

Speech
by

ATTORNEY GENERAL ROBERT MORGAN, Chairman

Special Committee on Legal Services to the Armed Forces
of the
National Association of Attorneys General

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OUTLINE OF SPEECH

- I. Special Committee on Legal Services to Military Forces
- II. Improving Liaison
- III. How Attorneys General can assist military legal officers
- IV. How military legal officers can assist Attorneys General
- V. Methods of Improving Coordination

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want to speak to

I have been asked to address you on the very general topic of the relationship between the office of Attorney General and military legal officers.

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In many states there is not much of a relationship. ~~I have taken it upon myself to attempt to improve this situation.~~ At present, I am Chairman of a special committee of the National Association of Attorneys General, which has the name: "Special Committee on Legal Services to Military Forces".

The Special Committee is a recent creation of the National Association of Attorneys General. In the process of preparing a lengthy report studying the office of Attorney General in all jurisdictions of the U. S., it became clear that further study and action with respect to military forces was needed by attorneys general. Thus, at its Winter meeting in 1971, the Association adopted a resolution calling for the creation of a special advisory committee on legal services to military forces and requesting representatives from the armed forces to serve on the committee. ~~The special committee was directed by the resolution to formulate recommendations for:~~

- ~~improving liaison at both the state and national level;~~
- ~~developing model legislation to clarify legal problems where this appeared indicated;~~

preparing manuals and related materials concerning the legal status of members of the National Guard; collecting, analyzing and disseminating information on existing laws and administrative practice; and strengthening relationships between legal advisers, military forces, and law enforcement officers, especially during emergency situations.

At present, the committee is composed of the Attorneys General of Indiana, Mississippi, California, as well as North Carolina; the Adjutants General of North Carolina, New Jersey, Wisconsin, and Maryland; and the Judge Advocate Generals of the armed forces; Maj. Gen. James S. Cheney of the Air Force, Rear Admiral Merlin H. Staring, of the Navy; and Maj. Gen. George S. Prugh of the Army. In addition, there are advisors from National Guard offices in Washington and from several attorney general offices.

At its meeting in February of this year, the special committee focused upon seven subjects for study and subsequent recommendations:

1. Civil legal services to military bases
2. Improving liaison between attorneys general, state bar associations and military forces
3. Interjurisdictional problems with the national guard and federal forces
4. Legal services to the National Guard

5. The law and procedures of declaring martial law in state emergencies
6. The liabilities and benefits of National Guardsmen
7. Legal Claims against the Guard and the Federal armed forces

To begin work in these very large areas, the special committee has hired a research attorney who has been added to the staff of the National Association. He is Robert F. Magill, Jr.

As I have indicated, one of the top priorities of the Special Committee is to improve liaison between military forces and Attorneys General. The Special committee believes that there could and should be:

- greater knowledge of state legal resources and procedures by military legal officers
- greater sensitivity of Attorneys General to the needs and problems of the armed forces in their jurisdictions
- increased cooperation between Attorneys General and military legal officers

To start work towards its goal of greater coordination between the military/attorneys general, a meeting was held at the Pentagon this summer, attended by staff members of the National Association

and by officers appointed by the Judge Advocates General of the armed forces. At this meeting, ~~it was suggested that proposals and comments on liaison be solicited by means of a questionnaire to various military bases.~~ ^{it was decided that a} The military legal officers, however, ~~believed that a more~~ beneficial approach would be to have someone address a conference of judicial officers. That someone is me and the conference is today.

So, instead of writing each one of you and asking you to fill out some forms and answer some questions, I urge you to communicate with me or Mr. Magill, ^{by phone or letter} ~~by phone or by letter~~, to comment upon my ideas today or to raise questions or proposals which I do not mention today. ~~Mr. Magill is working full-time for the Special Committee and has an office address and a telephone number, which are listed in the handout about my talk which you have received.~~ Do not hesitate to contact ^{him} ~~him~~ during the next year if you have an idea or a problem which you believe the Special Committee should consider in order to achieve better coordination and communication between military legal officers and Attorneys General.

Let me make a few comments on why an Attorney General would be interested in providing assistance to military officers. Most Attorneys General are charged with the duty of enforcing the laws of the state as to all persons, not just citizens, within his state. In addition, an Attorney General has the responsibility of providing information about and interpretations of the legal policy of the State.

There is more than duty, however, which would make an Attorney General desire to give assistance to the military. There is also an element of enlightened self-interest: many of the people of military bases are citizens of the state and will spend time, money, and votes in the state in future years.

What resources, then, can an Attorney General bring to the legal problems of military personnel? First of all, the power and prestige of his office. The Attorney General usually has ready access to the Governor, state regulatory agencies, legislative committees, and the press. A stubborn legal battle involving the military and some civilian organization may evaporate rapidly should the Attorney General lend his voice. An example of this is a recent dispute at a National Guard helicopter base with the Federal Office of Emergency Planning developed over the proposed building of a gigantic antenna right next to the base, which would have diminished its utility for landings and take-offs. The Attorney General's office of the state assisted the Guard in its successful presentation of the case at the Federal agency's headquarters in Washington.

A more common area where the prestige of the Attorney General's office is useful is that of consumer protection. Several Attorney Generals send persons from their consumer protection offices to visit bases and take complaints on a regular basis. A retail establishment in the habit of using questionable practices when dealing with soldiers or sailors might more likely be persuaded to

cease and desist by a letter from the office of Attorney General than by a letter from an officer on the base who could not close the business down. Their limitations are known and local attorneys cannot afford to take the usual small case. Used auto dealers near one base were demanding and getting their military buyers to pay for extremely high auto insurance rates, the dealers also being agents for the insurance companies. The Attorney General's office of that state applied pressure through the insurance commission of the state upon the dealers and the rates were lowered.

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A resource of many, /not all, Attorneys General is that they are empowered to prosecute on behalf of the state as part of their role of enforcing the laws of the state. At one base, there were some restaurants which discriminated against Black sailors, contrary to the statutes of the state and Supreme Court cases. The Attorney General of the state, enforcing the laws of the state, acted swiftly; by court order, he closed the restaurants until such time as they would comply with the statutes.

Another function of the Attorney General is to publicize and interpret the state's laws. He does this through bulletins describing some facet of the state's legal machinery and through opinions in response to questions as to a particular law's interpretation. In some jurisdictions, the Attorney General may provide a pamphlet directed to the servicemen and their families in his state as to a particular topic of concern to them, such as auto insurance. On

some occasions, the Attorney General's office will prepare a formal opinion in response to a question from the armed services in his state. He may be prevented by his regulations from answering such a question directly, however, and thus it may be useful to have such a question fielded to another state official who is entitled to a formal opinion from the Attorney General's office.

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The Attorney General can also initiate and support new legislation. If he is made aware of a problem affecting servicemen he can recommend legislation. For example, there is a statute in some states allowing the wives of prisoners of war to have the power of attorney in fact to convey real property. In those states that do not have such legislation, if the Attorney General is made aware of the desire for it, he may recommend that such a statute be enacted. And if the title companies and real estate lawyers of the state do not accept such legislation as valid, the Attorney General might be persuaded to bring an action in the state courts to test the validity of the statute.

General Albert Clark, Superintendent of the Air Force Academy, was instrumental in having legislation passed in the State of Colorado which requires the ~~reporting~~ ^{members of the} of convictions ~~to the~~ ^{reported by} ~~Colorado~~ ^{of convictions as a} Department of Motor Vehicles ~~by~~ ^{by} every military authority ~~having~~ ^{reported} jurisdiction over offenses substantially the same as those ⁷ set forth in the motor vehicle code which occur on federal military installations in Colorado. General Clark states that this legislation has been beneficial to the military and that the civilian

authorities support the military commanders by imposing drivers' license sanctions against military personnel against offenses occurring on military installations. General Clark also urges the passage of such legislation in other states. *in the name of public safety*

I have given you examples of how the Attorney General has been or could be of assistance to the servicemen in his state. But the Attorney General cannot be expected to discover the problems on his own. And it is at this step that I would like to point out the necessity of initiative by military legal officers. You must be the ones to discover the legal problems of your clients. You must bring these problems which cannot solve themselves to the office of the Attorney General. For example, in the case I just mentioned to you where an Attorney General closed down restaurants discriminating against Black servicemen, the Attorney General was not aware of the problem until the legal officers of the naval base complained to him of the discrimination. Once they had complained, action was swift.

What is necessary, then, for the cooperation of the Attorney General is that there be some input into his office of the legal problems of servicemen. And the best place to get this input is from the offices of the staff judge advocates. It would help if the Attorney General knew beforehand who the military legal officers were in his state. A letter or phone call of complaint from Captain Smith will be of greater significance if the Captain Smith has

previously announced himself to the Attorney General's office.

Let me point out here that assistance is not to be one way. The Attorney General can be useful to the military. But the military can assist the Attorney General as well. Because of the large number of complaints that will reach him, the military legal officer will be a central point of information about consumer complaints in the base area - like a local Better Business Bureau. If the consumer complaints are properly catalogued and filed, the military legal offices can act as a resource to the Attorney General's consumer protection division, providing not only a stimulus to action but also a source of evidence should the Attorney General's office decide to act against a retail establishment in the area.

Another area where the military bases would be of assistance to the Attorney General is drugs. The information compiled on drug abuse in the bases would most likely be useful to the Attorney General in discovering and rooting out the sources of illegal drugs in his state. In North Carolina, there is an Interagency Drug Squad, designed to find and prosecute the pushers of contraband drugs. Military personnel constitute an active part of this Squad, participating with state forces in making both investigations and raids.

So far I have attempted to show by example how Attorneys General and Staff Judge Advocates can assist each other. I would

like to discuss the methods whereby such cooperation can be obtained, for I see a real need in establishing a solid framework for continued cooperation.

The central problem, as I see it, is knowing whom to contact. A military legal officer must have some person to call in the Attorney General's office, and the Attorney General's office needs to know who has what responsibility in the bases in the state. Quite often informal arrangements develop: Capt. Jones is acquainted with Assistant Attorney General Brown. But when Capt. Jones is given another post of duty outside the state, or when Brown goes into private practice, their successors do not know whom to call, and time is wasted in establishing a new informal arrangement, if it is established at all. To remedy this, I ^{will} propose ^{to the committee} the following, as a minimum: that each military legal officer be given, when he begins his duty within a state, a list of the various sections within the office of Attorney General in the state, with the names and phone numbers of the persons responsible for each section. Thus, when a consumer protection problem arises which he cannot handle alone, the military legal officer can take out his list and call the appropriately designated person in the Attorney General's office. Similarly, there should be a list on file in the offices of the Attorney General of the military legal officers in the state, together with a designation of the field of responsibility of each of them. Each of these lists should be kept current. A further step which might prove useful is to have each Attorney General

appoint a person on his staff who is to act as general liaison with the SJA's in the state, and each SJA appoint someone on his staff with similar responsibility.

I also propose to you that exchanges of personnel for short periods of time would be valuable. In North Carolina, I have arranged for such an exchange to take place. One of the JAG officers at Ft. Bragg, Capt. Warren Pate, recently spent two weeks at our offices in Raleigh acquainting himself with our consumer protection division. In his visit, Capt. Pate met with all of my staff working on consumer protection, reviewed histories of cases we were working on and accompanied a staff member on a trip to investigate and obtain an injunction against a local flim-flam operation. In addition, we put him to work on some of our pending consumer protection cases. Since Capt. Pate's visit with us was very recent, I do not have a substantial amount of feedback from him as to how useful the visit was. He has, however, indicated that he thinks the visit was worthwhile in discovering who was in my office and how we work at consumer protection. And he has requested that his name be added to the mailing list for material put out by our consumer protection division. It was the consensus of all involved in this exchange that a similar invitation be extended to all military bases in North Carolina.

A reciprocal visit by two of my staff members to Ft. Bragg has been arranged, at the invitation of Col. Sneed. We hope that this planned tour will give us a clearer picture of the problems in the

consumer protection area encountered by the military in our state.

Another method of establishing communication, which I believe is untried but which I propose today for your consideration, is to assign reserve legal officers occasionally for their active duty requirements to the Attorney General. Reserve officers are often requested, when not on active duty, to perform legal services for their armed service. I believe that their capability for such additional work would be enhanced if they were familiar with the resources and personnel of the office of the Attorney General in the state. In addition, such tours of duty would naturally broaden the conduits of communication between the state's legal offices and those of the military.

I have attempted to give you some idea of the utility of the office of Attorney General to military legal officers. I have also suggested that there are areas where the military can assist the Attorney General. There are, of course, other fields of law where cooperation would be of benefit. But substantial achievement must wait until some initiative is taken to open up paths of communication. So I urge you to consider the proposals I have made here today - get written lists of who's who in your respective Attorneys General offices; make sure that your names and those of your associates are on file with the Attorney General; contact your Attorney General and bring to his attention problems that you face that you think he can resolve or help and explore with him the possibility

of cooperative ventures or exchanges in areas where you believe there is a common interest. And contact my office or Mr. Magill if you have any additional ideas.