



The Newsletter of the
Military Law Task Force of
the National Lawyers Guild

On Watch

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MLTF members defend soldiers against heavy-handed Army tactics

BY DAVID GESPASS

Does the name Anthony Cucolo ring a bell? He's the genius general who commanded the army's Third Infantry Battalion based in Fort Stewart, Georgia before he went to the Multi-National Division Baghdad and decided to issue an order making pregnancy a court-martial offense. Cucolo's "leadership" style seems to have permeated the command at Fort Stewart and, even after his departure, his influence is still felt.

His hand-picked replacement at Fort Stewart, Jeffrey Phillips, oversaw the persecution of Alexis Hutchinson, a young mother unwilling to deploy to Afghanistan because she had no one to care for her 10-month old son during a planned year-long deployment. Hutchinson's original plan was for her mother, Angelique Hughes, to do so, but Ms. Hughes determined that she could not manage the additional burden since she was running a day care business with fourteen other children while caring for a special needs child of her own and her sister, who had recently asked for help due to her own serious health problems.

Hutchinson, represented by MLTF member Rai Sue Sussman, was jailed for three days in November and then confined to her base at Hunter Army Airfield adjoining Fort Stewart for six weeks. In the end, she spent nearly three months working with her attorney to persuade the Army to give her an administrative discharge, with the threat of being sent to Afghanistan for a special court-



Alexis Hutchinson

martial looming over her all the while. Finally, Gen. Phillips relented by deciding to discharge Hutchinson with an Other Than Honorable discharge in lieu of court-martial. The Army claimed that it would have

proven that she always intended not to deploy, which Hutchinson disputes. Of course, Hutchinson had no control over her mother, who is not subject to military jurisdiction and could not be forced to care for the child. Sussman was prepared to defend the case, but was satisfied with the outcome for her client, saying that it avoided a lengthy trial and the uncertainties that attended it.

The Army's expressed rationale for discharging Hutchinson was that it was less disruptive to the mission than recalling witnesses from Afghanistan back to the United States to testify against her. This is particularly interesting because of the way in which Fort Stewart is handling the case of Marc Hall, who wrote a rap song last July when he was warned he would be "stop-losses" and returned for another tour of duty in Iraq after he was to be released from active duty.

Stop-loss is the presidentially-ordered policy that forces soldiers to remain on active duty

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long after they reach the end of active duty under the terms of their enlistment “contracts.” As a result, soldiers like Hall face multiple deployments to Iraq or Afghanistan after completing their normal enlistments.

The rap song, which Hall sent to the Pentagon, had lyrics about the possible adverse consequences to officers from frustrated and disgruntled victims of stop-loss. Hall was not taken into custody until December 11, even though the allegations against him were for a series of incidents that began in July. Hall has remained in jail ever since.

After he was taken into custody, MLTF member Jim Klimaski consulted with him and his military defense counsel before I got involved in the case. The Army shuttled him among three county jails for more than two months before finally deploying him to the Multi-National Division Baghdad (MNDB) in Kuwait on Friday, February 26. They scheduled an Article 32 investigation for the following week, even though his military lawyer had still not been deployed. The plan seems to be to hold a general court-martial overseas, rather than trying him where the offense occurred, apparently because that is where the prosecution witnesses are. Hall, on the other hand, will have difficulty getting any of his witnesses to travel to a war zone to testify, his supporters and friends will have enormous difficulties attending, reporters will not be able to cover the trial and the possibility of his getting civilian counsel is greatly diminished.

Absent a court-martial being convened, there has been no one in the Army to whom to appeal because there is not yet a judge and, therefore, no court or authority to exercise any review jurisdiction over the command’s decisions.

I filed a petition for habeas corpus relief in federal court, arguing that Hall will be denied the right to a public trial, will not



Marc Hall

be able to call his potential witnesses and would be denied the right to counsel of his choice if he were deployed. The Army’s response (and this is not really hyperbole) was that the morale of the Third Infantry Battalion, if not the entire armed forces, is dependent on Hall being court-martialed in the MNDB.

The circuit court determined, despite the absence of any recourse through the Army, that it was required to abstain and allow the military “justice” system to handle the matter. The Eleventh Circuit, always eager to defer to executive action, agreed. So Hall remains in confinement.

Marc’s supporters have expressed concern about his mental health. He seemed unaware he was acting against his interests in sending his song to the Pentagon and he sought, but received little, counseling through the base. Just before he was deployed, a telephone interview was arranged with a civilian expert on trauma. Following that, his military lawyer conveyed to the command the need for a full evaluation of Marc’s condition. The command has thus far ignored the request choosing instead to send him on his journey – in custody – through Spain and on to Kuwait, where a general court martial awaits.

His friends and supporters are going to continue to push for a complete evaluation of his condition. It has been revealed time and again that the military fails to care for its wounded vets as they deserve. With Marc, the Army is going beyond the failure to provide support services and is acting in a way that, if the concerns are borne out, could risk causing further deterioration and very serious damage.

What unites these cases is the heavy-handed manner in which the Army is responding. As perpetual war becomes embedded in U.S. foreign policy, as troops become increasingly disaffected, the military needs to enforce discipline before resistance gets out of hand. The chief domestic factor that ended the Vietnam War – the heroic resistance of the Vietnamese people was, of course, the most important – was the resistance within the U.S. military.

Now, as the U.S. fights two imperial wars simultaneously, military and government leaders boast of the “professionalism” of our armed forces and the quality of its members while pledging their absolute support for the needs of our “men and women in uniform.” Their deeds do not match their words, as the Army’s real concern is not the welfare of the individuals who are sent to fight, but the fighting capacity of the military machine. Any one soldier is just a cog and, so long as there is a replacement, the generals do not worry about that soldier’s fate. They “support” the troops to the extent they continue to fight, but they will hammer any resistance that threatens the imperial mission.

The MLTF, since its founding, has dedicated itself to supporting GI resistance and providing real support to military members and veterans. In that, we distinguish ourselves from the politicians and government bureaucrats who talk about support for troops while requiring them to engage in illegal and immoral wars regardless of family hardship, medical and psychological problems, the number of previous deployments, or such niceties as discharge once they have fulfilled their enlistment contracts.

David Gespass is the president of the National Lawyers Guild and a long-time member of the MLTF. He practices in Birmingham, AL. This article was originally written for Guild Notes, the NLG newsletter.



Current policy on personality disorder diagnosis and discharge

A Personality Disorder is an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment. (Diagnostic and Statistical Manual of Mental Disorders, Fourth Ed., Text Revision (DSM-IV-TR))

BY KATHLEEN GILBERD

The military has recently modified personality disorder discharge procedures. This article will discuss these changes and whether or not they can be helpful to military personnel affected by personality disorder diagnoses.

For many years, the military has used personality disorders as a reason for administrative discharge of servicemembers considered "unsuitable" for military service, whether or not they had the disorder. As the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR) of the American Psychiatric Association explains, personality disorder (PD) involves long-term "inner experience" and behavior different than that of the surrounding culture. Commands have long found this discharge a convenient way to rid themselves of poor performers, non-conformists, whistleblowers, troublemakers or rebels, as well as those with serious psychiatric or sometimes physical disorders. Most recently, PD diagnoses and discharges have been misused to separate servicemembers suffering from post-traumatic stress disorder (PTSD) or military sexual trauma (MST) rather than providing treatment or medically retiring them.

For soldiers and veterans, the differences between PD and PTSD or other serious psychiatric conditions can be of tremendous significance. When PDs are severe enough to interfere significantly with performance of military duties, they are grounds for administrative discharge, characterized as honorable or general according to the servicemember's overall record. Unlike all other discharges tied to a medical condition, personality disorder is the name of the discharge, and appears on DD-214 discharge documents as the narrative reason for discharge. (By way of contrast, soldiers medically retired for schizophrenia will not have any psychiatric label on their discharge paperwork.) Even when the Department of Defense (DoD) subsumed PD discharge under the category of "other designated physical

or mental conditions" (ODPMC) in the 1980's, PD was often included in the narrative reason for discharge on DD-214s. Since then, some services have moved PD from ODMCP to a separate PD discharge category.

Military regulations presume that PDs exist prior to enlistment, and therefore would not be incurred in the line of duty, or service-connected. PDs are not included among the medical conditions warranting medical discharge or retirement, or among the VA's disability listings. PTSD and other serious psychiatric disorders, on the other hand, are normally grounds for medical discharge or retirement when they are found to be severe, resulting in discharge with a lump sum payment or placement on the disability retirement list. For those who are medically retired, medical care is available through the military or the VA, and other benefits of retirement (health insurance for family members, on-base shopping privileges, etc.) are ensured. While the VA is free to make its own diagnoses, and may diagnose and compensate PTSD or depression where the military has found only PD, VA doctors are often swayed by military diagnoses.

In, 2008, under considerable pressure from Congress and the public, the military made modifications to PD discharge procedures. DoD revised its directive on enlisted administrative separation, in large part to require more careful evaluation when PD is considered as a diagnosis for servicemembers who are serving or have served in combat areas. Where discharge for personality disorder is contemplated, the psychiatric diagnosis must now be reviewed by another mental health professional and "endorsed" by the service's Surgeon General. The revised policy specifically requires that medical personnel consideration of PTSD when diagnosing PD. Subsequently, the services adopted regulations consistent with, and in some cases expanding on, the DoD policy. The military

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branches have not been uniform in their interpretation of the policy, and procedures now vary significantly from service to service. The Army, which has suffered the most public criticism of its prior policies, has gone beyond the language of the DoD Instruction, providing an alternative to personality disorder discharge for soldiers who have served two years or more on active duty.

Statistical information is not yet available, but this writer's experience, and that of several other counselors and attorneys, suggests that the number of personality disorder diagnoses and discharges has declined since the policy went into effect. Purely anecdotal evidence suggests a related increase in administrative discharges for other minor psychiatric and medical problems, under the broader discharge category of ODPMC. Increases in discharge for misconduct and unsatisfactory performance also seem likely.

Monitoring administrative separations for servicemembers with serious psychological problems, and others diagnosed with personality disorders, will allow advocates to evaluate the services' compliance with the new policy and challenge attempts to separate members for other administrative reasons when their psychiatric or physical condition warrants medical discharge or retirement. For this reason, among others, the Military Law Task Force has recently established a committee on military trauma issues, including: MST, military sexual assault, PTSD, harassment and homicide. Psychological symptoms as well as accompanying somatic symptoms are often overlooked or misdiagnosed in the discharge process. **Readers are encouraged to share their experiences regarding personality disorder (and related) discharges with this writer or with Elizabeth Stinson, the chair of the committee. Both can be reached at info@mltf.info.** The committee hopes to offer counselors and attorneys the support and information needed to challenge wrongful discharges and to raise awareness of the affects of military trauma.

DoD Policy

The Department of Defense revised DoD 1332.14, "Enlisted Administrative Separations" on August 8, 2008, renaming it DoD Instruction 1332.14, and making important changes to the provisions for PD diagnosis and discharge. Encl. 3, A1.3.a.(8), which covers discharge by reason of "Other Designated Physical or Mental Conditions," now includes, in subsection (c):

"Separation on the basis of personality disorder is authorized only if a diagnosis by a psychiatrist or PhD-level psychologist utilizing the Diagnostic and

Statistical Manual of Mental Disorders, and in accordance with procedures established by the Military Department concerned, concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired. For Service members who have served or are currently serving in imminent danger pay areas, a diagnosis of personality disorder as addressed in the previous sentence must be corroborated by a peer or higher-level mental health professional and endorsed by the Surgeon General of the Military Department concerned. The diagnosis must address post-traumatic stress disorder (PTSD) or other mental illness comorbidity. The onset of personality disorder is frequently manifested in the early adult years and may reflect an inability to adapt to the military environment as opposed to an inability to perform the requirements of specific jobs or tasks or both. As such, observed behavior or specific deficiencies should be documented in appropriate counseling or personnel records and include history from sources such as supervisors, peers, and others, as necessary to establish that the behavior is persistent, interferes with assignment to or performance of duty, and has continued after the Service member was counseled and afforded an opportunity to overcome the deficiencies."

An addition to subsection (d) of A1.3 provides that, "[u]nless found fit for duty by the disability evaluation system, a separation for personality disorder is not authorized if service-related post-traumatic stress disorder (PTSD) is also diagnosed." This emphasizes already-existing policy which is often overlooked in a rush to get rid of problem soldiers or sailors.

This language does a much better job than the previous version in ensuring that PD diagnosis is not made on the basis of short-term problems or symptoms, and requiring medical personnel to consider the presence or absence of

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adolescent and post-adolescent symptoms expected in anyone who has a personality disorder.

Navy Policy

The Navy revised MILPERSMAN 1910-122, "Separation by Reason of Convenience of the Government – Personality Disorder(s)," although it has not changed its controlling regulation, SECNAVINST 1910.4B. (Commands and reviewing authorities normally use the MILPERSMAN, and changes to the SECNAVINST are infrequent.)

The revision may have been hurried, as the language is not entirely consistent. Section 2.a states that sailors "returning from deployment in a hostile fire/imminent danger war zone area diagnosed with Post Traumatic Stress Disorder (PTSD) or a Traumatic Brain Injury (TBI) may not be separated based on a personality disorder. Members with PTSD/TBI should be referred to a Physical Evaluation Board (PEB) for possible disability determination." Officers who stop there may conclude that administrative discharge is no longer a possibility for these sailors. Later in 1910-122, however, section 2.e states "[u]nless found fit for duty by the disability evaluation system, a separation for personality disorder is not authorized if service-related PTSD is also diagnosed."

In keeping with the DoD Instruction, the Navy now requires review of PD diagnoses before discharges may be initiated.

"Separation on the basis of personality disorder is authorized only if a diagnosis

by a psychiatrist or PhD-level...concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired. For servicemembers who have served or are currently serving in imminent danger pay areas, a diagnosis of personality disorder as addressed in the previous sentence must be corroborated by a peer or higher-level mental health professional and endorsed by the Surgeon General of the Navy. The diagnosis must address post-traumatic stress disorder (PTSD) or other mental illness co-morbidity."

The Navy has also taken the opportunity to incorporate explicit warnings about retaliatory psychiatric referrals into its discussion of PD discharges. Section 5 requires mental health professionals to "assess the circumstances surrounding the request for evaluation to ensure the evaluation does not appear to have been used as a reprimand

for any type of whistle-blowing attempts or actions by the member. The MHP will consider information provided both by the member and the command. Evidence, which indicates the evaluation may be in violation of this article, will be reported by the MHP to member's CO for possible referral to an IG, if applicable." This language is not taken from the current DoD Instruction, but rather makes more explicit and amplifies other DoD and Navy instructions on mental health evaluations.

Marine Corps Policy

The Marine Corps responded to the DoD Instruction with MARADMIN 0432/09 of 21 July 2009, "Compliance With Personality Disorder Separation Requirements." Unless other administrative messages or regulations refine it, this message appears to apply to all Marines, regardless of combat-area service, and regardless of enlisted or officer status. It will be in effect until the Marine Corps Separation and Retirement Manual (MARCORSEPMAN) is next updated.

The MARADMIN requires, in paragraph E, that PD diagnoses be corroborated by "a peer psychiatrist or Ph.D. level psychologist, or higher level mental health professional." The diagnosis must also be "endorsed by the Regional Naval Medical Commander..." Since the DOD Instruction requires review at the Surgeon General's level, this seems incomplete, but Navy physicians, who provide medical care for Marine Corps personnel, should be expected to use Navy review procedures.

Mental health evaluations of Marines which include PD diagnoses must address PTSD or other mental illness comorbidity, according to paragraph F. The discussion of review uses the same PTSD or mental illness language, adding "[n]ote that unless found fit for duty by the Disability Evaluation System, a separation for PD is not authorized if service-related [sic] PTSD is also diagnosed." The MARADMIN does not mention traumatic brain injury, and the language on PTSD and other mental health conditions is not uniform. It does not add DoD's language about long-term behavioral problems as an element of personality disorders. Again, since Navy physicians provide evaluations for Marines, the limitations of the MARADMIN may not affect medical evaluations.

Army Policy

The Army first issued a policy memorandum to implement the DoD Instruction, and then included the new policy in an update to AR 635-200 on December 17, 2009.



Soldiers diagnosed with severe PDs may now be discharged under AR 635-200, section 5-13, "Separation Because of Personality Disorder," only if they have served less than 24 months on active duty. Those who have served more will be discharged under a separate section, 5-17, "Other Designated Physical or Medical Conditions." This provision makes no distinction between soldiers on the basis of combat-area service.

Paragraph (a) states that soldiers with less than 24 months active duty who are or have been serving in an imminent danger pay area and who are diagnosed with personality disorders may be discharged for PD only if the diagnosis is corroborated by a Medical Treatment Facility Chief of Behavioral Health or an equivalent officer. If corroborated, the diagnosis must be reviewed by the Director, Proponency of Behavioral Health, Office of the Surgeon General. In addition,

"[m]edical review of the personality disorder diagnosis will consider whether PTSD, Traumatic Brain Injury (TBI), and/or other comorbid mental illness may be significant contributing factors to the diagnosis. A Soldier will not be processed for administrative separation under AR 635-200, paragraph 5-13 if PTSD, TBI and/or other comorbid mental illness are significant factors to a diagnosis of personality disorder, but will be evaluated under the physical disability evaluation system in accordance with AR 635-40."

If this provision is strictly followed, soldiers with 24 months of service or more who have combat service and are facing discharge under 5-17 on the basis of a PD diagnosis must be afforded the same medical review procedures.

Regardless of length of service, soldiers with combat-area service may be discharged under 5-13 or 5-17 only if the separation authority is an officer with general court-martial convening authority, allowing for a higher level of command review than previously available. Officers with special court-martial convening authority retain discharge authority for soldiers who have not served in combat areas and are discharged under these provisions.

Air Force Policy

The Air Force has revised its basic discharge regulation, AFI 36-3208, to implement the DoD policy. Section 5.11.9.1 governs PD discharges. A new section, 5.11.10, "Procedures: Personality Disorder Discharge of Airman with Imminent Danger Pay Service," requires special processing for airmen who are currently serving or who

have served in an imminent danger pay area and have been diagnosed with a PD for which discharge action may be contemplated. Under its provisions:

"5.11.10.1.1. The diagnosis of a personality disorder must specifically address post-traumatic stress disorder (PTSD) or other mental illness comorbidity.

....

"5.11.10.1.3. Separation under this provision will not be initiated if there is a diagnosis of service-related PTSD, unless the airman is subsequently found fit for duty under the disability evaluation system IAW AFI 36-3212.

"5.11.10.1.4. The evaluating psychiatrist or PhD-level clinical psychologist will consult with the Airman's commander to determine if separation under this provision is appropriate. When, in the opinion of the Airman's commander, evaluating psychiatrist or PhD-level clinical psychologist, separation under paragraph 5.11.9.1 (Personality Disorder) is appropriate, the local Military Treatment Facility (MTF) will forward the diagnosis with supporting documentation through appropriate channels for corroboration by a peer or higher-level mental health professional and endorsement from the Air Force Surgeon General. Documentation will be forwarded to the Air Force Medical Operations Agency to obtain Air Force Surgeon General endorsement. In such cases where the Air Force Surgeon General (SG) does not concur in the diagnosis of a personality disorder, no further action will be taken under this provision.

"5.11.10.1.5. Upon receipt of the Air Force SG review concurring in the diagnosis of a personality disorder, the MTF will notify the Airman's commander of the decision. If all requirements of this paragraph (5.11.10) have been met, separation processing will be initiated IAW Chapter 6 of this instruction."

Conclusion

The changes in DoD policy have the potential to improve psychiatric screening and diagnosis and reduce improper use of PDs as an easy and inexpensive way to separate soldiers who are ill or who are simply considered troublemakers. If poorly implemented, however, they could provide a rubber stamp for inaccurate diagnoses, making

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Selective Service announces changes



This article is reprinted from the Summer, 2009, issue of *The Reporter for Conscience's Sake*, published by the Center on Conscience & War, www.centeronconscience.org.

Last fall, the Selective Service System contacted a number of church-related groups who have an interest in conscientious objection, including CCW, to tell us that they were reviewing their procedures for implementing a draft. They asked us to tell them about changes that we would like to see, so they could consider them. The Center and other groups sent in a number of concerns and suggestions.

On June 17, Selective Service convened a conference call with the groups from which they had solicited comments. The purpose of this conference call was to bring us up to date with the agency and tell us how they had responded to our comments.

First of all, they assured us that there is no reason to believe the draft will resume in the foreseeable future. There is no movement in that direction politically (either from the Administration or Congress) and the Selective Service budget and staffing has been getting smaller in recent years.

Selective Service had previously informed CCW that they would change the procedures so that COs who waive their physical would also be able to apply for other classifications for which they may qualify. This would be a tremendous improvement for COs who exercise this right. (See *The Reporter*, Spring issue p.5 for more details on this.)

CCW had also raised a concern about the potential hardship for some COs because CO applicants are required to appear personally before the local draft board. If they fail to appear their CO application is deemed 'abandoned' and

will not be considered. We were concerned because Selective Service would not provide travel reimbursement for COs to attend such hearings. The Center pointed out that this could present an undue hardship for some COs who would not get CO status simply because they didn't have financial resources to travel to the hearing. This could be a particular problem for people overseas in low paying service jobs (like with a church mission or the Peace Corps) who would be required to travel a great distance for a hearing. CCW proposed reimbursing registrants for transportation to these mandatory hearings just as those traveling to the mandatory physical have their transportation covered. Another less desirable solution would be to make the hearings optional.

Selective Service told us that they are working on a proposal for reimbursement for travel to and from these

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it more difficult for members to challenge the diagnoses in discharge or discharge review proceedings. Much will depend on the honesty and thoroughness of the medical and command personnel who make or review diagnoses and who recommend or order discharges. With close attention to the processing of these cases, counselors and attorneys can help to ensure that the new review procedures are used properly and effectively.

The new policy may also improve the chances of veterans

challenging personality discharges before the Discharge Review Boards and Boards for Correction of Military/Naval Records. Their regulations encourage the boards to consider arguments for upgrades or changes in the reason for discharges where "current standards" would provide improved rights or a likelihood of a better outcome than the policies under which the veterans were discharged.

Kathleen Gilbert is a legal worker in San Diego, California, and co-chair of the MLTF.



required hearings in certain circumstances!

CCW had also raised questions about the definition of a church in Selective Service procedures for determining if someone qualifies for a ministerial exemption or ministerial student deferment. We could identify churches that didn't qualify under their definition. They announced that churches would only have to meet at least one of the criteria on their list to qualify.

CCW proposed a number of other changes that were not made. But some concerns raised by other groups received a favorable response.

For example, there were concerns about emergency medical costs for COs performing alternative service. While on the job injuries would be covered by Workers Compensation Insurance, but what about illness or injuries while not on the job? Presumably the COs would not be making much money, so who would cover the cost? Selective Service said they are working on a plan for covering such medical expenses (unless they are due to negligence on the part of the CO).

Those on active duty in the military receive protection through the "Soldiers and Sailors Relief Act." This protection includes reduced interest rate on mortgage payments and credit card debt, some protection from eviction, and delay of all civil court actions, such as bankruptcy, foreclosure or divorce proceedings. Selective Service told us that in the event of a mobilization and draft, they will propose to Congress a law that would provide similar protection for COs.

Mennonites have had an ongoing dialogue with Selective Service about "standards of conduct" for COs do-

ing alternative service in their programs, and it would be complicated to explain it all here. But Selective Service told us that they don't want to try to define acceptable conduct in detail. They want to take a more generalized approach. The regulations will be the standard, and the regulations say that COs must meet the same standards as other employees at the workplace.

The Old Order Amish Farm Project had been approved for alternative service in the past, but Selective Service informed the Amish that it will not be authorized for alternative service in the future. Their reasoning was that it doesn't appear to benefit the public — in order to qualify there would need to be some kind of charitable aspect to it.

Selective Service is considering changes initiated by their staff as well. For example, Selective Service told us that they are looking into the possibility of assigning COs to 'for profit' enterprises. In the past, many COs worked in hospitals and related health care facilities. But in recent years, more and more of these facilities have become 'for profit' companies, so Selective Service is worried about not having enough jobs.

Selective Service also told us that they are considering a requirement that COs submit a statement from their church about their churches position on conscientious objection. The Center voiced a strong objection to this proposal. First and foremost, the law is clear that the important issue is what the CO believes, not what his church teaches. And secondly, many COs don't know what their church's official position is — this would add an additional burden on them to research this when they are already under a very tight timeline for submitting their application. There were a number of changes that

CCW had proposed that Selective Service did not make. Here are the most significant ones:

Selective Service allows for military personnel to serve in administrative staff positions, and plans call for area offices to be staffed by members of the National Guard. Area Offices are the primary place where potential draftees will come face to face with the Selective Service System. CCW believes that this could present a problem for some conscientious objectors. By law the Selective Service System is a civilian agency, a fact that was considered essential when the agency was established in 1940. Staffing by military personnel tends to blur the distinction between Selective Service and the military itself. While the Selective Service System has provisions for COs who object to submitting to military control for the physical at MEPS, these same people may feel like they are being required to submit to military authority when they encounter military personnel in the area office to which they are assigned. Selective Service said they didn't know how they could do their job without utilizing the military in this way.

The current registration process does not allow for someone to register as a conscientious objector. CCW is aware of young men for whom this presents a crisis of conscience. For them to be registered with Selective Service without being officially on record as a conscientious objector implies they have registered to be available for military service; and to be so registered violates their conscience. In reality, what matters legally in obtaining CO status is one's belief at the time he is drafted, not at the time he registered. Yet there continues to be the problem

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MLTF has successful convention in Seattle

by Jeff Lake, MLTF Steering Committee

The National Lawyers Guild convention was held on October 14-18, 2009 in Seattle Washington. The MLTF held a number of events during the convention.

The Task Force sponsored a CLE on "Courts-Martial for Everyone - Military Law 101." There were about 20 lawyers and legal workers in attendance. Jim Klimaski discussed the basics of military law and procedure. James Branum spoke on "De-mystifying the Military Justice System" and reviewed courts-martial procedure. Finally, David Miner discussed working with Military Trial Defense Counsel as part of courts-martial strategy.

The Task Force sponsored a workshop on Counter-Recruitment. Activists from California and Washington spoke about strategies they had used to gain access to schools and keep recruiters away from kids. The recent enactment of local laws banning recruiters from access to those under 17 and the subsequent challenge by the Department of Justice was highlighted. More information can be found at www.stoprecruitingkids.org and www.watir.org.

The Task Force also co-sponsored a workshop on "The Taking of Africa's Resources" which included mention of the latest developments concerning AFRICOM, the U.S. Military's latest attempt to establish a permanent military presence in Africa. The workshop was well attended and attendees had to sit on the floor as all seats were filled.

Finally, the Task Force held its annual meeting at the convention. The meeting heard reports from various panels and projects of the Task Force. Three new members were elected to the Steering Committee -- Brandon McNamee, Elizabeth Stinson and Rai Sue Sussman. The minutes of this meeting have been previously sent to Task Force members.

The next NLG Convention is September 22-26, 2010 in New Orleans, Louisiana. We hope to see all of you there!

National GI Rights Conference

The GI Rights Network will hold its annual conference in San Francisco from April 22-25. Members of the MLTF are invited to attend.

The conference will include training workshops on discharges, AWOL/UA policy, medical discharges and retirement, sexual assault cases and other legal issues, as well as sessions on resistance cases, secondary PTSD in counselors and attorneys, adapting military counseling and advocacy to new technology, etc.

The GI Rights Network operates a national hotline providing free and confidential counseling to active duty servicemembers, vets and their families. Twenty-three local groups make up the network. The toll-free number is 877-447-4487. For more information, visit gирightshotline.org

Conference registration fees range from \$50 to \$70, according to income, and will include training materials, meals and entertainment. Housing will be available with local counselors and supporters. For more information or to register, contact Kathleen Gilberd [kathleengilberd - AT- aol.com](mailto:kathleengilberd@att.net).

when someone goes before a draft board and says "This is what I believe." The draft board often asks: "How do we know that's really what you believe?" "How do we know you didn't make this up because we're drafting you?" If registering as a CO were an option, the CO who had so registered would have a specific action to which he could point as evidence of his beliefs.

Selective Service said if they did that,

and people checked off the box on the registration form, they might think they don't have to do anything else.

CCW has no illusions about Selective Service and whether a draft could ever be fair. We know that by definition it can't be. And we remain opposed to "all forms of conscription." But we also know that there are decent and honest people working at Selective Service who want the sys-

tem, should it ever be actively drafting people, to be as fair as possible. CCW will continue to monitor their plans, and work with them to the extent possible to advocate for the rights of conscientious objectors and others who may be affected by the Selective Service System.

More information on the Center on Conscience and War is available at www.centeronconscience.org.

About the Military Law Task Force

The National Lawyers Guild's Military Law Task Force includes attorneys, legal workers, law students and "barracks lawyers" interested in draft, military and veterans issues. The Task Force publishes *On Watch* as well as a range of legal memoranda and other educational material; maintains a listserv for discussion among its members and a website for members, others in the legal community and the public; sponsors seminars and workshops on military law; and provides support for members on individual cases and projects.

The MLTF defends the rights of servicemembers in the United States and overseas. It supports dissent, anti-war efforts and resistance within the military, offering legal and political assistance to those who challenge oppressive military policies. Like its parent organization, the NLG, it is committed to the precept that human rights are more sacred than property rights.

The Task Force encourages comments, criticism, assistance, subscriptions and membership from Guild members and others interested in military, draft or veterans law. To join, or for more information, please check our website at www.nlgmtf.org or contact the Task Force at:

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