"I wish to have no connection to any ship that does not sail fast for I intend to go in harm's way."

- Captain John Paul Jones, 16 November 1778, in a letter to le Ray de Chaumont

This edition of The Judge Advocate celebrates our sea services - their history, their present, and their future.

Colonel Fred Borch (USA, retired), the Regimental Historian for the U.S. Army Judge Advocate General Corps, offers us the first of his quarterly "Judge Advocate History" columns discussing the handling of threats to good order and discipline on the high seas long before the conceptualization of the Uniform Code of Military Justice. Colonel Borch's writings have been featured in numerous publications, including the American Bar Association's Litigation and The Army Lawyer, and the Judge Advocates Association is excited to begin our association with the most noted military legal historian of our generation.

We continue our maritime studies with articles by Lieutenant Commander Brian Robinson (USCG) and Captain Bill Aramony (JAGC, USNR). Commander Robinson highlights the challenges posed for Coast Guard judge advocates in Arctic and Antarctic governance initiatives. Captain Aramony discusses the legal issues faced by those transiting the high seas in this age of terrorism and threats to navigation.

Along our route of sail we receive timely input from our newly-installed president, Rear Admiral Norton Joerg (JAGC, USNR, retired) and vice president, Colonel Carol Hattrup (USAF, retired). Our leaders share their visions for the future of the JAA as molded by our shared experiences as military judge advocates.

Finally, we provide recaps on JAA-sponsored events, our annual meeting, and updates from the Army, Air Force, and Coast Guard.

Welcome aboard!
in this issue . . .

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Admiral Joerg, what are your goals for JAA during your tenure as President?

My focus will start with the JAA’s central purpose, which is, distilled to its essence, the advancement of Judge Advocates and practitioners of military law. I believe that this should remain the core of our mission, and that it should drive our work and decisions going forward. With this in mind, I am looking for ways in which we might (1) better support the profession and practice of military law, and (2) be more relevant to Judge Advocates and practitioners.

Do you have some early thoughts to share?

Yes. I have been fortunate over the past few months to work with a forward-looking group of Board members who have worked with me on a strategic planning committee. We have set for ourselves several ideas for examination and development, some well-formed, some in their very early stages. I am happy to share some highlights of our thinking.

In the first place, we look at our constituents as a broad and diverse group, and we know that we need to meet a broad and diverse set of needs and interests as a result. The JAA includes active duty judge advocates, reserve and guard judge advocates, law school students, and retired judge advocates from all of the armed services, and located around the world. We need to expand our membership and to ensure that we recognize this diversity in our programs and services. From this fundamental consideration, with the help of our strategic planners so far, several initiatives flow:

1. An examination of outreach, member solicitation and member recruitment challenges. This is fundamental. To be vital and relevant, we need members. We need to step up and update our means of recruiting and keeping members.

2. An examination of our service offerings and value proposition for members -- all members, across lines of seniority, specialty or practice area, and location (e.g., within and outside of the National Capital Region, deployed and rear, CONUS and OCONUS). To recruit and keep members, we must provide value. We have our award programs, our Jobs for JAGs and Appellate Advocacy Symposium annual events, and now this magazine, plus excellent access to the national and international legal and political communities. We must leverage our presence in Washington, DC, the American Bar Association, our military and military-related communities, and so on, to provide distinctive value.

3. How do we better engage the energies, talents and knowledge of our members and constituents, potential and actual, to meet the mission and add value? For example, we need members for our Board each year,
FROM THE PRESIDENT

(Continued from page 4)

participants in and input into our strategic planning process, folks to further develop and implement the initiatives we choose, writers for this magazine, event coordinators, event developers -- the list is substantial, and, if we are to meet our central goals of relevance and service, will have to grow.

This is an ambitious agenda. What is your sense of the possible?

With the judicious review and choice of goals, I am quite certain that we can put into place some key enhancements to our services this year -- possibly one or two new professional programs, enhanced web services, enhanced recruitment and participation from the field are among several that come to mind as "ripe" for this year’s agenda -- subject, of course, to the decisions of the Board of Directors and the input from our members.

The ideal outcome for me would be if we, members, Board, constituents (whom I encourage to become members), as a team, achieve 2-4 key enhancements of the sort I discuss here and if we set the conditions we need for a dynamic and valuable Association -- among them habitual planning, re-examination and innovation by all members of that team -- to be our norm each year going forward.

Do you have any final thoughts to add?

I am delighted and honored to serve the Judge Advocates Association as President and look forward to the exciting work ahead. There are many challenges, to be sure, what with the current fiscal and political constraints that affect our armed forces and nation today, but challenge equals opportunity. We have an excellent foundation and tradition of service. It gives me great confidence about what we can build.
Discipline in the Age of Sail

Naval justice was harsh in the ‘Old Navy’

The justice system in the “Old Navy” that existed before the Civil War was radically different from today. This is because its chief purpose was to establish and maintain the highest degree of discipline thought to be essential for victory at sea—and not provide a forum where guilt or innocence could be fully and fairly litigated. This explains why sailors in the Old Navy who failed to obey their officers or who violated the Articles for the Government of the Navy (and the rules and regulations supplementing this law) experienced harsh punishments such as flogging, tattooing, branding, and the use of sweatboxes.

As James Valle explains in Rocks and Shoals: Naval Discipline in the Age of Fighting Sail, the Continental Congress called upon ship’s captains to “use your people well but preserve strict discipline,” and when the U.S. Congress re-established the Navy in 1794, nothing had changed. Additionally, because the 19th century “was pre-eminently an age that respected the sanctity of persons in authority,” this meant that a warship’s captain had an absolute right to exercise his authority over sailors on that vessel—as long as he followed the letter of the law.

The average sailor entered the Old Navy by enlisting in a man-of-war for the duration of a voyage or “commission,” ordinarily a three-year cruise on a foreign station. Since a man enlisted in a warship, this really meant that he belonged to the ship rather than the Navy, since at the end of the cruise, the whole crew was paid off and left the warship (and the Navy) entirely, even if less than three years had passed.

A typical warship’s crew, such as that of the USS Congress on the Brazil Station in the 1840s, consisted of 500 men. The average age was 25 years but boys as young as ten years old were a part of the crew. And as these seamen soon discovered, they were in a harsh environment where officers punished infractions with corporal punishment, with whipping or flogging as the preferred method. Sailors were usually tied to a gun, mast or other object and struck on the bare back with a cat-o’-nine-tails. This instrument was a whip consisting of nine pieces of rope, with three knots in each piece, and a handle consisting of a shorter piece of rope.

It was not unusual for a frigate or sloop to have half a dozen floggings a week, for offenses such as fighting, disobedience of orders, stealing, cursing and sleeping on watch. A sailor convicted of stealing a watch and a gold ring, for example, was given a dozen lashes—and made to wear a placard with the words, “Thief! Take Care of your Bags.” For (Continued on page 7)
drunkenness and mutinous conduct, a sailor typically received 100 lashes (mitigated to 50). For desertion—the most common offense in the Old Navy—the punishment was 50 lashes (mitigated to 25). A sentence of 100 lashes or more was considered to be tantamount to a death penalty.

Rocks and Shoals records an 1837 court-martial involving a seaman who was sentenced to 400 lashes for murder (this was later reduced to 300). But minor offenses also were punished by flogging: “spilling ink on the deck,” 12 lashes; “having dirty pots,” 12 lashes; and “tapping liquor in the spirits room (without permission),” 12 lashes. The offense of “slow motion in getting into a boat” meant 6 lashes, as was “cursing the master at arms.” Finally, a sailor found guilty of “being lousy” received six lashes. All these were handled at captain’s mast.

Almost all officers, and some sailors, thought that flogging was necessary for discipline and, even after the Army outlawed flogging in 1812, the practice persisted in the Navy. Opinions began to change—at least in Congress and among members of the public—after Richard Henry Dana published Two Years Before the Mast in 1840. This book, which described a terrible flogging, resulted in considerable anti-flogging sentiment, as did Herman Melville’s novel White Jacket, which also criticized flogging as a punishment. Congress, which demanded that the Navy Department provide statistics on flogging, soon learned that a total of 5,936 floggings had been administered on sixty ships in 1846 and 1847. Since this meant fifty floggings per ship per year (or four per month), it was clear to all observers that flogging was the navy’s preferred punishment. While the Navy did manage to reduce the use of flogging in 1848 and 1849 (recognizing that it must reduce these statistics from 1846 and 1847 if flogging were to be preserved as a part of the naval justice system), it was too late: Congress abolished the punishment in 1850.

There were other harsh punishments in the Old Navy. A sailor named John Baptiste was sentenced—in addition to 200 lashes—to have the left side of his face and head shaved. Until 1872, when it was abolished, sailors could be branded or tattooed. One mutineer, for example, was branded on the forehead with the word “mutiny.” Finally, a favorite punishment was 30 days solitary confinement on bread and water, which might include being confined in a sweatbox. Of this Old Navy punishment, only the “confinement on bread and water” portion remains, and then only for non-judicial punishment under Article 15, UCMJ; bread-and-water as a court-martial punishment disappeared in the 1990s.

A final note: Where were the lawyers in the Old Navy? Apparently there were none—or at least no lawyers filling the role of judge advocate. As retired Marine judge advocate Gary D. Solis notes in his superb book, Trial by Fire, there was no “Naval Judge Advocate General” until 1865. Moreover, institutional resistance to lawyers as judge advocates was very high: as late as World War I, “the Navy Judge Advocate General’s Office boasted that there was not a single lawyer on its staff.” But this was the norm for the pre-Civil War era: the Army had only a few judge advocates at the beginning of the 19th century and there was not a single full-time statutory judge advocate in the Army between 1821 and 1849. In both the Old Navy and the pre-1861 Army, discipline was firmly in the hands of line officers.
October 6, 1998

The Judge Advocates Association
6800 Chapins Road
Bloomsburg, PA 17815-8751
U.S.A.

Gentlemen:

It was with keen interest that I noted the information and the research submitted by LTC Robin Hall in the September issue of the Military Advocate relating to the discovery of PHYLLIS L. PROPP as the "first" army woman JAG.

I am able to bring that info up to 1971. LTC PHYLLIS L. PROPP (FOWLE) was the only woman member of my command. The 4th JAG Detachment, a troop command consisting of its headquarters command and 21 additional subordinate commands which were organized and activated in 1959, under the then ARCOM command. There were 12 such headquarters detachments in the United States.

I was the second commander succeeding the late Col. Harry V. Osborne who was a New Jersey Superior Court Judge in Trenton, N.J.

As a member of one of the subordinate detachments LTC PHYLLIS L. PROPP (FOWLE) served with distinction and was an asset to the command.

As a matter of interest I am enclosing a photo herewith which shows her sitting on the right at a luncheon given in honor of the then TJAG, MG DECKER seated in the middle of the photo. I am seated at the table second from the left. As I recall it the photo was taken in 1966.

Also enclosed is a copy of a page out of my 1971 Lawyers Diary and Manual page 619, Bar Directory Manhattan where both Phyllis Fowle and my old firm are listed on the same page.

Portions of the detachment have been deployed relatively recently in Bosnia. As a troop command it carries its own guidon.

Sincerely,

HERMAN FRANKEL
COL JAGC-USAR (Ret.)
One of the goals which has gained increased momentum with the Judge Advocate Association’s leadership under our recent Presidents John Altenburg, (Maj Gen, USA), Marc Warren, (Col, USA) and currently, Norton Joerg (RADM, USNR), has been to help inform the younger judge advocates in our community worldwide of the importance of membership in a unique military organization. While most people in the “younger generation” who are in their initial four year term of service as well as those who at the mid-career or twenty-year point, hate the term “organization” or “recruiting,” it is important to note that is just a different way of networking or interacting as is commonly done through social media or more informal structures today. What is not different is the bond that brings diverse members of the same profession together—that being uniformed lawyers in the profession of arms.

Judge advocates from all services all will have the sense of comraderie that comes from serving with others in their specific service. As with any experience, relationship, job, or endeavor in life, however, often we do not appreciate “what we have” or “what we had” or the benefits of that experience until many years or even decades later. As William K. Suter (Maj Gen, USA, retired), the Clerk of the US Supreme Court, himself a former Army judge advocate, recently said in October 2011 during his remarks at a “Jobs for JAGS” networking and transition seminar held in the Washington DC area, your relationships, experience and reputation as a judge advocate will be a positive, force-changing influence on anything you choose you do in your professional life.

These same comments were echoed by Judge Robert Rigsby (COL, USAR), a judge on the DC Superior Court, when he relayed what led to his selection (over many others) to be corporate counsel for the District of Columbia early in his career. It was his prior service as an Army judge advocate that set him apart from the other candidates. Likewise, Major General Joe Lynch (USAFR, retired), the General Counsel for the Military Officers Association of America (MOAA), shared similar sentiments at this same conference. He said his experience as a judge advocate was instrumental in his Navy civilian career, and emphasized the sense of community and professionalism that belonging to a professional judge advocate association brings to all of us collectively and individually.

A recent event involving a dear friend and colleague, a former teacher and fellow judge advocate, highlighted the history, community, and unique and special bond that military

(Continued on page 10)
attorneys have with their nation’s military leadership, and how there is a bond of service and commonality that transcends the relationship of simply “attorney and client.” I had the privilege of attending the retirement of Colonel Barbara G. Brand, USAF, in October 2011. Col Brand was the Chief Judge of the USAF Court of Criminal Appeals, and holds a place in history of being the first female chief judge of that court. Her ceremony and reception were held at the beautiful Women’s Memorial at Arlington Cemetery, a relatively new memorial honoring the contributions of women to our nation’s defense. For those who have not seen this beautiful building, it is humbling. It is hard to believe that it was only in 1976 that Congress authorized women to attend the nation’s military academies, where leaders of the armed forces have always been trained and commissioned since their inception.

Coincidentally, the same day was the interment of General John Shalikashvili (USA, retired), former Chairman of the Joint Chiefs of Staff. He had passed away earlier in the year. The funeral reception, with all of its attendant dignitaries including former presidents and cabinet officials, was held at the Women’s Memorial adjacent to the reception for Col Brand. Col Brand’s group included her father, a veteran, and her family and friends from Kentucky and Minnesota, as well as her fellow judge advocates, co-workers, and paralegals from all over the country. Also there were The Judge Advocate General of the Air Force, Lt Gen Rich Harding, and Judge Bill Moorman of the Court of Veterans Appeals and Judges Andrew Effron and Scott Stucky from the U.S. Court of Appeals for the Armed Forces.

It was a gaggle of family members, neighbors, and too many judge advocates and paralegals to count that had worked with this great JAG throughout her career. What was a common theme throughout the remarks given by Brig Gen Dixie Morrow, USAF, the presiding official, was that Col Brand’s service contributed to the fair administration of justice and rule of law throughout her career, whether as defense counsel, trial counsel, or as a judge – including issuing critical rulings in a case involving the rights of a detainee facing terrorism charges.

As the receptions for both events were winding down, two things happened. First, a group of World War II veterans from Oregon Honor Flight were “wheeling” their way (most in their wheelchairs) through Col Brand’s reception area to the area where the former Chairman had been honored. With the group was Ms. Margaret (Peggy) Parent Lutz, one of the first WWII-era Navy WAVES (Women Accepted for Volunteer Emergency Service).

She was an engaging woman in her full dress uniform, and she began talking with me, Lt Col Pam Howard (USAFR), and Lt Col Howard’s husband, Col Bill Kirkman (USAF, retired) a pilot from Colorado, and she easily began regaling some of the Brand reception attendees with her delightful stories. It turned out Ms. Lutz was one of the first woman air traffic controllers! Living in Prineville, Oregon, she has recently completed a second book compiling the memories of 16 women who served in uniform in all branches of the military between 1943 and 1946.

We were then introduced to David Kyle, who told us

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COMMENTARY

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“It was a beautiful and moving sight to see this young, twenty-something Army staff sergeant honor his predecessors in the greatest generation before him.”

he was a T-4 (or Technician, 4th grade) with the 11th Armored Division, 133 Ordnance Battalion, B company, the ordnance battalion that supported the armored advance into Germany, and he was there on VE Day. His unit landed in France in September 1944, and was there during the Battle of the Bulge. His nephew, CAPT Roger Burnett, a former navy aviator, was his guardian for the Honor Flight.

As the WWII Honor Flight veterans – in their t-shirts and head coverings reflecting their unit affiliation and insignia – moved forward to see the memorial, an Army Staff Sergeant in full dress uniform suddenly came up. He was leaving the reception for the late General Shalikashvili but saw the group of WWII heroes and went to greet them individually. Suddenly, we realized it was Sergeant First Class Leroy A. Petry, USA, one of the recent Medal of Honor recipients from the wars in Iraq and Afghanistan. It was a beautiful and moving sight to see this young, twenty-something Army sergeant honor his predecessors in the greatest generation before him.

Two other distinguished guests at the funeral reception also happened to make their way through the Brand reception area, another former Chairman of the Joint Chiefs, General Richard B. Myers (USAF, retired), along with a former Vice Chairman, General Joseph B. Ralston (USAF, retired). They stopped and greeted Col Brand and her family and fellow judge advocates as if it was a normal Friday afternoon gathering for a few beers and to swap military stories – and in many ways it was.

I can’t think of a better example of a completely fortuitous gathering of different generations and different events that came together so seamlessly. There is a special bond shared by those that are or who have been in military service; it transcends age, socioeconomic class or rank. It is a common heritage and group with a commonality of experience and duty. The Judge Advocates Association is a unique national association that brings together those that have the single common heritage of being designated a “judge advocate.” Many can have an attorney’s license; many can be admitted to the bar, but there are only a very select number of attorneys that can say they were, or are “judge advocates.” I hope that those who have not previously considered joining the association will do so, and ensure you are part of the history and growth of our association.

November 2011
The Polar Regions have never been hotter – figuratively and literally. Every cable television network seems to have a line of reality programming dedicated to living, working or surviving in the Arctic or Antarctic or preserving those environments. The ongoing climate change debate has a Polar reach as well—the scientific community apprehensively watches and measures the steady retreat of Arctic and Antarctic ice. Many Polar scientists offer an alarming forecast that the Arctic Ocean may eventually see virtually ice-free summer months. The retreat of sea ice has brought increased interest in the Arctic as a shipping route for goods that might be more economically transported over the crown of the world than around its waistline. In addition, commercial interests have an expanding appetite for exploring and exploiting rich mineral and fisheries resources in the Arctic and Southern Oceans. Tourists looking for "something different" are visiting the Arctic and Southern Oceans with increased frequency as well.

Increased shipping activity in the Polar Regions comes with increased risks – to ships and their crews and passengers, to the maritime environment and to the humans and animals that call the Arctic and Antarctica home. The remoteness of these regions, the comparative lack of marine transportation system resources, challenges to maritime communication systems, harsher and unpredictable sea states, lower fidelity of meteorology, fragility of the polar marine environments, the need to better understand impacts of polar shipping on living marine resources, and the dangers of ice navigation all combine to make shipping and commercial uses of the Arctic and Southern

The role of judge advocates in Arctic and Antarctic governance initiatives

MARITIME LAW

LCDR Brian Robinson, USCG

Cold War Redux

Brian Robinson (Lieutenant Commander, USCG) is assigned to the Office of Oceans and Polar Affairs at the U.S. Department of State. His previous assignments have included: legal advisor to the Afghan National Army Legal School; Center for Law and Military Operations at the U.S. Army’s Judge Advocate General’s Legal Center and School; and legal advisor to the National Incident Commander for DEEPWATER HORIZON response operations. Prior to entering the Coast Guard in 2004 LCDR Robinson was a partner in the Boston office of McDermott, Will & Emery. He serves on the JAA Board of Directors.

November 2011
Oceans a significant challenge.

Judge advocates have played significant roles in domestic efforts and the United States’ work internationally to develop policies, guidance and agreements to mitigate the risks of increased shipping in the Polar Regions. On the international stage, the Arctic Council, Antarctic Treaty Consultative Meeting (ATCM) and the International Maritime Organization (IMO) have worked steadily on important projects promoting the safety of shipping in Polar Regions. Judge advocates have been heavily engaged in these efforts. Through the respective military services and the U.S. interagency process, judge advocates have been key players in many recent initiatives regarding Arctic and Antarctic shipping and environmental protection.

National Arctic Strategy


NSPD-66/HSPD-25 announced six specific goals for U.S. Arctic policy:

- Meet national security and homeland security needs relevant to the Arctic region;
- Protect the Arctic environment and conserve its biological resources;
- Ensure that natural resource management and economic development in the region are environmentally sustainable;
- Strengthen institutions for cooperation among the eight Arctic nations (the United States, Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, and Sweden);
- Involve the Arctic’s indigenous communities in decisions that affect them; and
- Enhance scientific monitoring and research into local, regional, and global environmental issues.

NSPD-66/HSPD-25 specifically notes that United States policy priorities include continued participation in the Arctic Council, the development of agreements with other Arctic countries relating to increases in human activity in the Arctic (i.e. including shipping), and continued cooperation with other countries on Arctic issues through the United Nations and its various organs and bodies (i.e. including the IMO). NSPD-66/HSPD-25 further calls for the United States to assert a "more active and influential national presence" to protect the interests of the U.S. in Arctic affairs. NSPD-66/HSPD-25 also calls for the continued projection of U.S. sea power in the region to, inter alia, ensure freedom of navigation interests in the Northwest Passage and Russia’s "Northern Sea Route."
Active duty judge advocates within the U.S. interagency at the Pentagon, U.S. Coast Guard Headquarters, and working in the State Department played important roles in advising policy makers on this important directive. NSPD-66/HSPD-25 is approaching its third birthday—a mature age for a policy document of this type and one that has seen a change in administrations. It remains a lynchpin for U.S. engagement in Arctic governance matters.

The Arctic Council

The Arctic Council was formed with the "Ottawa Declaration" in 1996. The Arctic Council was established as a "high level intergovernmental forum" that promotes cooperation, coordination and interaction among the eight Arctic States (Canada, Denmark (including Greenland and the Faroe Islands), Finland, Iceland, Norway, Russian Federation, Sweden, and the United States) and includes among its Permanent Participants (non-members with certain rights within the Council) Arctic indigenous communities and inhabitants. The Arctic Council includes six distinct Working Groups: Arctic Contaminants Action Program (ACAP); Arctic Monitoring and Assessment Programme (AMAP); Conservation of Arctic Flora and Fauna (CAFF); Emergency Prevention, Preparedness and Response (EPPR); Protection of the Arctic Marine Environment (PAME); and the Sustainable Development Working Group (SDWG). The Working Groups and their subsidiary expert groups hold regular meetings to conduct the work of the Arctic Council on specific projects.

The AMSA Report

Among the most notable accomplishments of the Arctic Council in recent years is the completion of a comprehensive assessment of international shipping in the Arctic: "The Arctic Marine Shipping Assessment (AMSA) 2009 Report" of the PAME Working Group. The AMSA Report included three key findings that have influenced additional projects on Arctic safety.

The AMSA Report noted:

"Except in limited areas of the Arctic, there is a lack of emergency response capacity for saving lives and for pollution mitigation";

"The most significant threat from ships to the Arctic marine environment is the release of oil through accidental or illegal discharge"; and

"There are no uniform international standards for ice navigators or for Arctic safety and survival for seafarers in polar conditions. There are also no specifically tailored mandatory environmental standards developed by IMO for vessels operating in Arctic waters."
Arctic Search and Rescue Task Force

At its Ministerial Meeting at Tromsø, Norway in 2009, the Arctic Council formed a task force to develop an international instrument directed to the coordination of search and rescue (SAR) efforts of the Arctic Council members. Several judge advocates (U.S. Coast Guard Headquarters, the 17th Coast Guard District (Alaska), the U.S. Department of State, and DoD) were actively engaged either as members of the United States delegation to the several meetings of the Arctic SAR Task Force or providing counsel during the interagency process that provided guidance to the U.S. delegation. Beginning in December 2009 the Arctic SAR Task Force met several times and conducted additional work on an intercessional basis culminating in the adoption of the first ever Arctic SAR multinational agreement among all eight Arctic countries at the Arctic Council Ministerial meeting in May 2011 at Nuuk, Greenland. The Arctic SAR Agreement is a legally-binding instrument that governs air and maritime SAR operations of the Parties throughout the entire Arctic Region. The Agreement supplements, rather than supplants, existing bi-lateral SAR agreements between many of the Arctic countries and complements the Parties' commitments under the International Convention on Maritime Search and Rescue. The new SAR agreement allows the U.S. and other Arctic countries to more effectively address operational challenges in the Arctic by maximizing the capacity of partnerships in a region in which operational assets are scarce and difficult to deploy. In addition to meeting a current operational need, the completion of the Arctic SAR Agreement provided a potential template for future cooperation between Arctic Council members on other important initiatives.

Arctic Oil Spill Preparedness and Response Task Force

Immediately following the success of the Arctic SAR Task Force, the Arctic Council took on the challenge of addressing the threat of oil spills in the Arctic. At its Ministerial meeting at Nuuk, Greenland in May 2011, the Arctic Council directed the formation of a new Task Force to develop an international instrument focused on oil spill preparedness and response. The formation of the Arctic Oil Spill Task Force and its ongoing work addresses the need to develop unique and specific measures to address increasing risks from marine pollution incidents in Arctic waters discussed in the AMSA Report and in the Report of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling. While the Oil Spill Task Force conducts its work, the Emergency Prevention, Preparedness, and Response (EPPR) Working Group of the Arctic Council is similarly engaged in developing non-binding guidance for the prevention of oil spills in the Arctic.

“Judge advocates at U.S. Coast Guard Headquarters, the Pentagon and JAG liaisons and former JAGs working within the interagency play key roles in this development effort.”

Similar to the SAR Task Force, the U.S. Delegation to the Oil Spill Task Force includes robust JAG representation. As with the Arctic SAR team, judge advocates from the Navy and Coast Guard are working either as members of the U.S. Delegation or providing critical subject matter expertise through the interagency consultation process as work on the proposed instrument begins. The Oil Spill Task Force concluded its first meeting in Oslo, Norway on 17-18 October 2011. Additional meetings are planned in Saint Petersburg, Russia in December 2011 and one or more additional sessions will most likely proceed in 2012. The goal is to produce a multilateral instrument that addresses a wide range of operational and other issues regarding Arctic oil spill preparedness and response. To date, it has not been decided whether the instrument will be proposed as a legally binding agreement or as a non-legally binding arrangement, nor whether the scope of the instrument will be limited to oil spills or will...
cover other hazardous or noxious substances. As with the Arctic SAR Agreement, the final instrument is intended to supplement and not supplant existing oil spill agreements and guidelines. Most notably, the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC)\(^6\) (to which all of the Arctic States are Parties) provides a framework for international co-operation in responding to oil spill incidents or threats of marine pollution. Article 10 of the OPRC Convention encourages additional regional bilateral and multilateral agreements for oil pollution preparedness and response. Many Arctic countries are also Parties to the so-called Bonn Agreement of 1983\(^7\) (relating to oil spills in the North Sea) and Copenhagen Agreement of 1993\(^8\) (providing for cooperation in maritime oil spill response operations between Denmark, Finland, Iceland, Norway and Sweden).

The IMO's Polar Code

The International Maritime Organization is an international organization with authority to develop binding rules for international shipping and non-binding guidance as well. Much of the IMO work that applies generally to international shipping would impact Arctic shipping. However, like the Arctic Council, the IMO has taken on the task of addressing the risk of Arctic and Antarctic shipping directly through the development of rules that would be legally binding regarding ships operating in ice-covered waters—the so-called "Polar Code."

In 2002, the IMO promulgated "Guidelines for ships operating in polar waters"\(^9\) providing non-binding guidance to international shipping transiting Arctic waters in which ice was likely to be encountered. In 2009 the IMO, with encouragement from the ATCM, modified that non-binding guidance and made it applicable to Antarctic waters as well.\(^10\) The IMO recognized the utility of having a collection of binding rules for Polar shipping. In 2009, the Marine Safety Committee (MSC) of the IMO responded to a joint proposal of the United States, Norway and Denmark, and instructed the MSC sub-committee on ship Design and Equipment (DE) to develop mandatory regulations for ships operating in Arctic and Antarctic waters.\(^11\)

United States engagement at IMO in the development of a mandatory Polar Code is under the leadership of the Coast Guard (in close cooperation with the Department of State) but also includes significant participation from subject matter experts in a wide variety of disciplines from EPA, DOJ, NOAA, NSF, DOT, the State of Alaska and DoD. Again, judge advocates at U.S. Coast Guard Headquarters, the Pentagon and JAG liaisons and former JAGs working within the interagency play key roles in this development effort. The desired end state for the Polar Code is to develop new or revised IMO standards relevant to unique aspects of vessel operations in Polar Regions including: design, manning, navigation, training, equipment requirements and measures to mitigate the potential adverse impact of shipping operations on the Polar marine environments. As presently conceived, the Polar Code will contain both mandatory regulations that would likely be adopted through procedures to amend existing international instruments such as the Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL) and non-binding guidelines. The U.S. is leading efforts to develop and finalize the Polar Code expeditiously. Draft text will be circulated at the upcoming meetings of the DE sub-committee and MSC in the Spring of 2012. Work will continue on an intercessional basis with a view toward completing the Code for consideration at a subsequent IMO Committee sessions in the near future.

Conclusion

As the United States works to protect its national security interests in the Arctic, preserve the environment of the Polar Regions and promote environmentally sound commercial and economic interests in the Arctic and Antarctic, judge advocates are moving these rocks uphill through domestic engagement with interagency partners and in international fora including the Arctic Council and IMO. This work has already paid significant dividends.

(Continued on page 17)
in the completion of the first Arctic SAR Agreement and more success is likely to follow as other Arctic and Antarctic initiatives to promote the safety of shipping and preservation of Polar environments progress.

Endnotes

1. The AMSA Report is available at this link: http://www.pame.is/amsa/amsa-2009-report

2. The Tromso Declaration is available at this link: http://arctic-council.org/section/documentation

3. The Nuuk Declaration (2011) is available at this link: http://www.arctic-council.org/filearchive/Nuuk%20Declaration%20FINAL.pdf

4. The final report of the National Commission is available at this link: http://www.oilspillcommission.gov. The report contains numerous references to the unique challenges of oil exploration in the Arctic (see e.g., pgs. 300-307 entitled “Beyond the Gulf of Mexico: Frontier Regions.”)

5. See the Nuuk Declaration (2011), note 3, supra.

6. For additional information about the OPRC Convention see the IMO’s description at this link: http://www.imo.org/about/conventions/listofconventions/pages/international-convention-on-oil-pollution-preparedness,-response-and-co-operation-(oprc).asp


10. See IMO Assembly Resolution A.1024(26). These amended guidelines become effective on January 1, 2011.


The views expressed are the author’s own and are not necessarily those of the U.S. Coast Guard, the Department of Homeland Security, the Department of State, or the U.S. government.
The threats to private shipping from pirates have given rise to an industry of armed guards aboard private ships—which in turn give rise to legal considerations and controversy among shipping organizations regarding whether to use armed force in the first place.

This article touches on a few of the legal considerations by attempting to address, in part, a checklist of legal concerns published by the Swedish Club which is a marine mutual insurer, headquartered in Göteborg, Sweden. Piracy & armed guards: General overview (Member Alert, 21 April 2011) http://www.swedishclub.com/upload/Loss_Prev_Docs/Piracy/PIRACY_and_USE_OF_ARMED_GUARDS_-_General_overview.pdf, hereinafter cited as “Swedish Club Article.”

Other sources for this article and cited herein or referenced in acronyms are: Christian W. J. Cartner, John A. C. Cartner, and Richard P. Fiske, Defending Against Pirates: The International Law of Small Arms, Armed Guards and Privaters. (“Defending Against Pirates”), the International Convention for Safety of Life at Sea (SOLAS), the United Nations Convention for Law of the Sea (UNCLOS), and the International Maritime Organization’s (IMO) MSC.1/Circ.1405/Rev.1/Annex 16 September 2011 (“MSC Annex”).

At the outset, it is important to note that we are neither discussing a sovereign warship and its crew nor a land-based contractor working for the United States within a sovereign nation. An armed guard aboard does not enjoy the protections of sovereign immunity. A private ship is res (or extraterritorial property), with a license from a flag state where the ship is registered. Even with contemplated changes to flag state statutes or SOLAS, the armed guards will not be treated legally with the protections afforded military personnel. Additionally, law, regulation, and conventions vary during steps of the voyage as the armed guards embark from, pass through, and disembark at different “jurisdictions.” Accordingly, as we turn to the Swedish Club’s checklist, we consult laws of flag states, the laws of the armed guards’ employer (for purposes of this article, the United States), port and coastal states, and UNCLOS and SOLAS, among other authorities.

Is it legal for there to be armed guards aboard the vessel?

It depends on the laws of the flag state, the law of the nation where the ship owner is located, and the location of the ship during its voyage. “Flag states appear to be becoming more open to the deployment of armed security guards on board vessels, although in as
regulated a manner as possible.” Swedish Club Article at 1-2. Similarly, whether and what types of firearms may be carried on board depends on analysis of the particular law in question. Some legal regimes are more stringent or regulate use of armed guards without specifically prohibiting or permitting the use. Id at 2. The answer also depends on the “law of the state where the vessel’s Owners and/or Managers are incorporated or have their seat of commercial operations.” Id at 2-3.

During the voyage, “the law of the coastal states and/or ports where the vessel will call apply. Article 17 of UNCLOS entitles a merchant vessel to innocent passage through the territorial waters of a coastal state” and “gives coastal states the authority to exercise criminal jurisdiction over a foreign flagged vessel in certain exceptional circumstances. These include where the consequences of a criminal act extend to the state in question, and where the criminal act disturbs either the peace of the country or the good order of the territorial sea. Some coastal states may well consider the death of a pirate as a result of defensive action taken by a merchant ship to fall within one or both of these categories.” Id at 3.

The laws of the relevant coastal state will also regulate the types of weapons which may be carried on board a vessel calling at a particular port, what weapons are banned, need to be declared, or are subject to strict storage requirements. Swedish Article at 3. Among other legally protective acts, therefore, the Master and security team should document the carriage and management of firearms and ammunition from embarkation to disembarkation. IMC Annex at 3.4.

Are all concerned parties aware of the licenses required?

The weapons carried on board must comply with the regulations and licensing requirements of (a) the flag state; (b) the port of embarkation; (c) all areas of transit; (d) any ports at which the vessel will moor; and (e) the port of disembarkation. Swedish Club at 3. And in contrast to some military operations, the process should be transparent. The armed guard documentation should include licensures and proof of compliance with the relevant flag, coastal and port State legislation and relationships. IMC Annex at 3.4.2.

“**The laws of the relevant coastal state will also regulate the types of weapons which may be carried on board a vessel, what weapons are banned, need to be declared, or are subject to strict storage requirements.**”

Additional considerations for a United States security company include, but are not limited to the following: International Trafficking in Arms regulations (ITARs), Department of State Directorate of Defense Trade Controls (DDTC) for export of weapons and defense services. A U.S. citizen and company also must comply with the Foreign Corrupt Practices Act and consider its exceptions for permits, licenses, or other official documents or to facilitate or expedite performance of a "routine governmental action." 15 U.S.C. § 78dd-2(b) Other U.S. agencies and law apply to licensure for export of weapons and other issues related to maritime defense.

*In the event of pirate attack, what are the rules of engagement and use of force?*

Rules of engagement and use of force depend on the flag state, the law of the state where the vessel’s owners and/or managers are incorporated or have their seat of commercial operations, and coastal and port states. Swedish Club Article at 4-5. A complete understanding of the rules for the use of force should be agreed among the ship owner, private security company, and master to prevent boarding using the minimal necessary force. E.g., MSC Annex at 3.5 (Rules for the Use of
Has all concerned parties been informed of the decision to use armed guards?

The Swedish Club suggests that owners “inform Charterers, cargo interests and their own insurers about any decision to deploy armed guards.” Swedish Article at 6.

Conclusion

The Swedish Club writes:

“As mentioned at the beginning of this Alert, the issue of whether to deploy armed guards as a way of combating piracy is a controversial one. This does not, however, mean that it should be dismissed by Owners. Rather, a careful consideration of the key questions set out in this memo, together with an analysis of any contract to be entered into for the provision of security services, will enable an Owner to take such a decision in as prudent a manner as possible.”

Swedish Club Article at 6.

Prudence is also the best legal practice. The law varies by jurisdiction and practice. The master, not the armed guard, is the ultimate authority aboard a ship, and he will place safety before security. A change in standard contracts from this concept of master authority in favor of security could lose insurance coverage. And a change from best practices and full compliance with the varying laws could lose an armed guard’s freedom to criminal charges or lose a ship owners property to civil liability.

Endnotes

1. Treatises and statutes should be consulted for any in depth discussion. Additionally, the positions of different countries, shipping organizations, and the statutes of flag states are changing weekly. This article, indeed, will be outdated by the time it is published. For example, recognizing the urgent need for change, IMO has recommended Governments, particularly coastal and port States bordering high risk areas, have in place policies and procedures which facilitate the movement of armed guards and their equipment. MSC.1/Circ.1408 16 September 2011. If the Governments follow these recommendations, then it may ease carriage of armed guards and for them to embark and disembark at those ports.

2. DTTC rules about defense services will change. April 13, 2011, DDTC published a proposed rule (76 Fed. Reg. 20590-20593) to amend the ITARs regarding defense services and to clarify the scope of activities that are considered a “defense service.”
JOBS FOR JAGs 2011

All-star speakers and keynote by MG Suter highlight of one of the best-attended seminars in years

Nearly 70 active duty, Guard, reserve and former judge advocates gathered at the Crystal Gateway Marriott Hotel in Crystal City on 25 October 2011 for the annual “Jobs for JAGs” program.

Jobs for JAGs has been an annual event organized by the Pentagon Chapter of the Federal Bar Association and co-sponsored by the Judge Advocates Association. Beginning in 2011, however, the Judge Advocates Association assumed primary responsibility for the program. The JAA also received generous support from 2011 co-sponsors GreenbergTraurig LLP, the Military Officers Association of America (MOAA), the Federal Bar Association, and the Judge Advocates Foundation.

Major General Joe Lynch (USAFR retired), MOAA secretary and general counsel, began the day with a discussion entitled “Marketing Yourself for a Second Career.” During this lively session he discussed cataloging and describing the legal and non-legal skills JAGs acquire on active duty, identifying legal and non-legal career paths and opportunities, networking, and the mechanics of the interview process.

The luncheon address was delivered by Major General William K. Suter (U.S. Army, retired), the 19th Clerk of the Supreme Court of the United States. General Suter has delivered the keynote address at all but one of the Jobs for JAGs events and in his typical fashion, delivered sage wisdom and advice to those considering new career opportunities.

The remainder of the day’s schedule included panel discussions about various legal and non-legal employment possibilities. The panels and panelists included:

William K. Suter (MG, USA, ret.), the Clerk of the Supreme Court of the United States, delivers the luncheon keynote address.
State government and academia

- COL Robert Rigsby (USAR), associate judge, Superior Court of the District of Columbia and former corporation counsel, District of Columbia
- Col Michael Noone (USAF, ret.), professor, Columbus School of Law, Catholic University of America
- Dr Frank Shoup, former director, Wayne E. Meyer Institute of Systems Engineering, Naval Postgraduate School

Federal government

- COL Marc Warren (USA, ret.), Deputy General Counsel and acting General Counsel, Federal Aviation Administration
- LTC Damon King (USAR), Deputy Chief, Child Exploitation and Obscenity Section, Criminal Division, U.S. Department of Justice
- Maj Bryan Bonner (USAFR), Assistant Chief Counsel, Transportation Security Administration

Article I judiciary

- Col Bill Colwell (USAF, ret.), Associate Chief Judge, U.S. Department of Labor
- Col J. Jeremiah Mahoney (USAF, ret.), Acting Chief Judge, U.S. Department of Housing and Urban Development
- Lt Col Francisco ("Paco") Mendez (USAFR), Administrative Judge, Defense Office of Hearings and Appeals

The substantive area panelists discussed their own transitions from active duty to civilian employment and offered suggestions and real-world examples of both successful and unsuccessful job search strategies. Colonels Neurock and Monheim highlighted the benefits of reserve and Guard service for those separating from active duty and how one can leverage reserve participation into full-time civilian employment.
JAA EVENTS

(Continued from page 22)

Upon the conclusion of the panel discussions and Q&A session, many speakers and attendees relocated to the hotel’s lounge for a more informal networking session.

The next Jobs for JAGs event will again be held in the Washington, DC area in the fall of 2012. In the meantime, remember to check www.jaa.org for announcements of networking and other career-building events and services offered by the JAA and its partners.

JOBS FOR JAGS TO GO

Were you unable to attend Jobs for JAGs but interested in the content? Judge Advocates Association members may view the digital recordings of the day’s events in the “members only” section of www.jaa.org beginning in mid-December.

Not a JAA member? Or prefer to watch the day’s information offline? Also in mid-December we will make available a complete set of the day’s information—excluding a 2 DVD set and workbook, for only $39.95. For one low price, which includes shipping to domestic U.S. addresses (including APO and FPO addresses), you will receive two DVDs containing the MOAA “Marketing Yourself for a Second Career” presentation, the panel discussions, luncheon keynote address, and the materials book.

For more information or to purchase, please visit www.jaa.org.
The 2011 annual meeting of the Judge Advocates Association was held 16 November 2011 at the Army and Navy Club on Farragut Square in Washington, DC. Colonel Marc Warren (USA, retired) presided over what would be his final meeting as JAA president. After thanking the leadership and membership for their work over the past year, the results of the elections were announced and new officers and directors were installed.

The JAA leadership slate for 2011-2012 is:

**Officers**

**President**, RADM Norton Joerg, JAGC, USNR (ret.)
**President-Elect**, BG Malinda Dunn, USA (ret.)*
**Vice President**, Col Carol Hattrup, USAF (ret.)*
**Secretary**, Col James Russell, USAF (ret.)*
**Treasurer**, Brig Gen Ed Rodriguez, Jr, USAFR (ret.)*
**Immediate Past President**, COL Marc Warren, USA (ret.)
**ABA Delegate**, MG John Altenburg, USA (ret.)

**Directors**

**Army**
MG Robert Murray, USA (ret.)
COL Calvin Lederer, USA (ret.)
LTC P.J. Perrone, USA*

**Navy**
CAPT Michael Jaeger, JAGC, USN
CAPT William Aramony, JAGC, USNR
CDR Tanya Cruz, JAGC, USN*

**Air Force**
Brig Gen James Swanson, USAF (ret.)
Col Evan Haberman, USAF (ret.)
Col Mary Beth Harney, USAF*

**Marine Corps**
Col Dwight Sullivan, USMCR
Brig Gen James Walker, USMC (ret.)

**Coast Guard**
CDR Jeffrey Good, USCG (ret.)
LCDR Martha Rodriguez, USCG
LCDR Lineka Quijano, USCG*

**At-Large**
COL Robert Rigsby, USAR
Alan Goldsmith, Esq.
Chris Sterritt, Esq.*

* newly elected or re-elected
Dear Members and Friends of the Inn:

Welcome to our 2011 - 2012 Program, the 18th season of our Inn. This year is shaping up to be both engaging and educational for our members and invited guests.

This year we continue to center our program around our mission statement: Promote Legal Excellence, Civility, Professionalism, and Ethics among members of the military and national security law bar and bench. For 18 years, our Inn and its members have fulfilled this mission through activities, programs, relationships, and interactions with area law students. As we undertake an exciting and rewarding program addressing a wide range of subjects related to military law, national security, and litigation. I would particularly like to invite law students and new attorneys to our programs. Our membership rolls are full of senior attorneys eager to share their rich experiences and tradition of excellence.

Because of the enduring support and careful nurturing of the Inn over these years by the foundational base of our membership—that is, our institutional members, those members who live and work in the Washington, DC area—your “JAG” Inn of Court is celebrating its 18th year. This is a phenomenal feat, considering the highly transient nature of our military membership. I am sincerely grateful to the institutional members who year after year pour their hearts and souls into the Inn to sustain the Inn and make it better, thereby improving the practice of military law. Thank you for your generous and selfless commitment to us.

Your Vice-President, Captain Barbara Snow-Martone and I welcome you to Judge Advocates Association Inn of Court. Please do not hesitate to contact us through our website, below. We look forward to serving with you this year.

Kindest Regards,

James M. Guelcher

James M. Guelcher,
Lieutenant Colonel, U.S. Army
Chapter President

Visit our Website at: http://www.innsocourt.org/Inns/jaainn/
NEW HANDS ON DECK

How the Coast Guard supplements its “law firm” in a declining budget environment

How can you tap into the vast resource of available legal talent when billet allocations have decreased, but the pool of interested applicants has steadily increased? The answer is simple: legal interns. While hiring additional people for full-time positions is outside the control of any individual judge advocate, the CGJAG program has direct control over the hiring of legal interns. These students add tremendous value to CGJAG and are willing to work to gain legal experience, and, in some instances, for academic credit.

The Department of Homeland Security encourages the use of interns and volunteers and the Coast Guard personnel system facilitates hiring and security clearance processing for CGJAG intern applicants. With this underlying support from both the department and the agency, the internship resource is nearly limitless. The only constraint to this vast and talented resource is physical office space. However, despite this space concern, CGJAG has recruited over one hundred interns in the past three years to work during the summer, or during the school year.

The knowledge of how to access and utilize this resource has been shared across all CGJAG legal offices, bringing much needed assistance to those offices while giving law students tremendous exposure to Coast Guard missions and legal practice. The benefits are more than just temporary. Applications to the Direct Commission Lawyer Program by previous legal interns have increased markedly, with a notable edge in the application process to those who have demonstrated their interest in CGJAG through this internship opportunity. This program has created a mechanism to utilize a vast group of talented people while also giving these students the skills and know how to compete successfully for active duty positions.

“Legal interns gain a unique perspective on the practice of law within a military/government environment.”

Many Coast Guard interns are recruited from schools co-located in cities with CGJAG law offices; however outreach efforts to schools across the country have resulted in unique opportunities for students. For example, this spring marks the second year Michigan State University Law School will send approximately 4-6 interns to work for academic

(Continued on page 27)
credit at Coast Guard Headquarters in Washington, DC. These students will work an average of 20-30 hours per week for academic credit in order to fulfill academic requirements. The benefits to the students are tremendous as their experience is similar to any entry level attorney to our program. Plus, CGJAG gets the benefit of an excited and motivated law student who is eager to learn about our missions and who brings a new perspective to our practice.

Legal interns gain a unique perspective on the practice of law within a military/government environment. This past summer, in order to accommodate all of the CGJAG interns, these interns were embedded within specific Coast Guard programs at Coast Guard Headquarters. In doing so, the law students worked directly for a Coast Guard mission client and received maximum exposure to Coast Guard missions. Additionally, they were provided an opportunity to partner with CGJAG Office of Regulations to assist with the legal and substantive input for upcoming rulemaking projects. This experience provided real world exposure to the type of work Coast Guard attorneys accomplish every day, and provided more than just research and writing projects for the law students.

The restrictions of the current budget does not mean creative opportunities to recruit legal talent does not exist. If you have questions about how to conduct outreach to law schools or want additional details of our internship program please contact LCDR Martha Rodriguez: martha.a.rodriguez@uscg.mil or 202-372-3822.

The ABA Wants You!

Did you know that a new, lower rate now makes membership in the American Bar Association much more affordable for active duty military lawyers, retired JAG officers and reservists?

Military lawyers can now join for only $70 per year and pay individually.

But wait . . . there’s more! For those JAGs who are not now ABA members, here’s a special code (RMM11SFJR) entitling you 50% off for the rest of the current ABA fiscal year. To use the code, call 1-800-285-2221, and pay only $35 for membership until 31 August 2012.

ABA membership delivers resources that help Judge Advocates develop professionally both during their service and as they transition to civilian life. Membership benefits include:

Access to specialized areas of law content for in-depth examination of issues and regulations—over 30 specialty groups serve members in areas such as public contract law, family law and litigation.

- Free subscriptions to the ABA Journal magazine and electronic ABA Journal newsletter for the latest legal news, practice issues and national trends.
- Online education resources including webinars, discussion groups, podcasts and member-only website content.
- Networking opportunities in-person and virtually to connect with experienced national legal experts and cutting-edge thought leaders.

The ABA supports military lawyers directly through legal assistance training, military pro bono and other programming, as well as the vast array of ABA substantive legal content and programs that enhance lawyers’ skills and expand their professional networks. The ABA’s Military Pro Bono Project has connected more than 400 service members and their families to pro bono legal help, valued at over $1.7 million in donated billable hours.

More information about how the ABA serves military lawyers is available online at www.ambar.org/military.
Established in 1973 as a Field Operating Agency of the Army's Office of The Judge Advocate General, USALSA has heretofore not had a building to call its own. That changed on September 23, 2011, when MG Butch Tate, Deputy Judge Advocate General, BG Flora Darpino, Commander, U.S. Army Legal Services Agency, and COL Dave Anderson, Commander U.S. Army Corps of Engineers (Baltimore District), participated in a ribbon cutting to officially start USALSA's residence in its own "home."

USALSA encompasses more than 20 different offices, divisions, and activities worldwide and close to 500 personnel. Its mission includes: providing administrative, personnel, fiscal, and logistic support, including legal research services, to all elements of the Agency; promoting the effective use of lawyers and judicial personnel; guaranteeing the independence of Army judges and defense counsel; implementing the Army Courts-Martial Information System; and managing the training of assigned Individual Mobilization Augmentees.

Located along 3rd Street on Fort Belvoir, USALSA's new 4-story, approximately 100,000 square foot, building brings together in one location all of its subordinate divisions. The building, and its adjacent parking garage, houses 300 Base Realignment and Closure affected personnel and provides dedicated space to its 11 divisions.

Its world-class facilities are fitting for an organization with responsibility for support to world-wide Army legal services.

The USALSA move, coupled with the Office of The Judge Advocate General's office move from Rosslyn to the Pentagon, concludes BRAC 132 actions affecting OTJAG and USALSA. If you are searching for a USALSA POC's number and only have their old number, you can reach the USALSA Command Group's Administrative Support Specialist at (703) 693-1100; to reach a member of OTJAG who was formerly at Rosslyn, you can contact OTJAG's Chief of Administration at (571) 256-8123.
In August 2011, The Judge Advocate General’s School, U.S. Army (TJAGSA), now a principal component of The Judge Advocate General’s Legal Center and School (TJAGLCS), celebrated its Diamond Jubilee—sixtieth birthday—in Charlottesville, Virginia. How military legal education came to be in Virginia and what happened in the early years of TJAGSA on the grounds of the University of Virginia is important and worth telling.

After the Japanese attack on Pearl Harbor, and the rapid expansion of the Army in the weeks and months that followed America’s entry into World War II, the Judge Advocate General’s Department recognized that the old way of preparing lawyers for service as judge advocates (JAs) would no longer work; “on the job training” took too long and the hundreds of new lawyers entering the Department had to be ready in the shortest possible time to serve in a variety of locations at home and overseas. These new JAs had to know something about international law, procurement law, the Articles of War, and the practice of courts-martial, as well as the law governing claims for and against the government. These new military lawyers also had to understand military organization and procedures, so that they would be efficient and effective staff officers. The result was the opening of TJAGSA at the University of Michigan in 1942. While the JAGD no doubt would have preferred to keep TJAGSA open at the end of World War II, the rapid de-mobilization of the Army—and the greatly reduced need for lawyers in uniform—led to the school closing in 1946. But not before the value of having a TJAGSA had been proven—since hundreds of lawyers had passed successfully through its classrooms and had been given the specialized education and training needed to serve commanders and soldiers both in garrison and in the field.

In June 1950, North Korean troops attacked U.S. and South Korean forces and the Judge Advocate General’s Corps began recalling Reserve JAs to serve during the rapidly escalating Korean crisis. Since these officers needed a refresher course on military law, the Corps obtained a temporary building at Fort Myer, Virginia, and assigned Colonel Edward H. “Ham” Young (who had led the school in Michigan) and a handful of active duty JAs to serve as instructors. When TJAGSA re-opened on 2 October 1950, the bulk of the teaching at Fort Myer focused on the new Uniform Code of Military Justice, which had been enacted by Congress in 1950 and was scheduled to take effect in 1951.

At the same time, recognizing that a permanent TJAGSA was needed—a school that (Continued on page 30)
would continue after the crisis on the Korean peninsula ended—Major General Ernest M. “Mike” Brannon, who had only recently begun serving as The Judge Advocate General, directed COL Charles E. “Ted” Decker “to plan for and locate a permanent Judge Advocate General’s School.”

By late spring in 1951, the Corps had decided that only two civilian law schools were suitable for a permanent TJAGSA: the University of Tennessee and the University of Virginia (UVA). It is probable that the latter got the nod for two reasons: first, UVA was less than 125 miles from the Pentagon, and this satisfied the Corps’ desire that the new school be geographically close to Washington, D.C. Second, UVA President Colgate W. Darden, Jr., offered the Army a new dormitory (identified as “Building No. 9” but later named “Hancock House”) that would be ready for occupancy in August 1951. Having been built as a dormitory for more than 100 students, this new structure was large enough to provide office space for TJAGSA faculty and staff as well as housing for Army students who did not desire to live in town. Additionally, UVA’s law school was adding a new wing to its existing building, and UVA offered to lease the Corps classroom space in this new structure.

When he completed his tour as TJAGSA’s first commandant on 15 June 1955, COL Decker noted that an ABA inspection of the school revealed that new JAs “came, on average, from the upper fifteen percent of their classes in law school and that roughly six to ten percent had stood first [in their class] or had been law journal editors.” Not surprisingly, the ABA’s House of Delegates approved accreditation for TJAGSA on 22 February 1955. In COL Decker’s opinion, this date was only fitting, as it was the anniversary of George Washington’s birthday—and it was Washington who had been on the first committee to draw up Articles of War for the Army and, as Continental Army commander, had petitioned Congress to appoint the first Army Judge Advocate in 1775.

Today, TJAGSA remains in Charlottesville, albeit as part of a larger TJAGLCS. Military legal education at UVA now includes warrant officer legal administrators and noncommissioned officer paralegals. Despite the many changes, what COL Decker and the Special Projects Division started sixty years ago remains: the oldest and the only ABA-accredited military law school in the world.
On 17 Oct 11 The Judge Advocate General (TJAG) of the Air Force, Lieutenant General Richard C. Harding, opened the seventh KEYSTONE by reviewing JAG Corps “Foundational Leadership” initiatives, outlining past year’s successes while introducing goals for the coming year. General Harding explained how Foundational Leadership operates to achieve mission success in the JAG Corps, which is a meritocracy where equal opportunity reigns and accomplishments and character are rewarded with advancement and larger leadership opportunities. how, in this meritocracy, diversity and inclusiveness can strengthen the Corps by assuring that each member’s individual strengths are tapped and by assuring that each reaches his or her leadership potential. General Harding explained how, in the spirit of inclusion, the Corps is “all in.”

KEYSTONE 2011 contained a comprehensive leadership building agenda. A significant portion of the curriculum was devoted to train leaders on how to maximize the leadership qualities of their subordinates. The JAG Corps was honored to have Mr. Joe West, President and CEO of the Minority Corporate Counsel Association and former Associate General Counsel of Wal-Mart, lead a team of experts in offering leadership training in these areas.

KEYSTONE 2011 featured an outstanding array of speakers including Secretary of the Air Force Michael B. Donley, Chief Master Sergeant of the Air Force Chief James A. Roy, LTG Russel L. Honoré (Ret.), and William “Bill” Robinson, the President of the American Bar Association. reminded attendees of the importance of harnessing the power of diversity and inclusion to build leadership in successful organizations.

This year’s KEYSTONE not only included Air Force JAG Corps senior and mid-level leaders, but welcomed representatives from many of our allied and partner nations that have military personnel engaged in operations with Air Force JAG Corps members around the world. Their presence at KEYSTONE reinforced close relationships and the common ties that bind the uniformed military attorney communities. The Air Force JAG Corps was honored to host international attorney representatives from Australia, France, Israel, Spain, and the United Kingdom. The senior international attorneys attended all of the plenary sessions, as well as selected tracks and electives. A highlight of KEYSTONE was the senior international attorney roundtable. The Deputy Judge Advocate General of the Air Force, Major General Steven J. Lepper, moderated a lively and informative panel discussion.

Lieutenant General Harding concluded the summit by looking forward to what the JAG Corps will look like in the not too distant future. With foundational leadership as its guide, the Corps will be powerful and efficient, sustained by an ongoing spirit of diversity and inclusion.