



At Sidebar

by Phil Schatz

The FBA, the JAG Corps, and the Department of Defense: Natural Partners in Pursuit of Common Goals

The varied theme articles in this military law issue

of *The Federal Lawyer* are due to the efforts of the FBA's Veterans and Military Law Section (VMLS) and especially Jim Richardson, a veteran, former FBA national president, and member of the Board of Directors of the VMLS. Accordingly, this issue is something of a showcase for the valuable work of the VMLS, and our FBA members who are or were in the armed forces.

The Nation's Oldest and Biggest Law Firm

The Judge Advocate General Corps for the U.S. Army, founded in July 1775 by General George Washington, can rightfully be called the oldest law firm in the United States. (Its closest civilian competitors—Howard, Kohn, Sprague & FitzGerald and Cadwalader Wickersham & Taft—can only trace their histories back to 1786 and 1792, respectively). And it covers a truly astonishing breadth of practice areas: criminal law, legal assistance to soldiers and retirees, civil litigation, Federal Torts Claims Act, medical malpractice, encroachment law, administrative law, labor law, employment law, international law, operational law, benefits law, laws of war, rules of engagement, international treaties, medical law, space law ... there is virtually no subject that Army, Navy, Air Force, Marine Corps, and Coast Guard lawyers don't handle, alone or in conjunction with their service general counsels or the Department of Justice. In addition, attorneys in the Marine Corps and Coast Guard are considered unrestricted line officers, eligible for nonlegal command and staff billets.

The Culture of Zealous Advocacy

Gen. William (Bill) Suter, the clerk of the Supreme Court of the United States since 1991, is a former acting Army judge advocate general and a recipient of such awards as the Distinguished Service Medal, the Bronze Star Medal, and the Parachutist Badge. Gen. Suter (known as "the General" at the Supreme Court to distinguish him from retired Associate Justice David Souter) feels that the procedural protections in military proceedings (which include expanded rights to participation in charging decisions and rights to assigned counsel), the thoroughness of preparation, and

the training of advocates, all equal or exceed what can be found in civilian systems. Gen. Suter says that uniformed lawyers are expected to represent their clients to their fullest. "We never felt we were bucking the system" in representing accused soldiers, he says. On the contrary, the system fosters a culture where military lawyers are incredibly committed to their clients, and follow their obligation where it takes them. When he was a young lawyer, a soldier he represented was acquitted, much to his surprise. He anticipated that his commanding officer, a colonel, would be upset. Sure enough, when he got home from court, the colonel was on the phone. "Why don't you come over to celebrate," the colonel said, "If we don't have an acquittal now and again, the system's not working."

The FBA and the Armed Services

The FBA contains many active duty, reserve, and veteran members of our armed forces, both in our membership and in our leadership. Col. William Kenny was an active-duty officer in the U.S. Air Force when he served as FBA national president from 1975–76. Navy Rear Adm. Gerald Gilbert (1985–86), Air Force Col. Marvin Morse (1995–96), Navy Capt. Joe Ross (1984–85), and Navy Rear Adm. Thomas Lilly (1979–80) were reserve officers during their presidencies. Presidents Bill Robie (1989–90), Malcolm Monroe (1992–93), Bob McNew (2000–01), and Jim Richardson (2007–08), among others, were all veterans. Current president Bob DeSousa is a lieutenant colonel in the Judge Advocate General's Corps of the Pennsylvania Army National Guard and earned a Bronze Star in Operation Iraqi Freedom. And the FBA membership contains many lawyers whose practices touch on military or veteran subjects, or who are vitally interested in military and veteran law issues.

The FBA's Veterans and Military Law Section

The VMLS is open to all FBA members, with or without a connection with the armed forces. It promotes the interests of practitioners in veterans law and military law and has active committees devoted to such topics as legislative and regulatory issues, lawyer

Phil Schatz is a partner of Wrobel Schatz & Fox LLP, a litigation boutique in New York City. He is the president of the Southern District of New York Chapter and a member of the editorial board of The Federal Lawyer.

training, and veteran's benefits. According to Richardson, the section provides a unique opportunity to do meaningful work in a wide variety of substantive areas, and the opportunity for civilian and military lawyers to work together in areas of common interest. The FBA's Pentagon Chapter and the section have teamed up for a variety of events involving the U.S. Court of Appeals for the Armed Forces and the Court of Appeals for Veterans Claims. Brig. Gen. Kyle Goerke, the highest-ranking JAG officer in the National Guard, addressed the FBA's 2013 Midyear Meeting and spoke eloquently about the difficulties of transition from active duty to civilian status, the importance of veteran's courts, the unacceptable rate of veteran suicides, and other initiatives of the section. Gen. Goerke believes that veteran suicides can only be reduced by alleviating the many problems faced by returning soldiers, including the need for legal help. "These soldiers face many challenges in returning to civilian life," he says, "and the more we can help them with these problems, the more we'll cut down on the unacceptable rate of veteran suicides."

One organization providing such help is Veterans Consortium Pro Bono Program, an ongoing cooperative effort of the American Legion, Paralyzed Veterans of America, Disabled American Veterans, and the National Veterans Legal Services Program, created more than 20 years ago to recruit and train lawyers to represent previously pro se veterans before the Court of Appeals for Veterans Claims. The director of the Case Evaluation Component of the consortium, David Myers, is the VMLS vice chair and a retired Navy JAG commander. "Our success rate is around 70 percent," he says, "and we like what we do." Carol Scott, VMLS chair and a deputy director of the same component, is the recipient of the 2012 Ken Carpenter Achievement Award for Excellence from the National Organization of Veterans' Advocates.

And, of course, the VMLS is active in many efforts to benefit both current and former service members. Scott rewrote the bylaws of the VMLS to coordinate the efforts on behalf of veterans and active duty personnel and to give a more secure home to military law practitioners. Although the projects of the section are too numerous to catalog, some of the highlights include:

- *Jobs for JAGS Program*—This program, created by the Pentagon Chapter of the FBA in 1989 and currently co-administered with the Judge Advocates Association, helps JAG personnel move into civilian employment. Col. Mitchell Neurock, an FBA member and Air Force JAG, says the program "brings together speakers from all walks of legal practice—law firms, corporations, government, and the judiciary—in an annual day-long event, to provide valuable tips and suggestions to separating and retiring judge advocates and paralegals."
- *Creation of Veterans Courts*—The section helps courts and agencies create specialized courts to handle cases involving veterans with substance abuse or psychiatric problems. U.S. Magistrate Judge Paul Warner, of the District of Utah and a former U.S. attorney, helped form the nation's first federal veterans' court, dedicated to diverting veterans in the criminal justice system so that they can get the specialized help they need. According to Judge Warner, the veterans' courts deal "with a huge variety of problems—substance abuse, PTSD, brain injuries, emotional problems, job loss,

and homelessness—that these veterans developed as a result of their service." He says, "I'm a big believer that we need to deal with these problems now, because we have more than 10 years of returning veterans. We can either deal with them now, or we'll see them over and over again, as we did with Vietnam veterans."

- *Training*—The section is dedicated to training military and civilian lawyers in a variety of areas. The section supplements the training of active duty military, whose training might otherwise be compromised by budget cuts as a result of sequestration. The section trains civilian lawyers to assist veterans before the Court of Appeals for Veterans Claims.
- *Upgrading Discharges*—Section members help veterans seeking to upgrade "bad paper" (bad conduct or other-than-honorable discharges) in proceedings before the service Discharge Review Boards and Boards for Correction of Naval and Military Records, which makes veterans (some of whom were discharged for reasons that are no longer legitimate, or for problems that would be handled differently today) eligible for medical and other benefits.

Working Together

So, if you are a member of our armed forces or the Department of Defense, and are not yet a member of the FBA, please join us! If you are interested in military law or veterans' rights, please join the Military and Veterans Law Section and its many initiatives to support our nation and our nation's military. ☉

**The Honorable David W. Houston, III,
Joins Mitchell McNutt & Sams**

Former United States Bankruptcy Judge David Houston of Aberdeen has joined the Tupelo office of Mitchell McNutt & Sams. Judge Houston is a graduate of the University of Mississippi and its School of Law. He was appointed U.S. Bankruptcy Judge in 1983 and served in this position for 30 years. He retired from the bench earlier this year. Houston served as president of the National Conference of Bankruptcy Judges and on the board of directors of the American Bankruptcy Institute. For 15 years he was a member of the Judicial Conference of the United States Budget Committee.

Mitchell McNutt & Sams
Columbus
Corinth
Oxford
Tupelo,
Mississippi
and
Memphis,
Tennessee
mitch@msmatt.com
662-842-3871

David W. Houston, III