



Office of Command Counsel Newsletter

June 1999, Volume 99-3

CLE 1999: An Investment for the Future New AMC Slogan

The AMC Continuing Legal Education Program for 1999 was held during the week of 24 May 1999. Evaluations indicate that the program was very successful in bringing together nearly 130 counsel from AMC legal organizations and others with whom we do business. We thank all of you who actively participated in the spirited dialogue during our plenary sessions, 15 electives and legal focus sessions.

This year we take a deep breath as we offer the hand-out materials to all AMC counsel through our Command Counsel Web Site.

http://www.amc.army.mil/amc/command_counsel/index.html

Additionally, we ask that those of you who attended the program make your hard copy material available to all office members.

Newsletter 99-3 will focus on several aspects of the CLE Program, including the Command Counsel Awards Program, and other tidbits of information.

Thanks To...

A special thanks to those who planned and administered the CLE. **Steve Klatsky** served as chairperson of the planning committee for the third year. Other members included **COL DC Canner, Bill Medsger, Vera Meza, Ed Stolarun** and **Holly Saunders**. administrative support included **Debbie Reed** and STRICOM's **Martha Zukos** and audio-visual support from **Ed Frazier**. Additional HQ AMC support came from **Debbie Arnold, Billy Mayhew** and **Elaine Timberlake**.

After many years of "AMC - America's Arsenal for the Brave", we have a new slogan, effective 1 June 1999. On all correspondence the last paragraph should read as follows:

AMC -- Your Readiness Command ... Serving Soldiers Proudly!

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CLE 99 Coverage

...Includes comments from AMC Chief of Staff **MG Norm Williams** and a recap of the Command Counsel Awards Ceremony, presided over by **Ed Korte** and General Counsel of the Army **Bill Coleman**

CLE 99: Comments from the Chief of Staff

If the Soldier...fights with it, wears it, or eats it, AMC does it!

That is a keen observation from our Chief of Staff, **MG Norm Williams** as to what AMC is responsible for providing the American Soldier.

The Political Picture

-The political environment faced by AMC includes the following: 40 states, 70 congressional districts, 130 representatives, with 682 formal congressional inquiries in 1998.

\$

- AMC "touched" 19.5 billion dollars, one-third of the Army's TOA.

Size

- AMC is much smaller today than in 1989. Our military population decreased 82% from 8,937 to 1,506. Our civilian workforce decreased 58% from 102,595 to 43,131. Our Ammunition Plants went

from 17 to 9 and our Depots from 19 to 9.

\$ Part II

- Our money has gotten much smaller. From 1989 to the present, our procurement money has decreased by 90%, OMA by 60% and Ammunition by 71%.

We're Getting Older

- We are getting older and closer to retirement. In 1989 15% of the workforce was retirement eligible; in 2004 50%. Our average age was 42 in 1989. Today that average is 48.

The "Greening" Program

Soldier Systems Center counsel **Srikanti Dixit**, DSN 256-5971, shares her experience participating in the Ft. Polk greening program." It is coined a "greening" because participants experience total immersion in the soldiers' environment. The article could be subtitled "An AMC Attorney meets the Soldier." (Encl 9).

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Check out the Newsletter on the Web at http://www.amc.army.mil/amc/command_counsel/

Letters to the Editor are accepted. Length must be no longer than 250 words. All submissions may be edited for clarity.

Acquisition Law Focus

IOC & A-76: A Case Study in Preparation

The IOC is currently conducting A-76 commercial activity studies of all of its conventional ammunition demilitarization operations located at depots and munitions centers. In addition complete studies are being made of all three arsenals: Rock Island, Pine Bluff, and Watervliet.

The IOC headquarters legal center is supporting these studies through an A-76 oversight committee composed of Ms. **Marina Yokas-Reese**, Mr. **William Bradley**, and Mr. **Sam Walker**. Additionally, the office is providing two lawyers in support of each individual study.

Presently, Production Work Statements (PWS) are being prepared by each of the sites with the assistance of support contractors. The sites are in the process of submitting initial draft PWS's for headquarters review and coordination. Many unique questions are presented requiring input from areas as diverse as environmental, personnel, specialized technology, small business, resource management, and acquisition.

The Source Selection process and strategy is taking shape; Selection Boards are being organized. Thought is being given to selection plans.

A transition plan is developed and executed. This plan covers equipment turnover, personnel actions, training, inventory and procedural changes.

The new operation is continually monitored to ensure the acceptable levels of performance (ALPs) set in the performance work statement (PWS) are met. The quality assurance surveillance plan (QASP), developed by the study team while working on the PWS, sets procedures for conducting surveillance of the new operation. The QASP is used to monitor the performance of the new operation, whether in-house MEO, contract, or IGS.

See Enclosure 1 for further information on the process.

For more information if you are getting ready to proceed with an A-76 action, the POC is **Sam Walker**, DSN 793-8421.

List of Enclosures

1. A-76 & IOC Case Study in Preparation
2. Partnering for Success-- A Refresher on Partnering
3. Inherently Governmental Functions: A Primer
4. Privatization v. Outsourcing
5. Civilian Deployment Legal Issues Roundtable-Agenda
6. CDLI Roundtable Point Paper
7. FLRA & ADR
8. DA Labor Relations Program Evaluation
9. The Army "Greening Program"
10. April 99 ELD Bulletin
11. May 99 ELD Bulletin
12. Tearing Down Old Buildings
13. AU Says NO to UST Penalties
14. Taking Care of the Homeless
15. Frequent Flyer Policy
16. Ethics Lessons Learned-- Penalties ARE Imposed

AMC's Partnering for Success Program: An article to refresh your recollections

AMC Partnering Team chief **Mark Sagan** and team member **Ken Bousquet** had an excellent article published on the AMC Partnering Program in the Contract Management magazine. It is enclosed for those of you who are unfamiliar with the AMC Partnering Program (Encl 2).

In April 1997, the U.S. Army Materiel Command (AMC) published the "*Partnering for Success*" guide to assist and encourage Army Contractors, Program Managers, Contracting Officers, and all contract stakeholders to improve the manner in which contracts are performed and administered.

The guide contains an overview of what Partnering is all about and why it is critical for Army programs to consider implementing a Partnered approach to post-award efforts. The guide promotes a clear four step process to make Partnering an

invaluable asset to any program. The guide also includes numerous samples and 32 answers to commonly asked questions regarding Partnering to help the reader better understand the process and its potential benefits for their program.

AMC is now utilizing the Partnering concept in research & development, materiel acquisition, base operations, and engineering/support services contracting. Partnering has become an integral part of the AMC Alternative Dispute Resolution (ADR) program which is focused upon the avoidance of contract disputes before they impact contract performance.

The second edition of the AMC Partnering Guide will be published in early October. It will make reference to the AMC Partnering experiences gained from the nearly 70 acquisition programs that have utilized this contract administration tool.

Inherently Governmental Functions--A Primer

The cornerstone of the Government policy regarding the performance of commercial activities is Office of Management and Budget (OMB) Circular No. A-76 (revised) dated 4 August 1983. As set forth in the Circular, it is the policy of the Government to rely on commercial sources to supply products and services that the Government needs.

The major exception is the performance of activities/functions that are considered to be inherently Governmental in nature; that is, when they are "so intimately related to the public interest as to mandate performance only by Federal employees." Inherently Governmental activities/functions cannot be performed by the commercial sector. These activities/functions require either the exercise of discretion in applying Government authority or the use of value judgments in making decisions for the Government.

CECOM's **Jim Scuro**, DSN 992-9801, provides an excellent article addressing many of the key aspects of the "inherently governmental function" analytical framework (Encl 3).

Privatization v. Outsourcing--from the ASA (I & E) Viewpoint

Many of you still have difficulty defining the differences between outsourcing and privatization. Well, here are comments from the Honorable Mahlon Apgar IV, ASA for I&E, spoken on April 9 to an AUSA meeting (Encl 4).

Outsourcing

Outsourcing has been standard practice in the Army for some years, as it has in corporate America. It is the process of contracting with outside, independent organizations which can provide support services faster, better or cheaper than we can, mainly because those services are **their** core business, but they're not ours. Outsourcing does not shift the responsibility for performance or change the nature of the service. It merely changes the organization and methods of supplying or delivering the service. For example, when we outsource

trash collection or publication of the garrison newsletter, we still retain the responsibility for ensuring that the service is accomplished on time and on budget — and that it meets our service quality levels and other requirements that we have defined and agreed with the vendor.

Privatization

Privatization, on the other hand, goes much deeper than outsourcing. It means shifting some or all of the responsibility for planning, organizing, financing and managing a program or activity from the Army to private contractors and partners, while retaining some interest in the operations, services and profits of the program. It may also mean transferring some or all of the ownership of Army assets, such as land, buildings and equipment, from the Army to a private entity. The bottom line is that any military func-

tion or activity that is mirrored by a large, diverse, competitive market in the private sector is a candidate for privatization. This concept is new to the Army and to DoD as a whole, so it is especially important to clarify what we mean as we develop new doctrine and new applications in this strategic redirection of the way we do business.

Privatization Means Partnership

To Mr. Apgar privatization means partnership and can be accomplished only through partnership. Partnership is, by definition, a two-way street — whether it's among individuals, within organizations, or between business and government. It is characterized by mutual interests, mutual understanding, mutual respect, and mutual responsibilities throughout the partnership's life.

For additional comments we invite your attention to the full presentation (Encl 4).

Employment Law Focus

Civilian Deployment Legal Issues Roundtable Hosted by AMCCC

To ensure that there is consistency and clarity in current and emerging DA deployment policies concerning civilians (Department of the Army civilians (DACs) and contractor employees), AMCCC hosted a Civilian Deployment Legal Issues Roundtable on 3 May 1999 at the HQ AMC Building.

The recent staffing of numerous civilian deployment related draft Army regulations and field manuals and issues raised during recent

field visits by and on behalf of the AMC Command Group had highlighted the need to hold the Legal Issues Roundtable. The legal community must ensure that there is consistency and clarity in current and emerging deployment policies so that affected DACs and contractor employees are aware of their rights and responsibilities during our deployments. Some of these deployment issues are controversial and sensitive to those affected

individuals. Thus, it is imperative that the legal basis for these policies is sound and that we speak with one voice when advising our clients on matters that impact these deployments.

To facilitate discussion, a resource notebook was provided to all attendees.

A copy of the agenda is provided (Encl 6) as well as a Point Paper (Encl 7) written by POC **Cassandra Johnson**, DSN 767-8050.

Lautenberg Amendment held Constitutional--again

On 28 August 1998, the US Court of Appeals for the DC Circuit held that a portion of the Lautenberg Amendment was unconstitutional. Fraternal Order of Police v. US, 152 F 3d 998(D.C. Cir, 1998). After granting the government's petition for rehearing, the

Circuit Court reconsidered its position and rejected all of FOP's constitutional challenges. The April 1999 decision affirms the original dismissal by the district court. Fraternal Order of Police v. US, 159 F 3d 1362 (D.C. Cir, 1999).

DOD Anthrax Policy Revised

DoD has issued a revised policy on anthrax immunizations. The policy, issued through medical channels affects emergency essential civilians as well as contractors and military. The policy provides guidance on your labor relations obligations. Additional guidance will be forthcoming concerning the employee relations aspects of this policy. Remember our guidance and this policy only affect emergency essential employees going into high threat areas identified .

Employment Law Focus

Union Membership Increases-- first rise in 5 Years

For the first time in five years, union membership has increased, with the most growth in the public sector. The percentage of public sector workers that are unionized is now 37.5%. Although the number of unionized workers has increased, the percentage of the workforce that is unionized fell from 14.1% in 1997 to 13.9% in 1998.

- o Workers in protective services, such as police and firefighters have the largest percentage of unionization—41%. The least organized are those in the fishing, farming and forestry industries—4.5%, and sales 4.1%.

- o Men are more likely than women to be unionized—16% as against 14%.

- o African-Americans are more likely to be unionized (17.7%) than whites (13.5%), or Hispanics (11.9%).

FLRA and ADR--CADR

The FLRA is actively engaged in labor-management collaboration and other alternative dispute resolution efforts dedicated to reducing the costs of conflict in the federal service. Here is a brief summary of these activities called Collaboration and Alternative Dispute Resolution.

This agency-wide program, launched in January, 1996, provides overall coordination to support and expand FLRA labor-management cooperation and alternative dis-

pute resolution efforts. CADR is the first unified program within the FLRA exclusively dedicated to targeting collaboration and alternative dispute resolution to every step of the labor-management dispute — from investigation and prosecution to the adjudication of cases and resolution of bargaining impasses. A complete information package is provided at Enclosure 7. POC is **Steve Klatsky**, DSN 767-2304.

DA Labor Relations Program Evaluation

For the last five years, the Department of the Army's labor relations indicators have shown steady improvement. There were fewer unfair labor practice (ULP) charges and negotiated grievances than the previous year.

In FY 98, this trend changed. Compared to FY 97, there was a 10 percent increase in the number of negotiated grievances filed and the number of ULP charges filed against the agency doubled.

The number of cases taken to arbitration remained constant from the previous year as did the number of ULP complaints issued by the General Counsel (GC) of the Federal Labor Relations Authority (the Authority.)

The enclosed bulletin describes in greater detail the Army's labor relations program in FY 98 and forecasts areas of focus for FY 99 (Encl 8).

Environmental Law Focus

Learning from Our Critics?

Sometimes we can learn a lot from listening to our critics. An example is the Center for Public Environmental Oversight (CPEO), an organization that promotes and facilitates public participation in the oversight of environmental activities, including but not limited to the remediation of federal facilities, private "Superfund" sites, and Brownfields.

CPEO was formed in 1992, in response to the large number of military base closures in California. CPEO claims to be an independent voice and channel of communication supporting public stakeholders on range remediation and munitions disposal issues. It informs and empowers the people who live or work near former military bombing and shelling ranges or munitions disposal facilities to protect themselves and their property from explosive and toxic hazards. Its Website, <http://www.cpeo.org/> has a wealth of information on remediation issues.

How Does Your Environmental Management Rate?

A good environmental management program can promote environmental compliance and awareness and reduce costs. The EPA has recognized this, and created an Environmental Management Review Program. After a three year pilot program, EPA has issued final policy and guidance. An Environmental Management Review is a review of a facility's program and management systems to determine the extent to which a facility has developed and implemented specific environmental protection programs and plans, which, if properly managed, should ensure compliance and progress towards environmental excellence. EPA will conduct a limited number

of voluntary reviews at federal facilities. While EPA is focusing its efforts on civilian federal facilities, military facilities can also request a review. Information about the policy and program is available from the EPA Office of Enforcement and Compliance Assistance, <http://es.epa.gov/oeca/fedfac/policy/emrpolicy.html>. Even without requesting a review from EPA, implementing an environmental management system for an installation as a systematic approach will ensure that environmental activities are well managed. EPA and the Department of Energy have prepared a guide for such a program, <http://es.epa.gov/oeca/fedfac/emsprimer.pdf>.

April & May Environmental Law Division Bulletins

Environmental Law Division Bulletins for April and May 1999 are provided (Encl 10 and 11) for those

who have not received an electronic version or who have a general interest in Environmental Law.

What's Required to Tear Down Those Old Buildings Taking Care of the Homeless

Want to tear down some of those old, ugly buildings on your installation. But what environmental documentation is required. An Environmental Baseline Survey (EBS) is not required, but how to take care of the as-

bestos containing material, lead based paint, and other concerns. Stan Citron and our AMC Environmental Quality Office have the answers (Encl 12). **Stan Citron** can be reached at DSN 767-8043.

Congress enacted the Stewart B. McKinney Homeless Assistance Act in 1987 with the intent "to use public resources and programs in a more coordinated manner to meet the critically urgent needs of the homeless." Accordingly, installations are responsible for assuring that appropriate screening of owned and under-utilized, unutilized, or excess property has occurred before any leasing or disposal action.

Tinker AU Opinion Says No to UST Penalties

An Administrative Law Judge has held that EPA is without authority to issue penalties against federal facilities for violations of the Underground Storage Tanks (UST) regulations. The ALJ rendered an opinion, even though the DoD General Counsel, Judith A. Miller, has referred to the issue to the DoJ/Office of Legal Counsel(OLC) for resolution pursuant to an Executive Order which provides that DoJ shall decide legal issues between federal agencies. EPA has been asserting a right to assess administrative penalties against federal facilities

for violations of UST requirements.

The Complaint charges the United States Air Force, Tinker Air Force Base with four counts of violating Section 9003 of the Solid Waste Disposal Act, 42 U.S.C. § 6991b, and the Oklahoma Corporation Commission's General Rules and Regulations Governing USTs.

The Complaint proposes a compliance order, requesting documentation verifying correction of the alleged violations, and proposes a civil administrative penalty of \$96,703 for the alleged violations.

The full opinion is at Encl 13.

Enclosed is a excellent description of the requirements and procedures under the "McKinney Act." (Encl 14).

The paper identifies the responsibilities of four different agencies: US Army Center for Public Works, General Services Administration, Housing and Urban Development and Health and Human Services, as well as Army MACOMs and installations.

More information can be obtained by contacting the U.S. Army Installation Support Center, at <http://www.usacpw.belvoir.army.mil/>

Gift Rules Are Alive and Well

There have been newspaper articles concerning the former Agriculture Secretary Mike Espy and the culmination of years of investigation and trial for accepting thousands of dollars of illegal gifts. Although a number of the companies involved settled with the special prosecutor and paid millions of dollars worth of fines, Mr. Espy enjoyed success in the courts and was found not guilty of receiving unlawful gratuities.

The most recent headline involved Sun-Diamond Growers of California. Sun-Diamond was convicted of giving illegal gratuities (meals, tickets, luggage, framed print, and crystal bowl) to the Agriculture Secretary.

The Court of Appeals reversed the conviction, and the U.S. Supreme Court recently agreed with this reversal.

The Supreme Court ruled that it is not a crime to provide public officials with gifts or free meals unless they are aimed at rewarding a specific

action by the official. The mere fact that the recipient is a Federal official is not sufficient. There has to be some connection between the gift and an official act or matter.

However, this does not mean that the *Standards of Ethical Conduct* rules prohibiting gifts from outside sources, with some exceptions, are no longer enforceable. They are alive and well

In response to a *Washington Post* article anticipating the Supreme Court decision, Mr. Potts, the Director of the Office of Government Ethics, pointed out that a "Supreme Court decision upholding the Appeals Court would not affect these standards of conduct which prohibit Federal officials from using their public office for their own personal gain...". He emphasized that, subject to some limited exceptions, the Standards of Ethical Conduct continue to prohibit employees from accepting gifts from prohibited sources, or gifts that are given because of their official position.

New DA Frequent Flyer Policy Issued

The Secretary of the Army has issued a new travel policy memorandum, as prepared by his Administrative Assistant. The Honorable Louis Caldera signed the memorandum on 8 April 1999, superseding the policy issued on 8 December 1995. The policy contains a **significant change** concerning the use of frequent flyer mileage and related promotional mileage credits (FFMs). The new 1999 SECARMY policy permits the use of FFMs earned from official travel to be redeemed for premium-class (less than first-class) travel upgrades in **only** the two following situations:

1. When the JTR or JFTR authorizes such premium-class (less than first-class) travel in the first place (see below for when a TDY traveler may travel in premium-class (less than first-class)).
2. When the FFMs may only be redeemed for upgrades.

A copy of the policy is provided by HQ AMC's **Mike Wentink** (Encl 15).

Professional Responsibility-- Confidentiality of Information

Lessons Learned-- Ethics Violations and Penalties

The Army Rules of Professional Conduct for Lawyers, AR 27-26, include Rule 1.6, Confidentiality of Information. This rule, like all the Army rules are based on the American Bar Association (ABA) Model Rules of Professional Conduct.

Within the area of confidentiality, issues have arisen as to whether a lawyer may transmit confidential client information using unencrypted e-mail without violating this rule. The ABA has issued Formal Opinion 99-413, dated 10 Mar 99, concluding that this mode of transmission, albeit not perfect, provides a reasonable expectation of privacy, and may be used to transmit con-

fidential client information. However, if dealing with extremely sensitive information, the attorney should consider alternative methods of transmission. Some information might be so valuable that we would not think of sending it by regular post office mail — we might register it, or even hand-carry it. Similarly, we might encrypt it, or use some other mode of transmission. In such cases where extraordinary protective measures are required, the attorney is expected to consult with the client.

The link to this Formal Opinion follows:

<http://www.abanet.org/cpr/fo99-413.html>

AMC Ethics Team Chief **Mike Wentink** provides an outstanding preventive law note highlighting that ethics requirements are taken seriously, and that violations can lead to imprisonment (Encl 16).

The paper addresses several recent real life cases including:

- o An SEC attorney sentenced to a one-year jail sentence for “switching sides”, violating 18 USC Sec207(a).

- o A former Postmaster General of the United States who agreed to end a conflict of interest investigation by agreeing to settle by paying more than \$27,000.

- o Three former Air Force civilian employees were convicted of improper use of the government charge card--purchasing personal items. One sentenced to 1-year and the other 2 to six months in a half-way house.

Other cases involve violations of the financial disclosure rules, and accepting payment for speeches.

pecial CLE edition

AMC Attorneys Recognized at the CLE

A highlight of the annual CLE Program is the recognition of extraordinary performance by AMC attorneys. All nominees and award recipients will receive a Department of the Army Certificate of Achievement signed by the AMC Commander, General John Coburn.

Our recipients will receive a personal memento that they may keep, in addition to having their names engraved on the award plaques that are kept in the recipient's legal office until next year's CLE. This year's recipient of AMC Achievement Award will receive a crystal eagle on a walnut base, appropriately engraved.

Achievement Award

The individual selected this year to receive the Command Counsel Achievement Award was **Richard Murphy**, of the Industrial Operations Command.

Mr. Murphy performed outstanding assistance to the IOC, HQ AMC, and the Department of the Army, in connection with the Early Transfer of the Base Realignment and Closure (BRAC) portion of Tooele Army Depot to the Local Reuse Authority (LRA) in January 1999.

Tooele Depot was authorized to be a DOD test case for utilizing new authority to allow transfer of contaminated land with a deferred covenant while continuing environmental remediation.. As the lead Army attorney on the Team negotiating the early transfer,

Richard Murphy was instrumental in resolving difference between the parties and coordinating with the State of Utah, U.S. Environmental Protection Agency, HQDA/AMC, the Army Corps of Engineers, the LRA, and the developer. A measure of his success is that the Tooele Early Transfer has been adopted as the model for all DOD Early Transfers.

Team Project Award

Each Team member on the selected team received a Certificate of Achievement signed by General Coburn and a gold plated coin from the US Supreme Court.

Three Teams were nominated this year that the Awards Committee felt deserve special recognition.

CECOM Wholesale Logistics Modernization Program

Land Disposal Restriction Utah Group Team

IOC Chemical Demilitarization Team.

The recipient was the **LOGMOD Team.**

This team included representation from DA OGC and HQ AMC as well as CECOM.

From **CECOM: Kathi Szymanski, Mark Sagan, Vincent Buonocore, Mike Zelenka, Thomas Carroll and Lea Duerinck. From DAOGC: Vate Norsworthy and Gary Bacher, and from HQ AMC Nick Femino and Bill Medsger.**

The WLMP or LOGMOD will revolutionize the manner in which the Army conducts its wholesale logistics business through a fundamental reengineering of its supply processes. The cornerstone of the LOGMOD strategy will be the Army's long term partnership with a commercial market leader to provide both the needed business process reengineering as well as flexible information technology services needed to support these modern processes.

The planning and execution of this ambitious strategy has been ongoing since mid-1997. The planned source selection takes advantage of most, if not all, acquisition streamlining initiatives, including early and open communications with

industry, extensive use of the internet and electronic bulleting board, cost as an independent variable, oral presentations, and a performance oriented statement of work. Additionally, the Team has used creative intellectual property arrangements and successfully resolved the daunting fiscal implications of moving from an in house approach to a commercial service orientation.

Moreover, the strategy involves the use of a unique “soft landing” technique that should be a model for future government downsizing. Essentially, the approach places much of the burden caused by the government downsizing upon the private sector, requiring the successful commercial entity to offer jobs to all Federal workers displaced by the conversion at comparable pay and benefits, and without geographic upheaval.

The LOGMOD Legal Team’s detailed and thorough knowledge of all aspects of OMB Circular A-76, the supplemental handbook, implementing Army Regulations, and the law, primarily 10 USC 2461, and its eloquent articulation of the business strategy resulted in the first cost comparison waiver granted within DA.

Preventive Law Program Award

The selectee received a Certificate of Achievement signed by General Coburn and an engraved marble paper weight.

The Awards Committee identified the following nominees, for this year’s Preventive Law Program Award as deserving special recognition:

Carrie Schaffner,
TACOM-ACALA

TECOM’s Client Services Division, chaired by **Michael Millard**

AMCCOM’s Client Services Division, led by **CPT Erika Cain and CPT Andrew Sinn.**

The recipient was **Carrie Schaffner.**

Ms. Schaffner was recognized for her outstanding planning and execution of the TACOM-ACALA Ethics training program and education program for some 500 employees who file Confidential Financial Disclosure Reports—OGE Form 450s.

In previous years the Form 450 filing process was impersonal, with little face-to-face contact, with training conducted in large group sessions. Ms. Schaffner saw opportunities to improve the process, and she did. She sent detailed written instruc-

tions to each individual filer via e-mail, encouraging those with questions to call her. She prepared a checklist for supervisors to use in reviewing the forms. She scheduled “office hours” to go into each office and directorate to answer questions and to review the forms. This enabled her to meet with the filer or supervisor immediately when spotting an issue.

Regarding Ethics Training, Ms. Schaffner conducted the training in small group settings in or near the organizational work unit. The small group sessions permitted an increased dialogue and sharing of information and concerns, improving the educational process.

By going out into the workplace and meeting personally with employees, Ms. Schaffner sent a message that ethics issues are important to TACOM-ACALA, and that it is easy to get help. She has established a rapport with the employees, who feel comfortable calling on her with ethics concerns, large and small. Her efforts directly implement the AMC philosophy of preventive law by encouraging her clients to seek her advice early to better enable her to assist them.

Special CLE edition

Buckley Managerial Excellence Award

The selectee received a Certificate of Achievement signed by General Coburn, and an engraved marble paper weight.

This year we recognized the following nominees in alphabetical order:

COL Roger Cornelius, AMCOM

K Krewer, TACOM-ACALA

Mark Sagan, CECOM

The recipient was **Mark Sagan**

Mr. Sagan's nomination was based on the sustained exceptional performance of his myriad duties and responsibilities as CECOM Deputy Chief Counsel and for his performance as the Chairperson of the AMC Partnering Team.

Since assuming the position of Deputy Chief Counsel in 1996, Mark has ensured that the CECOM excellence in source selection has continued. Illustrative of his significant contributions in this area are his Herculean efforts as counsel to the Source Selection Advisory Council for the multimillion dollar High Capacity Line of Site radio

program. He guided the evaluation and negotiation process, ensuring the completeness, clarity and defensibility of the final source selection decision, which resulted in a timely award without litigation.

As Chairperson of the AMC Partnering Team, Mr. Sagan played a major role in the drafting of the AMC Partnering Guide, the filming of the AMC Partnering Video-Tape, and the planning and execution of the January 1999 Lead Partnering Champion Workshop—during which he was “master of ceremonies”. He also authored articles on Partnering for the NCMA Contract Management and RD&A magazines, which resulted in numerous inquiries from government and industry for more information on the AMC Partnering Program.

Significant contributions to the management of the CECOM Legal Office include the coordination and execution of the Consideration of Others program, resulting in the office having the best CO2 training completion rate within CECOM.

Editor's Award Goes to CECOM Legal Office

In a ceremony presided over by AMC Command Counsel **Ed Korte**, the CECOM Legal Office was recognized for significant contributions to the success of the bi-monthly AMC Command Counsel Newsletter.

CECOM contributed twice as many articles to the AMC Newsletter than any other AMC legal organization.

This award ends two years in which the award was received by individual attorneys: **CPT Joe Edgell** and **Lisa Simon**.

In prior years TACOM received the award on two occasions, and the Natick Legal Office also took honors one year.

Our editor **Steve Klatsky** thanks all of those who take the time and make the effort to submit articles for publication.

During the course of the year we get many positive comments from other legal organizations and clients regarding the quality of this work product.

Bob Parise: AMC Attorney of the Year for 1999--Receives Joyce I. Allen Award

The AMC Attorney of the Year Award is called the **Joyce I. Allen Award**. Joyce Allen was an attorney with the AMC legal office in St. Louis. This year's nominees selected for special recognition, in alphabetical order, were:

Howard Bookman, CECOM

Maria Bribriesco, TACOM-ACALA

Melinda Finucane, Letterkenny Army Depot—CECOM

Robert Parise, TACOM-ARDEC

Janet Wise, TECOM

This year's recipient was **Bob Parise**.

Bob Parise is the Associate Chief Counsel and Chief of the Business Law Team of the TACOM-ARDEC Legal office. He has been with AMC and Picatinny for 17 years. Mr. Parise has promoted acquisition reform and achieved exemplary results in numerous, complex acquisition matters.

The Crusader system is 1 of only 2 major defense acqui-

sition programs currently under development by the US Army. As legal advisor to this program, Bob has made several significant contributions to the development of this program's acquisition strategy. Bob was part of the management team that developed the program documentation, including an Acquisition Strategy Report and Justification & Approval for the Crusader to enter into a \$5 billion EMD phase.

The innovative agreement with the prime contractor, which Mr. Parise helped negotiate, has received wide acclaim throughout the DOD acquisition reform community.

Mr. Parise was also instrumental in negotiating a significant program restructuring for the 155MM Joint Lightweight Howitzer Program. This joint Army-Navy (Marine) program suffered from many early technical problems and contractual issues. Mr. Parise, together with other senior counsel, formulated an innovative ap-

proach to resolve the contract and management problems encountered under the original contract. A novation arrangement was negotiated among the prime and the major sub contractor, which allowed the 2 to essentially "switch roles".

Mr. Parise has also promoted an increase in technology transfer efforts at TACOM-ARDEC. For example, under his leadership, TACOM-ARDEC expanded its use of selling authority under 10 USC 2439b, by working with the Picatinny Tech Transfer Office in developing a training and marketing strategy. As a result, during FY 1998, arrangements with private industry and the academic community resulted in numerous testing agreements for TACOM-ARDEC services with a total value over \$500,000. This has allowed for greater technology transfer opportunities, as well as increased utilization of state of the art modeling, simulation, and diagnostic test equipment.

AMC Legal Office Profile

Communications-Electronics Command, Fort Monmouth, NJ

PART II

(Part I of the CECOM office Profile appeared in Newsletter 99-2, April 1999).

Office Structure

The Legal Office is comprised of the Office of Chief Counsel, which includes two Project Counsels, along with six operating Divisions: Business Law Divisions A, B and C; Intellectual Property Law Division; Staff Judge Advocate Division; and Competition Management Division.

Office of the Chief Counsel/Project Counsel

The primary responsibilities of the **Chief Counsel/Deputy Chief Counsel** are to serve as the final authority on all legal matters pertaining to CECOM and its resident and satellite activities; to manage and oversee the execution of the Legal Office's mission; and to serve as the Alternative Dispute Resolution (ADR) senior advisor for CECOM.

The **Project Counsels** provide the full spectrum of legal support to the CECOM Deputy for Systems Acquisition/Systems Management Center (SMC) and the Project Manager, Warfighter Information Network-Terrestrial (WIN-T).

Business Law Divisions A, B and C

The principal focus of Business Law Divisions A, B and C is the full spectrum of Government contract law, including all pre and post-award matters.

The Business Law Division attorneys are routinely involved in the most highly visible and complex CECOM acquisitions, play a preeminent role throughout the source selection process and have successfully utilized all current acquisition streamlining initiatives, including cost as an independent variable (CAIV), Requests for Information, oral presentations, broad use of the internet, performance oriented specifications, etc.

Another main focus of

these Divisions involves appearing as Agency counsel in EEO/labor cases before the EEOC, MSPB, FLRA, etc., as well as playing an active role in all GAO, ASBCA, U.S. Court of Federal Claims and District Court actions.

Intellectual Property Law Division

The Intellectual Property Law Division (IPLD) is responsible for handling all matters that deal with patents, copyrights, or trade secrets.

Included in this group are patent filing and prosecution matters; claims and suits against the Government for patent or copyright infringement; rights in technical data; and the licensing of patents, copyrights, or computer software.

In addition, IPLD is the primary point of contact in the office for matters dealing with contracts outside the FAR and DFARS, including those related to technology transfer (i.e., Cooperative Research and Development Agreements, Cooperative Agreements, and Other Transactions); and those matters

AMC Legal Office Profile

Communications-Electronics Command, Fort Monmouth, NJ

PART II

dealing with international memoranda of understanding.

Staff Judge Advocate Division

The mission of the Staff Judge Advocate (SJA) Division is to advise the Commanding General, CECOM organizations, and resident units on matters relating to military justice and military personnel law, and to supervise the administration of military justice; to provide legal advice on, and manage CECOM programs on claims, legal assistance, environmental law, ethics, the Freedom of Information Act and Privacy Act, and general administrative law; to manage the Magistrate's Court operations; and to develop Legal Office plans, programs, and policies on mobilization and deployment.

The SJA Division is divided into two Branches: (1) Legal Services which deals with legal assistance and claims and (2) Military Law which deals with general administrative law and military justice and the Magistrate's Court program.

Competition Management Division

One nontraditional feature of the CECOM Legal Office is the fact that in December 1966, the CECOM Competition Advocate's Office became one of the Divisions within the Legal Office.

The CECOM Special Advocate for Competition, **Theodore Chupein**, joined the Government in 1977 as an Army Quartermaster Officer, and began his acquisition career as a contract specialist in CECOM in 1980, where he worked in the Acquisition Center through 1985. He then worked with the Joint Tactical Command and Control Agency and most recently for the Defense Information Systems Agency (DISA), where he administered multiple award task order contracts for the DISA Joint Interoperability Engineering Organization. He returned to

CECOM in January 1999 as the Competition Advocate.

The Competition Management Division (CMD) is responsible for the review of all Justifications and Approvals (J&As) for Other than Full and Open Competition over \$500,000, and the Competition Advocate approves J&As up to \$10M. In addition to the processing of J&As, CMD reviews a multiplicity of other acquisition documents including Acquisition Plans, Management Decision Documents, and Acquisition Requirements that are subject to review by the Functional Requirements Authentication Board

**TACOM Profiled in
Newsletter 99-4**

Faces In The Firm

Departures

Letterkenny

Danny Moye has departed Letterkenny Army Depot to work for the FBI in West Virginia. LEAD wishes Danny good luck. LEAD's loss is the FBI's gain. He will be missed.

Watervliet Arsenal

Ted Hilts has accepted a VERA and retires this summer with 28 years of service, over 21 with WVA. He will engage in private practice and teaching at the college level

TECOM

SJA COL **Jim Currie** will be departing shortly. Jim has been a superb leader in coordinating the reorganization of TECOM as it becomes part of the Army Test Command in the fall.

SBCCOM--Soldier Systems Center

Tin Soldier Loses Two More Limbs! Paralegal Specialist **Jessica Niro**, and Attorney **Richard Mobley** recently left the SBCCOM legal office at the Soldier Systems Center (Natick). Ms. Niro is working for the Commonwealth of Massachusetts Human Resources Department. Mr. Mobley traded quality of life for quantity of pay in his new position as procurement attorney on the JSTARS program at Hanscom Air Force. Best of luck to the two of them. Will someone scrape John Stone off the ceiling.

Arrivals

Letterkenny

Everett Bennett, formerly a term employee for LEAD, has filled a permanent position.

HQ AMC

Michael Lassman, recently of STRICOM, and formerly with TACOM-Warren, has joined the General Law Division to do employment law litigation work.

Awards & Recognition

HQ AMC

In a ceremony presided over by AMC Commander **General John Coburn**, **Steve Klatsky** and **Cassandra Johnson** were recognized for their outstanding work in de-

veloping and evaluating the REDS Program--Resolving Employment Disputes Swiftly, our model ADR program for workplace disputes.