Volume 177 **Symposium Issue** **Fall 2003**

MILITARY LAW REVIEW

The Fourth Legal Assistance Symposium

Articles for the Legal Assistance Practitioner

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The Fourth Legal Assistance Symposium:

Articles for the Legal Assistance Practitioner

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Headquarters, Department of the Army, Washington, D.C.

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MILITARY LAW REVIEW—VOLUME 177

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* Volume 96 contains a cumulative index for volumes 92-96.

* Volume 101 contains a cumulative index for volumes 97-101.

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Introduction to the Fourth Legal Assistance Symposium[1]

Wherever you have judge advocates among Soldiers, you will have the practice of Legal Assistance.[2]

Captain Nicole Farmer

Legal assistance directly contributes to our personnel's legal preparedness, the well being of the Army family, and the Army's military readiness. Dedicating this issue of the *Military Law Review* solely to legal assistance issues is indeed an appropriate recognition of the significant role of legal assistance. It is also appropriate that this Fourth Legal Assistance Symposium edition coincides with the sixtieth anniversary of legal assistance.[3] As we celebrate the sixtieth anniversary of this program, it is fitting to reflect on the needs that gave rise to the Legal Assistance Program (LAP), the growth and development of the program, and the vital importance of legal assistance as an essential component to an effective and efficient Army.

The need for legal assistance became apparent in the massive mobilization of World War II—legal concerns could disrupt the Soldiers' peace of mind and increase the danger already inherent in military life. As one commentator noted:

> The outbreak of war and the subsequent disruption of normal life and process created a great new volume of legal problems for servicemen and their dependants. Many of these problems were novel in legal jurisprudence and required the development of new laws, practices, and procedures to obtain adequate and just settlement . . . This served to emphasize the need for making adequate legal advice and assistance available in this field.[4]

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1. *See also A Legal Assistance Symposium*, 102 MIL. L. REV. 1 (1983); *The Second Legal Assistance Symposium*, 112 MIL. L. REV. 1 (1986); *The Third Legal Assistance Symposium*, 132 MIL. L. REV. 1 (1991).

2. CENTER FOR LAW & MILITARY OPERATIONS, THE JUDGE ADVOCATE GENERAL'S SCHOOL, LAW AND MILITARY OPERATIONS IN THE BALKANS 181 (1995-1998) (quoting Captain Nicole Farmer, Chief of Legal Assistance, 1st Armored Division Forward) (13 Nov. 1998).

3. WAR DEP'T CIR. NO. 74, LEGAL ADVICE AND ASSISTANCE FOR MILITARY PERSONNEL (13 Mar. 1943) (tracing the establishment of legal assistance).

4. MILTON J. BLAKE, LEGAL ASSISTANCE FOR SERVICEMEN, A REPORT OF THE SURVEY OF THE LEGAL PROFESSION (The Lord Baltimore Press, 1951).

On 16 March 1943, *War Department Circular No. 74*, *Legal Advice and Assistance for Military Personnel*, addressed this need and created the program that has grown into today's LAP.[5]

What started during World War II as little more than a lawyer referral program has evolved into the comprehensive LAP we know today. Legal assistance attorneys use the latest automation tools to produce wills, powers of attorney, and other legal documents that comply with the laws of the state in which a Soldier or family member lives. Some offices provide in-court representation through an Expanded Legal Assistance Program. Referrals to civilian attorneys are made when legal assistance attorneys cannot provide adequate legal relief for clients. The quest for new laws, practices, and procedures to obtain adequate and just settlement noted in World War II continues today as evidenced by our partnership with the Federal Trade Commission for the "Military Sentinel."[6] Similar cooperative work with the Internal Revenue Service saves our military families millions of dollars per year through our military tax assistance program. Legislative initiatives have resulted in tax savings for military personnel and federal recognition of military powers of attorneys, advance medical directives, and testamentary instruments.

The range of topics in this Symposium reflects the expanding areas of our legal assistance practice. Just as the range of legal assistance has expanded, the quality of this practice has increased. Advances in military estate planning provide an example of this qualitative growth. The fill-in-the-blank "deployment" wills gave way to the development of will assembly software, the Minuteman and later Patriot Will programs. These tools enhanced the speed and efficiency of our legal assistance attorneys and freed time for the attorneys to address the more complex estate planning needs of our clients. These programs in turn gave way to the current advances in individual estate planning. Our current estate-planning program provides legal assistance attorneys with the tools necessary to craft the most sophisticated wills and supporting documents to meet the needs of our clients.

Another reason that the quality of LAP has increased is due to our ever-growing Preventive Law Program. Recognizing that the best solution

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5. War Dep't Cir. No. 74, *supra* note 3.

6. *See* Federal Trade Commission, *Military Sentinal*, *at* http://www.consumer.gov/military (last visited 25 Nov. 2003) ("Military Sentinel is a project of the Federal Trade Commission and the Department of Defense to identify and target consumer protection issues that affect members of the U.S. Armed Forces and their families.").

to a problem is to avoid it in the first place, many of our offices are expanding preventive law services, such as offering walk-in services to review unsigned contracts. Others are leveraging technology to obtain maximum distribution of preventive law materials to all e-mail recipients on the installation's host server. Our public *Legal Services* web site provides a wide range of preventive law information.[7] It also provides assistance for eligible clients in locating the nearest legal assistance office. Many installation legal assistance offices also maintain their own public preventive law web site.

The Army family recognizes and appreciates these benefits. In various surveys regarding military benefits, Soldiers, family members, and retirees always choose legal assistance as one of their most valued benefits.[8] This alone underscores the significance of legal assistance within our Army. Even more important, however, is our commanders' view that the availability of legal assistance, and the prompt and accurate delivery of legal assistance services, is critical to the ability to forge and maintain ready and relevant forces capable of rapid deployment and mission success anywhere in the world. Events of the last year once again bring legal assistance to the forefront as thousands of Active Duty Soldiers are joined by thousands of Reserve and National Guard Soldiers mobilized and deployed around the globe. Ultimately, that is the purpose for providing legal assistance—not because we think of it as a benefit to be handed out in the government's largesse—but because it removes and reduces Soldier and family member legal problems that interfere with Army units being better able to do what the Army must do—fight and win our nation's wars.

Legal assistance provides a unique demonstration of the "One Army" concept with a team of Active, Reserve, and National Guard legal assistance attorneys working together to support our dispersed client base. After the death of 248 soldiers in the 1985 crash of a charter transport near Gander, Newfoundland, Reserve Component judge advocates were appointed as Special Legal Assistance attorneys for families located away from active duty offices.[9] Today, the Reserve Component directory lists several hundred Reserve Component judge advocates who are available to

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7. *See* U.S. Army Judge Advocate General's Corps, *Legal Services*, *at* http://www.jagcnet.army.mil/Legal (last visited Dec. 2, 2003) ("to inform military members on personal legal affairs and preventive law").

8. U.S. Army Research Institute, Army Personnel Survey Office, Findings from the Spring 2002 Sample Survey of Military Personnel (SSMP) (copy on file with The Judge Advocate General, Legal Assistance Policy Division, Office of The Judge Advocate General, U.S. Army, Washington, DC).

advise on local law issues or provide clients with individual legal assistance. This service may be provided if the client is not near an active duty legal assistance office. It may also be appropriate because of the reservist's expertise in the particular subject matter. Lieutenant Colonel Craig Bell and Captain Thaddeus Hofffmeister reflect the expertise of our Reserve Component judge advocates in this Symposium.

The compelling need for legal assistance services that resulted in the *War Department Circular No. 74* is reaffirmed today. The global war on terrorism has highlighted yet again the crucial role of Army legal assistance offices in supporting mobilizations and deployments, caring for Army families who are left behind, and providing other essential legal services on a recurring basis. Legal readiness is a component of overall combat readiness. As the tens of thousands of reservists are brought on active duty, a crucial part of the process is a review of their "legal readiness." During this review, they are informed of their rights under the Soldiers' and Sailors' Civil Relief Act[100] and the Uniform Services Employment and Reemployment Rights Act,[111] and are assisted in preparing letters invoking the protections offered by these acts. Each of our Soldiers has the opportunity to prepare a will, power of attorney, advance medical directive, and other essential legal documents. Similar services are provided to the increasing number of Department of the Army civilian employees deploying to Afghanistan and Iraq.

Legal assistance attorneys accompany our Soldiers to the far-flung corners of the world where our Army is deployed to provide in-theater legal support for any arising legal problem. Any deployed legal professional can recount instances when fellow Soldiers have been distracted by impending legal problems that legal assistance has helped resolve, and in the process provided peace of mind to that Soldier and permitted him or her to better focus on the task at hand. It is no wonder our commanders see legal assistance as critical to the morale and well being of their Soldiers! The demand for services at home also continues as the families of our active and reserve Soldiers encounter legal problems and turn to legal assistance for support. The challenge to provide these services to families is amplified, as many are located away from our active duty military instal-

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9. Thomas J. Feeney & Captain Margaret L. Murphy, *The Army Judge Advocate General's Corps, 1982-1987*, 122 MIL. L. REV. 58 (1988).

10. 50 U.S.C. App. §§ 501-593 (2000).

11. 38 U.S.C. §§ 4301-4333 (2000).

lations. As we learned from Gander, increased reliance on our reserve judge advocate assets help us meet this need.

As it has for the past sixty years, the LAP will continue to grow and prosper. This growth will be due in part to the increased demand for legal assistance. More importantly, it will be due to the exceptional quality, dedication, and initiative of the judge advocates, civilian attorneys, paralegals, and support staff that provide legal assistance services throughout the Army and who care about the legal welfare of Soldiers and their families.

Brigadier General Daniel V. Wright