

SPEECH BY:

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AMERICAN BAR ASSOCIATION
COMMITTEE ON LEGAL ASSISTANCE
FOR SERVICEMEN
FORT BRAGG, N. C.

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IT IS A PARTICULAR PLEASURE AND PRIVILEGE TO BE HERE WITH YOU TODAY. AS ATTORNEY GENERAL, MOST OF THE TIME I FIND MYSELF IN AN ADVERSARY POSITION - REPRESENTING ONE SIDE AGAINST ANOTHER IN AN ARGUMENT OF SOME SORT. TODAY I ENJOY THE HAPPY POSITION OF REPRESENTING ALL THE PARTICIPANTS. AS A MEMBER OF THE MILITARY SERVICES FOR SEVERAL YEARS, AND ONE WHO SERVED IN JAG UNTIL RETIREMENT THIS YEAR, I FEEL A CLOSE RAPPORT WITH THE MILITARY. AS A MEMBER OF THE BAR, AND ONE WHO SERVES ON SEVERAL COMMITTEES OF THE AMERICAN BAR ASSOCIATION, I AM CLOSELY INVOLVED WITH THE BAR AT BOTH THE STATE AND NATIONAL LEVEL. FINALLY, AS ATTORNEY GENERAL, I AM PROUD TO REPRESENT OUR STATE AND THE PEOPLE WHO HAVE HONORED ME WITH HIGH OFFICE.

THIS JOINING TOGETHER OF SUCH DIFFERENT PROFESSIONS AND INTERESTS IS A HEARTENING DEVELOPMENT. I, FOR ONE, PLAN TO DO EVERYTHING POSSIBLE TO ASSURE THAT IT CONTINUES. FOR TOO LONG, THESE THREE GROUPS, THE MILITARY, THE BAR AND THE POLITICAL STRUCTURE - HAVE OPERATED WITHOUT ANY REAL

EXCHANGE OF IDEAS OR INFORMATION. EACH GROUP HAS BEEN FULL OF CRITICISM OF THE OTHERS, BUT SHORT ON SUGGESTIONS FOR IMPROVEMENT. HOSTILITIES AND MISUNDERSTANDINGS HAVE DEVELOPED. INSTEAD OF HELPING EACH OTHER, WE HAVE BUILT BARRIERS TO COOPERATION.

I HOPE THAT WE HAVE NOW COME TO A NEW ERA IN NORTH CAROLINA CONCERNING RELATIONSHIPS BETWEEN THE MILITARY, THE BAR AND THE CIVIL GOVERNMENT. I HOPE ALSO THAT WE IN NORTH CAROLINA CAN SHOW THE WAY FOR OTHER STATES IN THIS REGARD.

LET ME TELL YOU ABOUT SOME SPECIFIC PROJECTS WHERE WE ARE PIONEERING IN BUILDING EFFECTIVE MILITARY-LEGAL RELATIONSHIPS. I AM A MEMBER OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL. I AM PRIVILEGED TO BE CHAIRMAN OF THAT ASSOCIATION'S RESEARCH AND STAFF COMMITTEE, WHICH CONDUCTED A SEARCHING STUDY OF THE POWERS, DUTIES AND OPERATIONS OF THE OFFICE. ONE OF THE CONCLUSIONS REACHED THROUGH THIS TWO-YEAR ANALYSIS WAS THE NEED FOR IMPROVED LEGAL SERVICES TO MILITARY FORCES. ACCORDINGLY, THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL, IN 1971 FORMED AN ADVISORY COMMITTEE ON LEGAL SERVICES TO MILITARY FORCES. I MIGHT NOTE HERE THAT NAAG IS NOT ONE OF THOSE GROUPS THAT FORMS A NEW COMMITTEE EVERY TIME A PROBLEM COMES ALONG. WE HAVE LESS THAN A DOZEN COMMITTEES, SO IT SHOWS A REAL COMMITMENT

THAT ONE OF THESE IS DIRECTED TOWARD PROBLEMS OF LEGAL SERVICES TO MILITARY FORCES.

THIS COMMITTEE IS UNIQUE BECAUSE IT IS THE ONLY COMMITTEE THAT WAS CREATED TO CONSIST NOT ONLY OF ATTORNEYS GENERAL BUT OF PERSONS DESIGNATED BY OTHER ORGANIZATIONS. IT CONSISTS OF THE FOLLOWING: FOUR ATTORNEYS GENERAL, THE ATTORNEYS GENERAL OF CALIFORNIA, INDIANA, MISSISSIPPI AND MYSELF; FOUR ADJUTANTS GENERAL, AND THE JUDGE ADVOCATES GENERAL OF THE ARMY, NAVY AND AIR FORCE. I HAVE THE PRIVILEGE OF SERVING AS CHAIRMAN OF THIS COMMITTEE.

I MIGHT NOTE HERE THAT MANY OF US ATTORNEYS GENERAL HAVE A DEEP AND DEVOTED INTEREST IN THE MILITARY SERVICES BECAUSE OF OUR OWN EXPERIENCES. ON OUR OWN COMMITTEE AL SUMMER OF MISSISSIPPI SAW COMBAT AS A NAVY PILOT IN WORLD WAR II; TED SENDAK OF INDIANA HAS A WAR RECORD THAT WON HIM MANY AWARDS; AND EVELLE YOUNGER OF CALIFORNIA IS NOW A MAJOR GENERAL IN THE AIR FORCE RESERVES. THUS, ALTHOUGH OUR MAIN JOB IS TO FUNCTION AS POLITICIANS, OR MAKERS OF PUBLIC POLICY, WE ALSO SEE THINGS AS MEMBERS OF THE MILITARY.

MUCH OF THIS COMMITTEE'S WORK IS CONCERNED WITH LEGAL ISSUES INVOLVING THE NATIONAL GUARD. AN ATTORNEY TO STUDY THESE ISSUES WAS HIRED WITH FUNDS FROM THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION. EXTENSIVE QUESTIONNAIRES

WERE CIRCULATED TO ADJUTANTS GENERAL, AND THE RESULTS HAVE BEEN ANALYZED AND PUBLISHED. A RESEARCH REPORT WILL BE PUBLISHED SOON DEALING WITH THE FOLLOWING ISSUES:

1. LEGAL SERVICES TO GUARDSMEN;
2. INTERJURISDICTIONAL PROBLEMS, INCLUDING INTERSTATE AND STATE-FEDERAL RELATIONSHIPS;
3. THE PEACE OFFICER POWERS OF GUARDSMEN;
4. LIABILITY OF GUARDSMEN;
5. CLAIMS AGAINST THE GUARD.

THE LAW IN THIS AREA IS COMPLEX AND OFTEN UNCLEAR, AND OUR STUDY SHOULD BE OF GREAT VALUE TO THE GUARD AND TO THE ATTORNEYS GENERAL WHO PROVIDE THEM LEGAL SERVICES IN MOST STATES. WE HOPE OUR STUDY WILL CLARIFY THE STATE OF THE LAW. WE HOPE IT WILL ALSO SUGGEST WAYS WHEREBY ATTORNEYS GENERAL CAN FULLY MEET THE GUARD'S NEED FOR LEGAL COUNSEL TO SUPPLEMENT THAT FURNISHED BY JAG OFFICERS.

THE OTHER PURPOSE OF THE COMMITTEE'S WORK IS TO STRENGTHEN LIAISON BETWEEN ATTORNEYS GENERAL AND REGULAR MILITARY SERVICES. IN THIS AREA, NORTH CAROLINA HAS DEVELOPED A PILOT PROJECT THAT IS OF BROAD SIGNIFICANCE AS AN EXAMPLE OF THE KIND OF CONSTRUCTIVE RELATIONSHIP THAT IS POSSIBLE. MOST OF YOU ARE FAMILIAR WITH, AT LEAST, PART OF THIS PROGRAM, EITHER THROUGH YOUR ACTIVITIES AT FORT BRAGG OR WITH OUR STATE BAR. LET ME, HOWEVER, GIVE AN OVERVIEW

OF THIS PROGRAM, BECAUSE I THINK WE SHOULD ALL BE PROUD OF IT.

CONSUMER FRAUD IS A PROBLEM EVERYWHERE, BUT IT IS TOO OFTEN PARTICULARLY BAD AROUND MILITARY BASES. IN NORTH CAROLINA, AS IN MOST STATES, THE ATTORNEY GENERAL HAS A CONSUMER FRAUD SECTION, WHICH DOES NOTHING BUT HANDLE CONSUMER COMPLAINTS. LAST SUMMER A MEMBER OF THE STAFF JUDGE ADVOCATE'S OFFICE AT FORT BRAGG SPENT TWO WEEKS WITH THE ATTORNEY GENERAL'S CONSUMER FRAUD DIVISION, AT THE ATTORNEY GENERAL'S INVITATION. HE LEARNED A GREAT DEAL ABOUT CONSUMER FRAUD AND ABOUT HOW TO PREVENT IT OR TO DEAL WITH THE RESULTS. IN OCTOBER THE CHIEF OF THE CONSUMER PROTECTION DIVISION SPENT TWO DAYS AT FORT BRAGG, AT THE INVITATION OF THE COMMANDANT. HE, OR HIS REPRESENTATIVE, NOW ATTENDS THE MONTHLY MONTHLY MEETINGS OF THE ARMED FORCES DISCIPLINARY CONTROL BOARD AT BRAGG, WHICH CONSIDERS ACTION AGAINST FRAUDULENT BUSINESSES.

THESE VISITS WERE INFORMATIVE AND HELPFUL IN LEARNING NOT ONLY ABOUT SPECIFIC DECEPTIVE PRACTICES, BUT IN ESTABLISHING AN UNDERSTANDING OF HOW AND WHERE PROBLEMS ARE HANDLED. THEY WILL BE CONTINUED ON A REGULAR BASIS AND, HOPEFULLY, ASSURE A CONSTANT INTERCHANGE OF INFORMATION. ATTENDANCE AT MONTHLY MEETINGS OF THE DISCIPLINARY BOARD ENABLES OUR STAFF TO KEEP INFORMED OF CURRENT PROBLEMS AT BRAGG, AND

TO CONTRIBUTE INFORMATION ABOUT FIRMS OR PRACTICES WHICH ARE THE SUBJECT OF COMPLAINTS. THIS PROGRAM HAS NOW BEEN EXTENDED TO OTHER BASES IN THE STATE.

I HAVE ALSO APPOINTED A MILITARY COOPERATION COMMITTEE, WHICH IS RESPONSIBLE NOT ONLY FOR ASSISTING THE SPECIAL COMMITTEE, BUT FOR ALL MATTERS CONCERNING MILITARY FORCES. THIS WAS CREATED IN RESPONSE TO A SUGGESTION OF THE SPECIAL COMMITTEE, WHICH FELT THAT THE GREATEST SINGLE NEED WAS FOR A DEFINITE POINT OF CONTACT WITH STATE GOVERNMENT. IT CONSISTS OF THREE ASSISTANT OR DEPUTY ATTORNEYS GENERAL, ALL OF WHOM ARE ACTIVE MEMBERS OF THE NATIONAL GUARD OR RESERVE, AND THEREFORE HAVE PARTICULAR RAPPORT WITH THE MILITARY.

TO FURTHER COOPERATION BETWEEN THE MILITARY AND THE BAR, A LUNCHEON MEETING WAS HELD LAST SPRING WITH REPRESENTATIVES OF THE JUDGE ADVOCATE GENERALS STAFFS OF ALL MILITARY BASES IN NORTH CAROLINA, THE ATTORNEY GENERAL AND MEMBERS OF HIS MILITARY COOPERATION COMMITTEE, THE PRESIDENT OF THE NORTH CAROLINA BAR ASSOCIATION, AND THE PRESIDENT OF THE NORTH CAROLINA STATE BAR.

JOHN MATTHIS JOINED THE ATTORNEY GENERAL'S OFFICE ON MAY 1, 1973 AND WAS APPOINTED MILITARY LIAISON OFFICER FOR THE ATTORNEY GENERAL'S OFFICE. UPON MY DIRECTION, HE INITIATED THE FIRST ANNUAL NORTH CAROLINA ATTORNEY GENERAL'S

STAFF JUDGE ADVOCATE CONFERENCE WHICH WAS HELD AT THE NORTH CAROLINA LEARNING INSTITUTE CENTER NEAR DURHAM IN JULY 1973. THOSE ATTENDING THE CONFERENCE WERE THE STAFF JUDGE ADVOCATES AND LEGAL ASSISTANCE OFFICERS FROM THE TEN MILITARY LEGAL OFFICES IN NORTH CAROLINA, THE LEGAL OFFICER FROM THE SIXTH FLEET IN CHARLESTON, SOUTH CAROLINA, AND THE ATTORNEY GENERALS FROM SOUTH CAROLINA, VIRGINIA AND MARYLAND.

AT THIS CONFERENCE A PANEL DISCUSSION ON DOMICILE AND RESIDENCE QUESTIONS CONCERNING VOTING, EDUCATION, TAXATION, MOTOR VEHICLE REGISTRATION AND DRIVER'S LICENSES WAS CONDUCTED WITH MEMBERS FROM MY OFFICE ACTING AS PANEL MEMBERS. THE SECOND DAY OF THE CONFERENCE WAS DEVOTED PRIMARILY TO CONSUMER PROTECTION. GENERAL JOHN TOLSON, NORTH CAROLINA SECRETARY FOR MILITARY AND VETERANS' AFFAIRS SPOKE TO THE GROUP CONCERNING THE WORK OF HIS OFFICE WITH THE MILITARY. THE DIRECTOR OF OUR STATE BUREAU OF INVESTIGATION, SPOKE OF HIS OFFICE'S WORK WITH THE VARIOUS MILITARY INVESTIGATIVE OFFICES THROUGHOUT THE STATE, AND THE DIRECTOR OF POLICE INFORMATION NETWORK GAVE AN OVERVIEW OF HIS OFFICE AND HOW IT COULD ASSIST MILITARY LEGAL OFFICERS AND INVESTIGATORS.

THESE STEPS HAVE HELPED FOSTER A CLOSE WORKING RELATIONSHIP BETWEEN MEMBERS OF THE ATTORNEY GENERAL'S OFFICE

AND THE STAFF JUDGE ADVOCATES. THIS HAS HELPED SOLVE MANY PROBLEMS WHICH OTHERWISE MIGHT HAVE CREATED SOME FRICTION. FOR EXAMPLE, RECENTLY, FORT BRAGG WAS INVOLVED IN AN ENVIRONMENTAL POLLUTION CONTROL PROBLEM IN THE DESTRUCTION BY FIRE OF SOME OF THEIR ABANDONED BUILDINGS. THE STAFF JUDGE ADVOCATE AT FORT BRAGG, ALONG WITH THE PUBLIC INFORMATION OFFICER, CONTACTED THE ATTORNEY GENERAL'S OFFICE AND A WORKABLE SOLUTION WAS ARRIVED AT WITHOUT UNDUE ADVERSE PUBLICITY. A PROBLEM AROSE AT CAMP LEJEUNE BETWEEN LOCAL SHERIFFS AND THE MILITARY AUTHORITIES OVER THE WAY TO HANDLE MARINES CHARGED WITH CIVIL INDICTMENTS. THIS PROBLEM WAS WORKED OUT TO THE SATISFACTION OF BOTH THE LOCAL AUTHORITIES AND THE MILITARY AUTHORITIES THROUGH THE ATTORNEY GENERAL'S OFFICE.

THE FACT THAT WE ARE HERE TODAY IS AN INDICATION OF THE INTEREST AND CLOSE COOPERATION THAT IS SHARED BETWEEN THE TWO OFFICES. MY OFFICE IS AVAILABLE TO ASSIST THE MILITARY IN SOLVING ANY OF THEIR PROBLEMS CONCERNING STATE LAW AND I FEEL CERTAIN THAT THEY ARE LIKEWISE AVAILABLE TO ASSIST US IN ANY MILITARY PROBLEM THAT WE ENCOUNTER.

THESE ARE EXAMPLES OF THE KINDS OF ACTION THE COMMITTEE HOPES TO GENERATE. THESE EXAMPLES CAN AND WILL BE MULTIPLIED. STATE ATTORNEYS GENERAL HAVE MANY RESOURCES THEY CAN BRING TO BEAR ON THE LEGAL PROBLEMS OF MILITARY

PERSONNEL. FOR INSTANCE, MOST ATTORNEYS GENERAL 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 FIELD TO ANOTHER STATE OFFICIAL WHO IS ENTITLED TO A FORMAL OPINION FROM THE ATTORNEY GENERAL'S OFFICE.

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.

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, MY MILITARY LEGAL OFFICERS. 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.

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.