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**Together Everyone Achieves More: Leadership Networks and Interagency
Relationships of the Judge Advocate General's Corps**

SSG Kenneth Conklin and SSG Brian Darling

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Abstract

Military leadership models are often hierarchical and restrictive, focusing primarily on the decisions of commanders and their staffs, to include their legal advisors from the Judge Advocate General's Corps. While this structure works during operations, there are those areas of personnel readiness where there should be remedies available outside of the chain of command. Networked leadership, less formally organized and involving interagency cooperation, can be particularly useful; the nodes within a network each have input and benefit from the relationship between nodes. The purpose of this paper is to examine examples of successful leadership networks, demonstrating their efficiency and cost effectiveness. These examples are drawn from existing cooperative arrangements between, among others, the Judge Advocate General's Corps, the Department of Justice, Department of Labor, the New Jersey National Guard, and the New Jersey State Bar Association. These relationships are distinguished in that they are examples of nodes in a network working together to resolve servicemember issues, rather than of unilateral action by one agency.

Together Everyone Achieves More: Leadership Networks and Interagency Relationships of the Judge Advocate General's Corps

SSG Kenneth Conklin and SSG Brian Darling¹

Introduction

Imagine, for a moment, you are a military commander preparing your personnel for a deployment in support of any of the ongoing overseas contingency operations in which the armed forces are currently engaged. Part of this preparation involves administrative review of the service member's personnel file and includes elementary estate planning and legal counseling; usually, a service member will review their emergency contact information, life insurance policy, and, if necessary, draft a will and ancillary documents. Ideally, the service member will have no legal issues, and move on to the next station, especially those personnel assigned to the active duty armed forces. What of their colleagues in the reserve components? Their situations tend to be a bit more complicated; reservists are likely to lease or own their homes and have to return to their civilian careers after they return from their active duty missions. Personnel have legal protections under USERRA and the SCRA and are briefed on these protections prior to and after deployment. There are those instances where creditors, landlords, and employers who are ignorant, willfully or otherwise, of the law, and attempt to hold military personnel to a lease or other contractual obligation, deny

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them the benefits of reduced interest rates, or, in a worst-case scenario, deny them rightfully-accrued seniority, promotion, or flat-out refuse to allow them to return to their employment. Invoking the USERRA and SCRA protections can be daunting and a service member would likely require legal assistance. Though the reserve components have full-time legal staff assigned to their elements, these offices are often minimally staffed, and an attorney assigned to the Judge Advocate General's corps requires special dispensation from The Judge Advocate General in order to represent a service member in a civilian legal matter. Aside from retaining civilian counsel, which can be prohibitively expensive, what options are available to service members who have returned from combat and been denied their rights under the law? They may now turn to the Department of Justice and its Service Member and Veteran's Initiative, or to a state bar association program like New Jersey's Military Legal Assistance Program; these programs are examples of successful leadership network.

As the saying goes, "None of us is as smart as all of us"ⁱ. However, leadership models often operate in the opposite fashion, focusing on the decisions of one individual. While the sentiment in the opening statement is correct, in hierarchical leadership structures, it is more difficult to apply. In a traditional hierarchy, the staff may have a degree of input in the decision making process, but the final authority for action rests with the executive, whether that executive is a leader in the public or the private sector. Networked leadership is organized in a more horizontal fashion than hierarchical; the nodes in the network each have input and benefit from the relationship. These leadership networks may be formal or informal in nature, but share the trait that all of the nodes of the network create products or perform services that are mutually

beneficial to the individual nodes and to the network as a whole. The purpose of this paper is to examine examples of successful leadership networks, demonstrating their efficiency and cost effectiveness. These examples are drawn from existing relationships between the New Jersey National Guard, and more specifically, the Office of the Staff Judge Advocate, and various Federal, State, and local entities. The National Guard Legal Offices and these outside entities often work together in order to ensure Servicemembers' rights are not violated. These relationships are special in that, rather than being led by a single officer or executive, leadership is shared by the individual representatives of the agencies (nodes) that make up the network.

Foundational Texts

Although the Servicemember's and Veteran's Initiative is a relatively new project, the idea behind it is not; there is a great deal of information available regarding successful interagency networking and collaboration in the public sector. In her book *The Well-Connected Community*, Alison Gilchrist argues that networks are essential to the implementation of programs like the SVI; the author specifically refers to programs pertaining to social justice. Gilchrist points out that there is a trend toward involvement of greater numbers of agencies in these networks; "More participative forms of 'governance' are being created that rely on multi-agency partnerships" (p. 20). Like other authors discussed below, Gilchrist points out that trust and accountability are important in and between nodes of the network.

many of the arrangements which support co-operation within the community and voluntary sector become disadvantageous when these positive links and affiliations prevent organizations from dealing with

difficult situations, such as fraud, incompetence or discrimination.

(Glichrist, 2009).

Accountability can be an issue in any network, regardless of its goals; “accountability issues arise whenever people are engaged in joint endeavours (*sic.*) and permitted to act with discretion within a broad framework of agreed aims” (p. 59). As the works discussed below will further demonstrate, lack of accountability can lead to *an appearance* of impropriety, which in and of itself can be damning to the efforts of the network.

Gilchrist’s arguments are in keeping with those of her contemporaries; for example, the book *Governing by Network: The New Shape of the Public Sector* by Stephen Goldsmith and William D. Eggers argues that the public is better served by a small government accomplishing its objectives through interagency collaboration than by a government of large, hierarchical agencies. The networked approach to leadership allows the nodes to work together to accomplish the mission; with regard to Servicemember and Veterans programs, the network can advise and assist without superimposing unwelcome or unfamiliar issues of governance; “Networks allow innovative government officials to discharge government’s important role in solving social problems by supporting – not supplanting – functioning elements of civil society” (Goldsmith & Eggers, p. 37). Like Gilchrist, the authors specifically argue that the public sector leaders of the future must be prepared to adopt a networked approach to leadership, as opposed to the traditional hierarchical models. Through analysis of a number of Federal and State agencies, the authors expose and explicate flaws inherent in various leadership styles, proposing that the public is often better served by

coordinated efforts than by hiring public employees for one specific task. They emphasize the importance of trust and relationship building between members of a public sector network.

These themes are reiterated in the pages of the book *Network Theory in the Public Sector: Building New Theoretical Frameworks*, wherein the authors differentiate between the types of networks at work in the private and public sectors and then analyze the successful implementation of coordinated interagency public sector leadership. The authors accentuate the importance of creating networks based on mutual goals, rather than on the close proximity of nodes within the network (p. 4). The importance of trust-building, accountability, and mutual accomplishment of goals is underscored throughout the book.

As stated above, the Servicemembers and Veterans Initiative is a relatively new program, having been put into place in order to protect

...a servicemember's civilian employment rights by enforcing the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), voting rights by enforcing the Uniformed and Overseas Citizens Absentee Voting Act of 1986 ("UOCAVA") and financial security through the Servicemember's Civil Relief Act. (Servicemembers and Veterans Initiative, n.d.)

USERRA, 38 U.S.C. §§ 4301–4334 (2000), is the law which protects a servicemember's right to employment benefits. USERRA also provides for accrual of seniority and time-in-grade for employment purposes. The SCRA, 50 U.S.C. §§3901 – 4043, is the law which provides for, among other things, the servicemember's ability to break a lease

agreement on a residence or on an automobile and terminate cellular phone contracts. The SCRA also allows a servicemember to reduce the interest rates on their credit cards, mortgage payments, car payments, or student loans, provided the service member entered into the agreement with the creditor prior to being called to active duty. If a servicemember is denied rights under the SCRA, they may receive legal assistance from a Judge Advocate; the Servicemembers and Veterans Initiative is an additional program available to military personnel in the event that no relief can be obtained by a military legal assistance attorney.

The Initiative identifies current legal issues affecting servicemembers and veterans and coordinates with Judge Advocate General Corps, Offices of the United States Attorneys, other federal agencies and bureaus, and legal assistance providers to resolve those issues. (About the Initiative, n.d.)

In addition to the Initiative available through the Department of Justice, there are also programs available at the state level. One such program is the New Jersey State Bar Association's Military Legal Assistance Program.

The NJSBA, through its Military Law and Veterans' Affairs Section, in conjunction with McCarter & English, L.L.P. has established the Military Legal Assistance Program. This pro bono program provides assistance to New Jersey residents who have served overseas as active duty members of reserve components of the armed forces after September 11, 2001. (Military Legal Assistance Program, n.d.)

Interagency Collaboration

In order to fully realize the benefits of collaboration, one must take two factors under consideration: value and communication. When questioning the “why” government agencies should resort to collaboration, we need to look at the value this action presents, both to management (in this case senior military leaders) and the stakeholders who stand to benefit from the collaboration (assigned Soldiers). In other words, how will Soldiers benefit from a collaboration between the US Army Judge Advocate General’s Corps, the US Attorney General’s office, and even local state and county bar associations? In government, time is a priceless commodity. Government employees across all agencies are often faced with tight deadlines to complete various tasks; in order for them to dedicate any amount of time to something that is not part of the everyday mission, the value added must be immediately apparent; is the opportunity cost of dedicating time to collaborating with another organization in lieu of focusing on essential tasks worth it? This question has been posed not only by the military community, but by various scholars as well. On the subject of collaboration, John Donahue of the John F. Kennedy School of Government discusses three primary reasons for collaboration in government agencies, with the third being pertinent to the challenges discussed herein; “the third, subtlest, and perhaps most important reason is that a growing fraction of collective tasks in a complex, interconnected and information-dense world -knit together and energized by powerful market forces- simply cannot be accomplished (well, or at all) by government acting alone” (Donahue, 2004, p. 3).

The key concept that the reader must understand in order to fully embrace the value of collaboration is the fact that the world is information dense. Today, Soldiers

are absorbing information at a rapid rate through use of smartphones and the internet and the completion of mission related tasks; tasks that were completed through use of minimum amounts of technology in the past are now fully internet driven. This condition applies to all aspects of life today. As a result, it is recognized that the Army needs to become more effective at pushing information to Soldiers that can be beneficial to them. Collaborating with other organizations can assist leaders in this process (and therefore provide value) simply due to the fact that it provides additional methods for our Soldiers to receive more information about the Service member's and Veteran's Initiative.

This brings us to the second factor involved in effective collaboration: communication. Without communicating to Soldiers that the SVI even exists, collaboration would prove to be pointless. This not only entails effective communication across agencies but also communication within the organization itself. As discussed earlier, hierarchal organizations such as the New Jersey Army National Guard are established through policy and often feature a streamlined, top-down method of communication in order to relay information to the lowest levels. While this is an effective way to communicate the benefits of the SVI - for example adding a brief about the procedures and benefits of the SVI during unit assemblies and SRPs - it cannot be the only method of communication utilized. It is in this venture that an organization should embrace the informal methods of communication, as they enable Soldiers to "think outside the box" and embrace information on their own terms. An effective manner to communicate the existence of the SVI to Soldiers through an informal network can be through the use of Social Media. Adding posts pertaining to the benefits of the SVI to the various Facebook Pages that the National Guard maintains can help

communicate these initiatives to troops in a method that does not seem as forceful as being forced to sit through a briefing. In this regard, a Soldier may see one of these posts and seek out more information from their local JAG office. Meanwhile, the Office of the Staff Judge Advocate has already collaborated with the US Attorney General's office in order to release the most up to date information to its Soldiers, but this process would not have been possible without embracing effective communication through formal and informal channels.

Formal Networks

Networks may be established by order or through policy, especially between agencies of the federal government. An executive or figure of authority may dictate that employees establish relationships between themselves and with entities working towards similar mutual goals; upon the establishment of the network relationship, these goals are streamlined and clarified. As an example, the Attorney General is the highest-ranking law enforcement officer in the United States; he may order employees of the Department of Justice to assist employees of other Departments in situations where their civil rights have been violated.

One such situation is the US Department of Justice Servicemembers and Veterans Initiative, where the attorneys from the Department of Justice intervene in cases where Federal law has been violated and there has been harm to the rights of a service member. The Department of Justice approaches rights specific to servicemembers as civil rights, and pursues violations of these rights with the same zeal as any other civil rights violation.

When a servicemember has an issue regarding USERRA, the network expands further. In the event the servicemember is referred to the SVI by the legal assistance attorney, the Department of Justice requires the servicemember to first try to find relief through the Department of Labor; “Servicemembers who believe that they may have been victims of employment discrimination based on their military service may file a complaint with the Department of Labor” (Protecting the Rights of Servicemembers, p. 5). If, after DOL has investigated the issue, it is still unresolved, the Department of Justice will pursue it; “If DOL cannot resolve the complaint, upon the complainants request, DOL will forward the complaint to the Department of Justice’s Civil Rights Division” (p. 5).

The Department of Labor website redirects the veteran to a number of available services through the Veterans’ Employment and Training Service (VETS); the mission of VETS is to “prepare America’s veterans, service members and their spouses, for meaningful careers, provide them with employment resources and expertise, (and) protect their employment rights”. Regarding USERRA, the VETS website provides veteran applicants with resources to include webinars, guides and briefings, and fact sheets, as well as a link to follow in order to file a claim. The link leads the applicant to an advisory website to help determine whether or not USERRA is actually being violated, and if so, to the completion of the DoL form to file a formal or an informal complaint and initiate an investigation.

The relationships above may seem, at first glance, to be organized and linear, but the reader must consider the fact that these services are available to service

members from each of the respective departments of the armed forces, and also to members of their reserve components.

Informal Networks

Informal networks can be created between entities with varying degrees of authority or sector orientation, working towards similar goals. For example, an agency of the federal government may coordinate with a nonprofit organization in order to provide resources to employees. The nonprofit entity and the federal government agency may work together in planning cells to develop and implement policy.

Further, an agency of the federal government may liaise with a state organization or a private entity in order to provide assistance to Federal employees that is not available due to the statutory authority of their positions. The Judge Advocate General's Corps maintains such a relationship with the American Bar Association; Servicemembers meeting certain criteria who have legal needs outside the scope of practice of military legal assistance attorneys may be referred to the ABA for information and advice.

An example of this situation may be found in the relationship between the Office of the Staff Judge Advocate, New Jersey Army National Guard, and the New Jersey State Bar Association. The attorneys of the Office of the Staff Judge Advocate, members of the United States Army Judge Advocate General's Corps, may not, under normal circumstances, represent Servicemembers in civil matters. However, there are resources available to assist Servicemembers in such situations; often, state bar associations have military legal assistance programs available that may do anything from providing a service member with information to referring them to an attorney who

represents them, pro bono, prior to the final resolution of their case. An example of this collaboration type of initiative is the New Jersey State Bar Association's Military Legal Assistance Program, which serves as a pro bono program to provide legal assistance to all reserve component members in the state of New Jersey who have served overseas provided they meet three criteria: they must reside in New Jersey, they must be members of the New Jersey Army National Guard or the United States Army Reserve, and they must have deployed in support of Operation Iraqi Freedom, New Dawn, Enduring Freedom, or Inherent Resolve since September 11th, 2001. In an era in which we are seeing record numbers of Iraq and Afghanistan war veterans assimilating back into society, the Military Legal Assistance Program works to prevent the disenfranchisement that many veterans faced during the Vietnam and Gulf War eras. Veterans are granted eligibility to the Military Legal Assistance Program by virtue of being a New Jersey Resident and through serving as a member of the reserve components of the armed forces while being placed on active duty and deployed to Iraq or Afghanistan. As a final caveat of eligibility, the legal issue has to relate to the service member's previous deployment; the MLAP does not apply to any legal issues that have arisen with no relation to military service. In an effort to provide assistance, the New Jersey State Bar Association allows attorneys to volunteer to help veterans through use of an 800 number in which veterans are matched up with attorneys who are in good standing and have already pledged to not accept any form of financial gain through providing their services to veterans.

At the state government echelon, efforts similar to the SVI may emerge from the Judiciary. In New Jersey, the Veteran's Assistance Project (VAP) is a referral service

available to veterans who find themselves “in contact” with the court system (New Jersey Judiciary Veterans Assistance Project, 2016, p. 2). The New Jersey Courts partner with the New Jersey Department of Military and Veterans Affairs and the New Jersey Division of Mental Health Services; veterans may voluntarily self-identify as such and be referred to a Veterans Service Office (2016, p. 3). The stated objective of the program is to obtain “services for the men, women, and families who have made sacrifices in the defense of the United States” (2016, p. 1); since the program began in 2008, DMAVA leadership believes that just under 3500 veterans have participated. The VAP is “not a diversionary program” (2016, p. 2), rather, after identification, veterans may receive “a thorough assessment, identification of specific military entitlements, referrals for individual and family counseling, medical and legal assistance” (2016, p. 3). Some states have created diversionary “veteran’s courts”; at the state level, these programs are in keeping with the spirit of the SVI. In a recent submission to *The Army Lawyer*, former Deputy Judge Advocate General Major General (Retired) Clyde “Butch” Tate and Captain Patrick J. Robinson wrote extensively on the topic of “Veterans Treatment Courts”, which help veterans navigate towards available services after they become involved with the criminal justice system. VTCs are in keeping with the larger goals of the SVI; they “embody the vision of the Service Members and Veterans Initiative (*sic*) which seeks to serve justice-involved veterans with a more direct application of available DoJ resources” (2016, p. 30).

Potential Challenges

Regardless of the formality of the relationship between the nodes of the network, and of the degree of cooperation between the partner agencies, there is the potential for

problems. First, as the agencies have varying degrees of authority within the Federal, State, and local governments and communities, there is the potential that the larger Federal agencies may drown out the voices of the smaller nodes. Conversely, there is also a potential issue of accountability; as leadership and influence is ideally spread equally between nodes, when an issue is not successfully resolved, it may be difficult to assign responsibility for failure to a single party. Finally, whether formal or informal, the relationships between the entities must not create the appearance of impropriety and must be in accordance with the guidance outlined in the Joint Ethics Regulation.

As the organizations in the examples possess varying degrees of authority within the Federal, State, and local governments and communities, there is the potential that the larger Federal entities may drown out the voices of the smaller nodes. This situation is less than ideal, in that the smaller organizations, like the New Jersey State Bar Association, may possess a greater degree of insight into local statutes than that possessed by personnel from the Department of Justice or the Office of the Staff Judge Advocate. The larger organizations have significantly greater resources available to them; for them to exercise too great a degree of influence, or not recognize the contributions of the smaller agencies, may turn these agencies away from further assistance.

As each node on the network should ideally be contributing to the effort equally, instances of error or failure should be minimal. Yet when errors are made or efforts result in failure, it can be difficult to assign blame or to hold accountable any one entity. If one of the smaller agencies is not properly tracking its referrals, and a servicemember does not find appropriate relief to their issue, which node on the network is ultimately

responsible for this failure? Mechanisms should be emplaced in order to track services rendered and transfer of service, and there must be a mutual understanding between the nodes of the importance of the work they are to accomplish.

Finally, the appearance of impropriety must be avoided. While it is proper that the Department of Justice should attempt to represent members of the military in SCRA and USERRA cases – which are perceived to be issues involving the civil rights of Servicemembers – collaboration between private attorneys and servicemembers must be given attention. There is potential for the attorney-client relationship between advocate and Servicemember to be misrepresented by defendants as in the best interests of the attorney, not of the nation or of the Soldier, which can create a negative perception of the armed services.

Conclusion

When dealing with complex issues, it can be more efficient to have decisions made and solutions implemented by a network of subject matter experts, rather than a single executive. The hierarchical leadership model is an example of the latter; the leader, manager, or supervisor may take advice from his or her staff or subordinate leaders, but ultimate responsibility lies with one individual. A network of leaders offers an alternative, where, rather than flowing straight down from the top, ideas and input flow horizontally, vertically, and diagonally between nodes. Ultimately, each node will have input and each node will receive a benefit from the working relationship. This paper has sought to illustrate a number of successful examples of leadership networks related to the military legal community; these networks continue to operate in order to

increase the efficiency of legal operations and, in turn, to preserve the legal rights of the service member.

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ⁱ This quote is attributable to either LTG Flora Darpino, The Judge Advocate General, United States Army, or to Professor Jack Sussilleaux, Joint Maritime Operations instructor at the Naval War College