

Court-docket plan hits a wall of no's

Services rebuff database drive

By Kelly Kennedy

KELLYKENNEDY@ARMYTIMES.COM

A campaign to create a centralized docket of current courts-martial and Article 32 cases for all military services hit a hurdle when the top legal officers of the Army, Navy, Air Force and Marines refused to cooperate with the endeavor.

However, Army officials said Nov. 17 that if a 3-year-old central courts system database becomes fully implemented, it would be "made available to members of the public and the media," Army spokesman Sheldon Smith said.

Attorneys with the National Institute of Military Justice sought basic prosecution information, such as names of the military members and charges they're facing, in a comprehensive format from all services.

For anyone outside the military, such information now can be obtained in individual cases only by going through public affairs officials with a service member's branch and at the command in

which he is being prosecuted, or by calling each post to ask for all upcoming cases.

However, according to Kathleen Duignan, executive director of the NIMJ, the information is public record and should be available to everyone.

The case started when Duignan and NIMJ President Eugene Fiddell, who both represent military personnel in courts-martial cases, heard complaints from lawyers and the media that they were not getting access to the docket of cases even at individual commands. Law requires that docket information be posted in a public space, but that can mean a courtroom door — and that's accessible only to those allowed on post.

Sometimes, reporters easily obtain the information. Other times, they don't hear about a case until after it has been prosecuted. And sometimes, they don't hear about a case at all. Reporters are legally entitled to attend courts-martial, in part as a measure to ensure service members get fair trials. Lawyers pay attention to cases to watch for trends — good and bad — and to make sure cases are properly adjudicated.

To that end, Duignan seeks to

create a Web site that would list all of the courts-martial and Article-32 cases.

That information would be available on the new Web site free to anyone who wanted it. NIMJ, a nonprofit, would host and pay for the site as well as post the information.

"We intend to go ahead with the project," Duignan said, "even if that means calling each post or base individually."

If database exists...

That may be what NIMJ will have to do. According to Steve Zansberg, a Colorado lawyer who specializes in open-records law, the way the branches respond may depend on what they have available.

If they have a centralized database where administrators can search for pending courts-martial and Article 32 cases, then that information, by law, should be available to the public.

However, none of the branches can be required to create a database.

The Army has been working on such a database. In 2003, the Army's criminal law division began work with eJustice, a Web-

based military justice management system, according to the 2004 annual report to the Armed Services committees.

The Army's Judge Advocate General's Corps tested the system in 2005 at seven locations and determined it to be an "operational success."

The Army also changed regulation language to include implementing an "Army-wide eJustice case-management system" that would include judicial and nonjudicial punishment procedures from JAG offices worldwide.

However, Smith said the database will not include Article 32 cases.

Smith said officials don't yet know when that docketing system would be made available to the public.

For the Air Force, Deputy Judge Advocate Maj. Gen. Charles Dunlap Jr. said a database with upcoming cases exists, but it's not updated "minute by minute."

"We don't have real-time docketing information," he said. "It's not designed to provide real-time scheduling of the exact time of every Article 32. We don't want to take on the responsibility of letting people know all the changes."

In the Navy, which encompasses the Marine Corps JAG, public affairs officer Jennifer Zeldis said court information is not centralized. However, each of the 13 regions keeps a database for cases in those areas.

Only the Coast Guard legal team said it would comply with the NIMJ request.

The commanding generals of the judge advocate corps of the other four branches jointly signed a letter denying the request, saying whether to release courts-martial data should be left to individual commanders who balance the competing concerns of the rights of the accused "and the need for transparency and the military justice system."

Duignan said NIMJ board members would meet to determine the next step.

Jim Crawley, president of Military Reporters and Editors and a reporter for the San Diego Union-Tribune, said the group would study the matter.

The military courts, he said, "like every local, state and federal court system, should have a transparent docket system that allows you — whether you be a private in the Army or a reporter at a newspaper — to see who has been charged and is going to go to court. Currently, that's not possible." □

AMU DIVING TEAM Our Athletes Don't Play Games



American Military University

Regionally and Nationally Accredited*

Serving more than 15,000 civilian and military students worldwide

* AMU is a member institution of the American Public University System.

At American Military University, we educate those who serve. AMU offers mission-critical Bachelor's and Master's degrees, **100% online**, in:

- Homeland Security
- Intelligence
- Criminal Justice
- Military Studies
- Management and more.

Find out why AMU is a leading education provider to the military.

- Undergraduate Book Grant
- Maximum Transfer of Credits
- Monthly Class Starts

The Ultimate Advantage
is an Educated Mind



Get started on
your future today!

Visit www.amu.apus.edu

E-mail info@apus.edu

Call **877-468-6268** Press 2

111 W. Congress Street, Charles Town WV 26414