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Captains' Advisory Council Notes

By: Captain David A. Schlueter, Government Appellate Division, USALSA

Continuing Legal Education: A New Twist. The legal profession finds itself being constantly bombarded with new ideas, new approaches to the law and endless new twists in applying previously unassailed precedents. The JAG Lawyer is not immune. And because of that there is a constant need within the Corps for "re-education," or to apply a more popular term, "continuing legal education."

Approximately one year ago The Judge Advocate General reactivated the dormant Captains' Advisory Council with the thought that the Council could serve as a receptacle for comments or suggestions from the field and in turn operate as an idea-generating body to implement those inputs.

The members of the Council are by no means "educators" but from the outset there was an active interest in the possibility of sponsoring a regional continuing legal education conference directed at the needs of the junior members of the Corps. Proposals were submitted to General Prugh in January 1974 who gave not only his approval but also his wholehearted and continuing support. Of course continuing legal education conferences are not new to JAG's. For a number of years such conferences have been held on a regular basis in JAG shops in Europe and, as recently as this last April, one was held for judge advocates in Korea. But a new twist was being added because of the "regional," aspect of this conference within CONUS.

The new twist became a reality on 24 and 25 June 1974 when the Advisory Council, with the cooperation of the Fort Meade JAG shop, sponsored a Regional Continuing Legal Education Conference at Fort Meade.

The purpose of running that two-day conference was two-fold. First, the conference would provide a medium for presenting a continuing legal education program which would not replace any existing programs but would instead serve as a complement to those endeavors. Secondly, the conference would allow the junior officers of the Corps to meet in a relaxed, yet productive, atmosphere and meet their peers and representatives of the offices of The Judge Advocate General and Personnel, Plans and Training.

For the initial planning sessions the Council envisioned the first demonstration conference as a cooperative effort between itself and a nearby installation capable of hosting such an activity. The Council would furnish an agenda and speakers or moderators and the host installation would shoulder the responsibility for the physical requirements such as billeting, mess, conference rooms, etc.

In planning the agenda the Council considered that:

1. The thrust would be primarily directed at some of the practical everyday problems faced by the military lawyer.
2. Liberal use would be made of seminars or workshops.
3. Rather than limiting the scope of the conference to any one area of military law, participants would be offered a broader cross-section of recent developments—realizing that a smaller amount of time would be spent on any one topic.

After a Council subcommittee had outlined a tentative agenda, council members representing various fields of military law planned and later implemented general presentations to the conference as a whole, and prepared and implemented seminars or workshops. Thus, through the use of the general presentations and seminars, the conferees were exposed to a broad cross-section of pressing legal problems and also offered a glimpse of what other JAG officers were doing in various areas of military law.

Responsibility for the overall planning and organization of the conference fell primarily on the shoulders of three conference "coordinators": two coordinators from the Council (General and Financial) and one coordinator from Fort Meade (Facilities). Other council members aided in arranging for speakers, preparing a critique sheet, outlining an agenda and serving in a myriad of other necessary capacities.

The participants represented approximately 20 posts or installations from the First Army area. Roughly half of the 60 captains attending were from the Washington area. Most of the speciality areas in military law were rep-

resented, but a distinct majority of the participants indicated an interest in military justice. The response of the conferees was most encouraging; most felt that holding such conferences was beneficial and that they should be instituted in other regions. That response, when viewed along with the wealth of enthusiasm and suggestions resulting from the conference, certainly provides impetus for the planning and implementation of future conferences.

We have here only touched on some of the

high points of the conference. An after-action report was prepared and that report covers in much greater detail the planning, organization, and implementation aspects of the whole project. A complete text of the report will appear in next month's issue of *The Army Lawyer*.

There can be no doubt that there is always a pressing need for continuing legal education. A regional continuing legal education conference is but one viable means of meeting that need.

International Law Report

*Taken from a presentation at the 1974 World-Wide JAG Conference by
Mr. Waldemar Solf, Chief, International Law Division, OTJAG.*

1974 has been another challenging year. We have logged significant accomplishments as well as initiatives that give promise on many more "tomorrows" of professionally rewarding work for our international law specialists. Our Division has two operational teams—the Status of Forces Team and the International Law Team. Each is in the "thick of things." I shall attempt to cover highlights of some of our activities to date.

Status of Forces Matters.

1. *Tri-Service Regulation.* The Tri-Service Regulation on status of forces policies, procedures and information (AR 27-50) has been revised and should be out to the field. The revision contains several rather important changes to the 1967 versions:

a. Paragraph 1-4 sets out our continued policy of maximizing US jurisdiction through waivers of local jurisdiction. It also contains provisions for waivers of US jurisdiction which require prior approval of The Judge Advocate General of the accused serviceman's service. Recommendations for approval of requests for waiver of US jurisdiction are acted on by the Office of the Secretary of Defense, however. Denials of requests for waiver may be made by the designated commanding officer. Waivers in official duty cases require approval by the President.

b. Paragraph 1-6 deals with the military legal adviser concept which received much attention in the DOD Task Force Study on the Administration of Military Justice in the Armed

Forces. This new provision in AR 27-50 will allow for the assignment of judge advocates as military legal advisers ("if the occasion warrants and circumstances permit") to assist accused servicemen in cases where foreign governments have exercised their jurisdiction. He will not perform any functions of defense counsel or trial observer.

c. The new AR 27-50 also contains a sample agreement for use in contracting for local counsel and payment of expenses in connection with foreign criminal jurisdiction cases.

d. There is a provision for use of a form (DD Form 1936) attached as an Appendix to the new AR 27-50. This form can be used to provide OTJAG with additional information on particular foreign criminal jurisdiction cases. Initial reports of serious or unusual incidents will continue, however, to be reported by electrical means pursuant to AR 190-40—the "SIR" regulation.

e. The regulation also implements our policy to retain custody over military accused for as long as possible. It sets forth that efforts will be made in all cases to secure the release of an accused to the custody of American authorities pending completion of all foreign judicial proceedings, including appeals.

2. *UCMJ Charges—Foreign Recall Cases.* At the request of The Judge Advocate General, our Division is conducting a review of the current policy of preferring UCMJ charges against servicemen whose offense has brought them under the jurisdiction of the host country by vir-