

U.S. Army Trial Defense Service Begins One-Year Test

Editors's Note: This note, and the TJAG comments that follow, were published in the June 1978, The Army Lawyer, to announce that the United States Army Trial Defense Service (USATDS) would begin a one-year test of the USATDS at sixteen installations within the U.S. Army Training and Doctrine Command (TRADOC). The Army Lawyer is pleased to present this note in its continuing series commemorating the Fiftieth Anniversary of the Uniform Code of Military Justice.

On 15 May 1978, the Army will begin a one-year test of the U.S. Army Trial Defense Service (USATDS) at 16 installations within the U.S. Army Training and Doctrine Command (TRADOC). USATDS will be organized as an activity of the U.S. Army Legal Services Agency (USALSA), a field operating agency of The Judge Advocate General, located at Falls Church, Virginia.

Forty-one JAGC officers and three regional defense counsel have been selected by The Judge Advocate General to participate in the test program as defense counsel in the field. A number of criteria were employed during the selection process, including trial experience, retainability, length of active duty, formal certification as a defense counsel, and overall record. All officers will be assigned to USALSA, with duty station at a particular TRADOC installation. Officer evaluation reports will be accomplished entirely within the defense chain of supervision.

Defense counsel will perform duties under the general direction of the Chief, USATDS, and three Regional Defense

Counsel, located at Fort, Dix, Benning, and Knox. A Senior Defense Counsel has been designated at each installation who will be directly responsible for all USATDS operations at that post.

Brigadier General Alton H. Harvey, Assistant Judge Advocate General for Civil Law, will provide overall supervision and direction for USATDS operations. The Judge Advocate General has designated Colonel Robert B. Clarke, JAGC, as Chief, USATDS. During the test period, he will be assisted by three other officers assigned to the USATDS staff. Colonel Daniel A. Lennon, Jr., the TRADOC Staff Judge Advocate, has been responsible for initial planning within TRADOC. He and his office will continue to act as the TRADOC primary point of contact and coordination for the test.

Defense services to be provided by USATDS field offices will include representation at all courts-martial, Article 32 investigations, custodial and other pretrial consultations, Article 15 actions, and representation in connection with certain administrative boards. When USATDS counsel are not fully engaged in their primary mission, they will perform other legal duties which do not conflict with their basic defense counsel mission.

As the program progresses, it will be evaluated by commanders, staff judge advocates, USATDS personnel, and others charged with the administration of military justice. At the conclusion of the test, a final report will be submitted to the Chief of Staff.

TJAG's Comments on the USATDS

This is the text of a letter which Major General Wilton B. Persons, Jr., The Judge Advocate General, sent to all Staff Judge Advocates involved in the TRADOC test of the U.S. Army Trial Defense Service.

As we approach 15 May 1978 and the test of the U.S. Army Trial Defense Service (USATDS) in TRADOC, I thought it would be helpful to set forth some of my personal views on the program and the special importance I attach to it.

Establishing a separate defense structure is, of course, an evolutionary concept and must be viewed in that light. After talking to a good many staff judge advocates and commanders, I am convinced that most favor a change in our current method of providing defense services. Objections and concerns relate largely to methods of implementation, supervisory arrangements, matters of support, and relationships between those charged with the responsibility for administering military justice. The test will afford us an excellent opportunity to examine these aspects in detail, determine where our real prob-

lems lie, and try alternative methods of operation.

By this time, I am sure you are aware of the basic organizational structure we will be using for the test. I have designated Colonel Bob Clarke as Chief, USATDS. He will report directly to Brigadier General Harvey, who will provide general supervision, much the way he does for the Defense Appellate Division. Senior and Trial Defense Counsel, who will be assigned to USALSA, have been designated at each installation, and the Regional Counsel are already in place. In this regard, one of the principal purposes of the test will be to exercise USATDS organizational channels, but I do not want the USATDS structure, in and of itself, to act as a constraint on a free-flow of information to and from SJAs. For this reason, I urge you to communicate directly with your Senior and Regional Defense Counsel and with the USATDS staff.

While USATDS officer personnel will have a separate rating and supervisory chain, they will remain members of your military community. I encourage you to include them in your

office social functions and other command sponsored activities. USATDS counsel will be required to comply with local directives and policies such as those relating to administration, physical fitness, duty hours, standards of appearance, and the performance of certain extra duties performed by your own judge advocates. Exceptions to these policies—when duty is clearly inappropriate for a defense counsel or where workload requirements preclude compliance—should be rare. Prior to 15 May, you will be furnished a copy of the basic USATDS SOP which sets forth policies and procedures in detail.

Administrative and logistical support arrangements for USATDS offices deserve your special attention. USATDS offices will, as you know, be satellited on installations similar to the way our trial judges are currently supported. In the case of your installation, you will have the additional requirement of supporting a Regional Defense Counsel. We intentionally avoided prescribing support requirements in detail, as these will vary by installation. Some give-and-take between SJAs and Senior Defense Counsel will be necessary in working out these arrangements. I am confident that, through cooperation and full and frank discussion, appropriate support arrangements will be developed at the local level. When agreement cannot be

achieved, both the TRADOC and USATDS supervisory personnel will assist in resolution.

During the test, we will be emphasizing the collection and reporting of detailed workload and personnel data, most of which will be a USATDS task. However, as the test progresses, there will be requirements for interim and final after-action reports from both SJAs and commanders. We are developing specific guidance and formats for these and will provide you with instructions at a later date. At the JAG conference in October, I hope to meet with all of the TRADOC SJAs for a preliminary exchange of experiences.

I also encourage you to continue to educate your commanders at all levels on the background of the program and the purposes of the test. USATDS will assist in this effort, but the special relationships and rapport you enjoy with your commanders will make your contribution especially meaningful. Finally, I appreciate the additional responsibility the test will place on you and your office during the coming year. I am certain that with your support the test program will work smoothly. As always, your views and comments will be welcome.