Donald M. Maclay, Director, Office of Courses of Study, ALI-ABA Committee on Continuing Professional Education, 4025 Chestnut St., Philadelphia, PA 19104. Phone: (215) 243-1630.

**ATLA:** The Association of Trial Lawyers of America, Education Department, P.O. Box 3717, 1050 31st St. NW Washington, DC 20007. Phone: (202) 965-3500.

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

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

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

**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 Program, 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.

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

**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.

**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.

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

**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.

**NDCLE:** North Dakota Continuing Legal Education.

**NJC:** National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89507.

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

**OLCI:** Ohio Legal Center Institute, 33 West 11th Avenue, Columbus, OH 43201.

**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.

**SLF:** The Southwestern Legal Foundation, P.O. Box 707, Richardson, TX 75080.

**TBI:** The Bankruptcy Institute, P.O. Box 1601, Grand Central Station, New York, NY 10017.

**UDCL:** University of Denver College of Law, 200 West 14th Avenue, Denver, CO 80204.

**UHCL:** University of Houston, College of Law, Central Campus, Houston, TX 77004.

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

UTCLE: Utah State Bar, Continuing Legal Education, 425 East First South, Salt Lake City, UT 84111.

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.

VUSL: Villanova University, School of Law, Villanova, PA 19085.

### March

3-4: SLF, Law Enforcement Problems, Richardson, TX.

3-4: PLI, Occupational Safety & Health Laws, New York City, NY.

3-5: SLF, Employment Discrimination, Dallas, TX.

5: PBI, Tax School, Pittsburgh, PA.

6: SBT, Real Estate, San Antonio, TX.

6-7: UTCLE, Making Computers Work for You, Salt Lake City, UT.

6-8: PLI, Preparation of the Federal Estate Tax Return, New York City, NY.

6-22: MCLNEL, Practical Skills, Boston, MA.

7: UDCL, Conducting a Deposition, Denver, CO.

7: SBT, Real Estate, Austin, TX.

7: SBT, Bankruptcy, Houston, TX.

7-8: FLB, Probate & Will Drafting, Tampa, FL.

9-12: NCDA, Prosecuting Business Crimes, San Diego, CA.

10-14: NCDA, Applied Trial Techniques, Houston, TX.

10: FBA, 3d Annual Copyright Law Conference, Hyatt Regency Hotel, Washington, DC.

10-11: FBA/BNP, Annual Briefing Conference on Government Contracts, Barclay Hotel, Philadelphia, Pennsylvania.

10-14: AAJE, The Jury Trial, Arizona State University, AZ.

10-21: AGAI, Criminal Trial Advocacy, Washington, DC.

13: FLB, Government Agency Law, Tallahassee, FL.

13: SBT, Real Estate, Dallas, TX.

13-14: PLI, Bankruptcy, New York City, NY.

13-15: ABA, Appellate Advocacy, Washington, DC.

14: SBT, Taxation, San Antonio, TX.

14: FLB, Government Agency Law, Tampa, FL.

14: SBT, Real Estate, Fort Worth, TX.

14-15: CLEW, Litigation, Milwaukee Union, WI. Cost: \$450.

17: SBT, Practice Skills, San Antonio, TX.

19-23: FLB, Advanced Trial Advocacy, Gainesville, FL.

19/4-17: UHCL, Consumer Transactions, Houston, TX.

20-21: PLI, Advanced Will Drafting, San Diego, CA.

20: SBT, Real Estate, Lubbock, TX.

20: FLB, Government Agency Law, Orlando, FL.

20-22: NCCDL, Insanity Defenses, Nashville, TN.

21: UTCLE, Taxes for the General Practitioner, Salt Lake City, UT.

21: FLB, Government Agency Law, Miami, FL.

24-25: FBA, Communications Law and Principles of Regulatory Reform, Marriott Twin Bridges Hotel, Arlington, VA.

24-27: FBA, FBA/CCH Mutual Funds and Investment Management Conference, The Pointe, Phoenix, AZ.

26-28: PLI, Current Developments in Patent Law, New York City, NY.



27-28: FBA, Openness-in-Government VI, Washington, DC.

27-29: UMLC, Medical Institute for Attorneys, Miami Beach, FL.

27-29: PLI, Pre-Trial Tactics & Techniques in Personal Injury Litigation, New York City, NY.

27-28: PLI, Medical Evidence, New York City, NY.

27-29: PLI, Preparation of the Federal Estate Tax Return, San Francisco, CA.

28: SBT, Real Estate, Houston, TX.

28: SBT, Bankruptcy, Dallas, TX.

28: SBT, Taxation, Dallas, TX.

28-29: FLB, Technical Aspects of Environmental Law, Tampa, FL.

#### April

7-11: AAJE, The Judge Trial, Washington, DC.

9-11: PLI, Current Developments in Patent Law, Minneapolis, MN.

9-12: ICLEF, Trial Advocacy, Indianapolis, IN.

10-11: PLI, Bankruptcy, Chicago, IL.

10: SBT, Family Law, Lubbock TX.

10: SBT, Taxation, Houston, TX.

10: FLB, Construction Contract Litigation, Tampa, FL.

10-11: PLI, Tax Planning for Foundations, Tax Exempt Status & Charitable Contributions, San Francisco, CA.

11: SBT, Family Law, El Paso, TX.

11: PBI, Conflicts of Interest, Philadelphia, PA.

11: FLB, Family Law, Tallahassee, FL.

11-12: ABA, Child Custody, New York City, NY.

14-19: SBT, Practice Skills, Dallas & Fort Worth, TX.

14-15: PLI, Use of Trusts in Estate Planning, New York City, NY.

14-18: GCP: Cost Reimbursement Contracting, Washington, DC.

14-18: BCGI, Computer Contracts: Structure, Negotiation & Management, Atlanta, GA.

15-19: NCDA, Trial Techniques, New Orleans, LA.

17: SBT, Family Law, San Antonio, TX.

17-18: FBA, 7th Annual Federal Trial Practice Conference, 4 Seasons Hotel, Georgetown, Washington, DC.

17: FLB, Family Law, St. Petersburg, FL.

17: FLB, Tax Institute, Fort Lauderdale, FL.

18-19: TBI, Bankruptcy & Business Reorganization, New York City, NY.

18-19: PLI, Criminal Advocacy Institute, Denver, CO.

18: SBT, Family Law, Austin, TX.

18: FLB, Tax Institute, Tampa, FL.

18: VACLE, Construction Law, Tysons Corner, VA.

21-5/2: AGAI, Civil Trial Advocacy, Washington, DC.

22: PBI, Appellate Practice, Harrisburg, PA.

23-25: PLI, EEOC, New York City, NY.

24: SBT, Family Law, Dallas, TX.

24-25: PLI, Medical Evidence, San Francisco, CA.

24: FLB, Family Law, Pensacola, FL.

24-25: ABA, Punitive Damage Claims, Los Angeles, CA.

24: VACLE, Construction Law, Richmond, VA.

24-25: SLF, Wills & Probate Institute, Richardson, TX.

24-25: SBT, TX Law for Military Attorneys, San Antonio, TX.

25: SBT, Family Law, Fort Worth, TX.

25: NDCLE, Law Office Management, Jamestown, ND.

25-26: FBA, Northeastern Regional Conference, Bankruptcy Law, Sheraton-Hartford, Hartford, CT.

25: FLB, Family Law, Jacksonville, FL.

25: FLB, Tax Institute, Tallahassee, FL.

25-26: VUSL, The New Bankruptcy Code, Villanova, PA.

27-5/1: NCDA, Organized Crime II, Chicago, IL.

28-30: GCP, Patents & Technical Data, Washington, DC.

28-30: FBA, 4th Annual Tax Law Conference, 4 Seasons Hotel, Georgetown, Washington, DC.

28-5/2: SLF, Federal Income Taxation, Dallas, TX.

### May

1-2: PLI, Usury Laws & Modern Business, New York City, NY.

2: SBT, Family Law, Houston, TX.

2: FLB, Family Law, Miami, FL.

2: PBI, Law of Credit & Sales, Harrisburg, PA.

2: FLB, Pharmacology & the Trial Lawyer, Tampa, FL.

9-10: PLI, Criminal Advocacy, New York City, NY.

9-11: NCCDL, Advanced Cross-Examination Workshop, Louisville, KY.

11-16: NCDA, Prosecutor's Office Administrator Course—Part II, Houston, TX.

12: AGAI, Criminal Trial Advocacy, Washington, D.C.

13-6/1: PLI, Trial Advocacy, New York City, NY.

14-16: PLI, Estate Planning, Chicago, IL.

15-16: PLI, Use of Trusts in Estate Planning, Chicago, IL.

15: PBI, Employment Discrimination, Philadelphia, PA.

16: UTCLE, Depositions, Strategy, Techniques, Salt Lake City, UT.

19-24: SBT, Practice Skills, Houston, TX.

19-22: GCP, Government Contract Claims, Washington, D.C.

23: GICLE, Evidence, Augusta, GA.

23: FLB, Bankruptcy, Tallahassee, FL.

26: NCCDL, Trial Practice I, Houston, TX.

30: FLB, Bankruptcy, Miami, FL.

## Current Materials of Interest

### 1. Articles

Grundtisch, Jeffrey L., Captain, *The Current Status of Medical Malpractice Liability in Genetic Counseling and Testing*, 8 No. 4 AF JAG Rptr 107 (Aug. 1979).

Purdon, Richard L., Major, *Recent Developments in Abortion Law*, 8 No. 4 AF JAG Rptr 113 (Aug. 1979).

Donohue, Stephen P., Major, *Sexual Sterilization of Minors and Mental Incompetents*, 8 No. 4 AF JAG Rptr 119 (Aug. 1979).

Procaccino, Joseph A., Jr., *Medico-Legal De-*

*termination of Life and Death*, 8 No. 4 AF JAG Rptr 121 (Aug. 1979).

Hotchkiss, Hervey A., Captain, *Release of Information From Air Force Medical Records*, 8 No. 4 AF JAG Rptr 130 (Aug. 1979).

Reid, David C., Major, *Impediments to Recovery Under the Federal Medical Care Recovery Act*, 8 No. 4 AF JAG Rptr 132 (Aug. 1979).

### 2. Interim Change

Department of the Army Regulation 600-43, Interim Change No. 101, Personnel—General Conscientious Objection, 10 January 1980.

**3. Current Messages**

The following list of recent messages is furnished for your information in keeping your

reference materials up to date. All offices may not have a need for and may not have been on distribution for some of the messages listed.

<i>DTG</i>	<i>SUBJECT</i>	<i>PROPONENT</i>
222159Z Jun 79	Ethics in Government Act of 1978—Title V, Post Employment Conflict of Interest and Title II, Executive Personnel Financial Disclosure Requirements.	DAPE-HRL
252000Z Jun 79	U.S. Army Trial Defense Service.	DAJA-ZA
240545Z Jul 79	Delegation of Approval Authority for Conference Travel Within CONUS—AR 1-211.	DAJA-ZX
142000Z Aug 79	Clarification and Guidance on AR 210-1, Private Organizations on DOD Installations.	DAAG-CMP-P
151247Z Aug 79	Filing Procedures for Records of Nonjudicial Punishment (Article 15).	DAPC-MPO-C
221419Z Aug 79	Termination of Delayed Certification of Defense Counsel.	DAJA-ZA
280421Z Sep 79	Federal Law Enforcement Coordination, Policy and Priorities.	DAPE-HRE-EM
031515Z Oct 79	Preparation of Charge Sheets.	PCRE-RD-P
041700Z Oct 79	Preparation of DA Form 3 on Reconsideration of Claims.	JACS
221530Z Oct 79	CLN FY 80 DOD Claims Appropriation.	JACS
052200Z Nov 79	Notification of Pending Change to Chapter 11, AR 27-20, Claims.	JACS
070335Z Nov 79	Medical Care Recovery Act (MCRA).	DAJA-LTT
091800Z Nov 79	FY 80 DOD Claims Appropriation.	JACS
100648Z Nov 79	Elimination of Annual Report DD Form 1555 (Confidential Statements of Affiliations and Financial Interests) and Transfer of Proponency for AR 600-50, Standards of Conduct for Department of the Army Personnel.	DAPE-HRL
131800Z Nov 79	Changes to Articles 2 and 36, UCMJ.	DAJA-CL
211000Z Nov 79	Promotion to LTC, AUS, APL, CH, JAGS and AMEDD.	DAPC-MSS-FO
271530Z Nov 79	FY 80 DOD Claims Appropriations.	JACS
232300Z Nov 79	Brigadier General MOBDES Nomination.	DAAR-GO
292032Z Nov 79	Solicitation of Army Installations.	DAAG-PSI
052100Z Dec 79	Military Service Obligations (MSO) for Officer and Enlisted Personnel Age 26 or Older.	AGUZ-RCC
062000Z Dec 79	Establishment of SGM Position in OTJAG.	DAJA-ZA

DTG	SUBJECT	PROPONENT
079535Z Dec 79	Selections for JAGC Regular Army and Voluntary-Indefinite Status.	DAJA-PT
070543Z Dec 79	JAGC, Regular Army Selection Board for Graduates of Funded Legal Education and Excess Leave Programs.	DAJA-PT
172034Z Dec 79	Clarification of AR 735-11.	DALO-ZXT
081713Z Jan 80	JAGC Officer Applications for US Army War College Corresponding Studies Course.	DAJA-PT
040306Z Jan 80	SA Alexander and GEN Meyer Send: Sexual Harassment of Women Soldiers.	DA WASH DC
121046Z Jan 80	Affirmative Claim Report, Chpt 5, AR 27-40.	DAJA-LT
121046Z Jan 80	Change in Date for Convening of the 29th Judge Advocate Officer Graduate Course Selection Board (Results should be available by 22 Feb 1980).	DAJA-PT

#### 4. Office Telephone Number Changes

(Commercial Area Code is 202).

##### *Administrative Law Division, OTJAG*

a. General Law Branch: Commercial: 694-4316; AUTOVON: 224-4316.

b. Military Personnel Law Branch: Commercial: 694-4586; AUTOVON: 224-4586.

##### *Criminal Law Division, OTJAG*

a. Opinions Branch: Commercial: 695-1891; AUTOVON: 225-1891.

b. Army Member, Working Group, Joint Committee on Military Justice: Commercial: 695-1891; AUTOVON: 225-1891.

##### *International Affairs Division, OTJAG*

Commercial: 695-3170; AUTOVON: 225-3170.

#### 5. Professional Writing Award

Each year, the Alumni Association of The Judge Advocate General's School gives an award to the author of the best article published in the *Military Law Review* during the previous year. The award consist of a written citation signed by The Judge Advocate General and an engraved plaque.

Major Gary L. Hopkins and Lieutenant Colonel Robert M. Nutt have been selected to receive the award for 1978. The award is given for their article, "The Anti-Deficiency Act (Revised Statutes 3679) and Funding Federal Contracts: An Analysis," published at 80 *Mil. L. Rev.* 51 (1978).