

# Defending the defenders

Lawyers take pride in representing members of the armed services

By **KRISTI TOUSIGNANT**

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When Steven H. Levin drove to Marine Corps Base Quantico to see a client who had been court-martialed, he asked a guard at the gate how to get to the brig.

The answer: "Sir. Commit a major offense, sir."

Generally, though, such cases are no laughing matter, local military law attorneys said. Throughout the 20 years that Levin has represented service members, most of his clients have been accused of rape, larceny, assault or drug-use.

"Times really don't change; that is mostly what it is," said Levin, formerly an attorney in the United States Army and now a partner in **Levin & Curlett LLC** in Baltimore. "The Army may change, but people don't generally change."

Even so, there is a certain level of honor in representing a member of the armed services, said Joseph Owens, of **Owens Law** in Baltimore.

He travels the country representing military clients as part of his broader criminal law practice. He, too, represents a lot of service members accused of assault and sexual assault. On the civil side, he deals with removing improper information from a service member's military record.

"Even soldiers who have been accused of major crimes — there is something valuable about representing soldiers," said Owens, a former Judge Advocate General for the U.S. Army.

## Military to civilian lawyer

Like Levin and Owens, many civilian attorneys practicing military law formerly served as lawyers in the armed forces. However, it's not a requirement.

Military divorce makes up about 15 percent of the family law practice among the four attorneys at the **Law Offices of Paula J. Peters P.A.** in Annapolis. They have represented clients from **Fort George G. Meade**, **Andrews Air Force Base** and the **U.S. Naval Academy** among others, Paula J. Peters said.

Since these cases take place in the circuit court system, they are procedurally the same as other divorce cases, Peters said.

In a military proceeding, though, Steven F. Wrobel thinks it helps to be a former Judge Advocate General — and not only because JAGs have extensive experience with the process and know how to act in front of a military panel.

"I think it puts the jury at ease....," said Wrobel, who is now with **Rosenberg Martin Greenberg LLP** in Baltimore. "If you are wearing a civilian suit and tie, I think it also helps to be able to have a jury identify with you as a former military member."

Wrobel was an officer in the JAG Corps for the United States Air Force from 1990 to 1997. He served overseas as an attorney in Europe, traveling to Air Force bases in England, Germany, Spain, Portugal, Iceland and other countries. While there, he tried 50 jury trials, he said.

"The reason I'm a trial attorney



MAXIMILIAN FRANZ

**Steven F. Wrobel tried more than 50 cases to a jury as an officer in the U.S. Air Force JAG Corps in the 1990s. 'The reason I'm a trial attorney today is because of the great trial experience I had as a JAG,' he says. 'It was a lot of fun.'**

today is because of the great trial experience I had as a JAG," Wrobel said. "It was a lot of fun."

As a civilian attorney, he practices mainly in white collar crime. Military law cases make up about 20 percent of his practice, he said. He has had clients from **Aberdeen Proving Ground**, **Andrews Air Force Base** and the **Naval Academy**.

Levin, who spent seven years on active duty as a lawyer for the United States Army, spent the first year as a prosecutor in South Korea, in a town north of Seoul called Uijeongbu.

He then spent three years as a defense attorney, primarily in Wiesbaden, Germany. One of his biggest cases was defending a soldier accused of kidnapping, raping and murdering the 3-year-old daughter of another service member. He spent his last three years of service in Washington, D.C., handling criminal appeals.

Afterward, he became a federal prosecutor, first in North Carolina, then in Maryland, before starting his own firm in 2008.

Most of his practice today is white collar litigation and criminal defense. He was named a military judge three years ago and, while serving as a judge, cannot practice as an attorney in military court.

Levin has three years left in his term as judge and said he still represents service members in administrative matters that don't result in judicial proceedings.

## Procedural differences

While procedure in military court is similar to practicing in state or federal court, there are some differences, the lawyers said.

People in the military are governed mainly by the Uniform Code of Military Justice, but are also subject to federal laws, and in some cases state laws. Lawyers are called advocates and defendants who have been court-martialed are called the accused.

Military members are appointed military counsel, but can choose to hire

civilian lawyers. That is where attorneys like Levin, Wrobel and Owens come in.

"It's normally a situation where an individual being charged may not feel comfortable with their assigned defense attorney," Wrobel said. "It's not to say they are not competent, but they probably don't have a lot of experience because they are young JAGs just like I was 20 years ago."

Levin said it is sometimes easier for a defendant, or the accused, to receive a fair trial in military court.

"I've heard it said that a person who is not guilty of a charged offense is better off having his day in court in the military rather than in civilian court," Levin said. "I think to some extent, that's true."

One of the reasons for that, Levin said, is that either a judge or a military panel presides over military court proceedings. The panel is made up of experienced, knowledgeable service members considered the "cream of the crop," Levin said.

"Panel members take their obligations very seriously and will hold to the burden of proof," Levin said.

Panel members are usually more open-minded and will not violate judges' instructions not to read about the case on social media or the Internet, he said. Panel members can also ask witnesses questions.

"Advocates will know what panel members are thinking, which helps in the presentation of evidence as you move forward," Levin said.

Most of the differences between civilian and military cases take place before the trial begins, attorneys said.

"Once you're at trial, except for the uniforms and everyone is saying 'Sir' or 'Ma'am' the trials themselves look very much the same," Levin said.

Military lawyers have to meet with many different people in the military, like the service member's commander, beforehand, Wrobel said.

"There's a certain chain of command depending on where that person is based and who they work for," Wrobel said. "There's a lot more ... internal considerations within the military you have

to take into account and people you have to talk to."

Instead of a grand jury, there is an Article 32 hearing, conducted in public. The accused has the right to be present and can cross-examine witnesses, present evidence and make arguments in front of a neutral officer.

Sentencing can be different, too. If a military panel hears a case, the panel decides the sentence and there are no mandatory minimums, except for murder charges.

Differences can also be felt on the civil side, said Peters, the family law attorney.

"I really think the logistics is probably the most difficult," Peters said. "They are almost always going to get deployed at some point, so that is always an issue."

It can be harder to develop a rapport with clients when they can't meet regularly face-to-face, and procedural rules apply when a service member is overseas and in-person testimony is required in court, she said.

In those cases, the service member has to get special permission from the court to testify over the phone. A military member then has to be in court to identify the person testifying over the phone.

Child custody issues can also be challenging when a service member is deployed overseas. Even if the court rules that the service member will get partial custody, when the service member returns from duty, it's not binding, Peters said. And if the parties go back to court, it's hard to fight a spouse who has been the primary caregiver for years, she said.

"These people are serving their country," Peters said. "They end up having meaningful custody arrangements taken away from them. It's really a catch-22 and to say it's unfair is really an understatement."

## The clients

Military clients themselves can be different, several lawyers said.

Levin said many of his military clients were first-time offenders and needed to have the process explained to them.

"They're simply not, generally speaking, familiar with the system at all because they've never had reason to be exposed to it," Levin said.

Owens said his clients are also often not repeat offenders and are largely between the ages of 18 and 27.

"They are trying to give back," Owens said. "A lot of times these people are easier to deal with."

About 95 percent of the time, Wrobel said, his clients are good people who made a mistake. Most of his clients have had a lot of respect for authority and the legal process while he has dealt with them, he said.

"By and large, they are responsible individuals," Wrobel said. "Sometimes that is not always the case in the civilian world, so maybe that's the biggest difference."