

Legal Services

# The Army Legal Assistance Program

Rapid Action Revision (RAR) Issue Date: 13 September 2011

Headquarters  
Department of the Army  
Washington, DC  
21 February 1996

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 27-3

The Army Legal Assistance Program

This rapid action revision, dated 13 September 2011--

- o Implements the Don't Ask, Don't Tell Repeal Act of 2010 by deleting all references to separation for homosexual conduct (para 3-6g(5)(c)).
- o Makes administrative changes (app A: superseded publications marked; obsolete publications and forms marked; corrects forms and publication titles; glossary: deletes unused acronyms and corrected abbreviations as prescribed by Army Records Management and Declassification Agency).

Effective 21 March 1996

## Legal Services

### The Army Legal Assistance Program

---

By Order of the Secretary of the Army: applies to all attorneys serving in, employed by, or affiliated with the Department of Army (DA). This regulation applies during partial and full mobilization.

RAYMOND T. ODIERNO  
General, United States Army  
Chief of Staff

Official:

  
JOYCE E. MORROW  
Administrative Assistant to the  
Secretary of the Army

---

**History.** This publication is a rapid action revision (RAR). This RAR is effective 20 September 2011. The portions affected by this RAR are listed in the summary of change.

**Summary.** This regulation covers policies and procedures for the Army Legal Assistance Program.

**Applicability.** This regulation applies to the active Army, the Army National Guard/Army National of the United States, and the U.S. Army Reserve. It also

applies to all attorneys serving in, employed by, or affiliated with the Department of Army (DA). This regulation applies during partial and full mobilization.

**Proponent and exception authority.** The proponent of this regulation is The Judge Advocate General. The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulation. The proponent may delegate this authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25-30 for specific guidance.

**Army management control process.** This regulation contains internal control

provisions and identifies internal controls that must be evaluated.

**Supplementation.** Supplementation of this regulation and establishment of command and local forms are prohibited without approval from the Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

**Suggested improvements.** The proponent agency of this regulation is the Office of the Judge Advocate General. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to the Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

**Distribution.** This regulation is available in electronic media only and is intended for command levels B, C, D, and E for the active Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

---

#### Contents (Listed by paragraph and page number)

##### Chapter 1

##### Introduction, page 1

Purpose • 1-1, page 1

References • 1-2, page 1

Explanation of abbreviations and terms • 1-3, page 1

Responsibilities • 1-4, page 1

Exceptions • 1-5, page 3

##### Chapter 2

##### Legal Assistance Providers and Clients, page 3

General • 2-1, page 3

Authorization to provide legal assistance • 2-2, page 4

Duty to provide legal assistance • 2-3, page 5

Training • 2-4, page 5

---

\*This edition publishes a rapid action revision of AR 27-3.

## **Contents—Continued**

Persons eligible to receive legal assistance • 2-5, *page 5*  
Limiting legal assistance to otherwise eligible persons • 2-6, *page 7*

### **Chapter 3**

#### **Legal Assistance Services, *page 7***

##### *Section I*

*General, page 7*

Background • 3-1, *page 7*

Types of legal assistance services • 3-2, *page 8*

##### *Section II*

*Preventive Law Services, page 8*

General • 3-3, *page 8*

Preventive law measures • 3-4, *page 8*

##### *Section III*

*Client Services, page 8*

Scope • 3-5, *page 8*

Types of cases • 3-6, *page 9*

Types of services • 3-7, *page 13*

Limitations on services • 3-8, *page 16*

### **Chapter 4**

#### **Professional Matters, *page 17***

##### *Section I*

*General, page 17*

Professionalism • 4-1, *page 17*

Liaison with civilian bar • 4-2, *page 17*

Liability • 4-3, *page 18*

##### *Section II*

*Professional Resources, page 19*

Legal Automation Army-Wide System (LAAWS) • 4-4, *page 19*

JAGC Reserve Officer Legal Assistance Directory • 4-5, *page 19*

##### *Section III*

*Professional Conduct, page 19*

General • 4-6, *page 19*

Ethical standards • 4-7, *page 19*

Attorney-client privilege • 4-8, *page 20*

Conflicts of interest • 4-9, *page 20*

Investigations and advisory opinions • 4-10, *page 21*

### **Chapter 5**

#### **Administration, *page 21***

General • 5-1, *page 21*

DA Form 2465 • 5-2, *page 21*

DA Form 4944-R (RCS JAC-81) • 5-3, *page 21*

Other reports • 5-4, *page 22*

Control of privileged materials • 5-5, *page 22*

## **Appendixes**

**A.** References, *page 23*

## **Contents—Continued**

- B.** Instructions for completing DA Form 2465 (Client Legal Assistance Record) and DA Form 4944-R (Report on Legal Assistance Services), *page 26*
- C.** Instructions for completing part 2, SGLV 8286 (Servicemen's Group Life Insurance Election and Certificate), *page 34*

## **Glossary**

## **Index**



## Chapter 1 Introduction

### 1–1. Purpose

This regulation prescribes policies, responsibilities, and procedures for the Army Legal Assistance Program. One statutory authorization for legal assistance to Active Army and retired service members and their family members is section 1044, title 10, United States Code (10 USC 1044). Another statutory authorization for legal assistance to these and all other eligible clients (for example, Reserve component (RC) soldiers and Department of Defense (DOD) civilian employees in certain situations) is 10 USC 3013g. (See para 2–5a.)

a. This regulation is designed to improve legal assistance procedures and services within the Department of the Army (DA). It preempts all other regulations within DA on the delivery of legal assistance services as defined in this regulation. (See chap 3.) It should not be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, its agencies, its officers, or any other person.

b. This regulation shall not be construed to create any right to judicial review involving the compliance or noncompliance with this regulation by the United States, its agencies, its officers, or any other person.

### 1–2. References

Required and related publications and prescribed and referenced forms are listed in appendix A.

### 1–3. Explanation of abbreviations and terms

Abbreviations and terms used in this regulation are explained in the glossary.

### 1–4. Responsibilities

a. The Judge Advocate General (TJAG) is responsible for the overall supervision and administration of the legal assistance program.

b. The Chief, Legal Assistance Division, Office of The Judge Advocate General (OTJAG), is TJAG's delegate for purposes of this regulation. This officer will—

- (1) Promulgate policies and procedures for the legal assistance program.
- (2) Serve as the sole authority for authorizing RC judge advocates to earn retirement points for legal assistance work while not in a military duty status. (See para 2–2b.)
- (3) Authorize exceptions on a case-by-case basis to the provisions of paragraphs 2–2, 2–5, 3–6, 3–7, and 3–8 of this regulation if not inconsistent with the requirements set by statute, prescribed by executive order, mandated by applicable case law, or required by higher authority.
- (4) Advise TJAG on legal assistance problems and needs, including those that arise during war or national emergencies, or during or following any local disaster that causes an increased need for legal services from eligible clients under this regulation. (In such situations the use of RC judge advocates to assist DA or installation legal assistance efforts will be considered.)
- (5) Foster a joint-service approach, in conjunction with the chiefs of legal assistance for the other Armed Forces of the United States, in delivering legal assistance services (excluding help on military administrative matters) to all eligible clients.

c. The Chief, U.S. Army Trial Defense Service (USATDS), will, subject to other USATDS mission requirements, make USATDS attorneys available to provide legal assistance on the installations at which they are assigned in accordance with AR 27–10, paragraph 6–8. (Legal assistance cases are listed by category in paragraph 3–6 of this regulation.) USATDS attorneys who provide legal assistance will do so in accordance with this regulation and locally established legal assistance policies and procedures. The use of USATDS attorneys in providing legal assistance will not be inconsistent with or detrimental to the USATDS mission. Senior defense counsel and staff judge advocates (SJAs) will consider the work load and staffing of their respective offices, this regulation (especially paras 3–6g, 3–7h, and 4–9), and USATDS guidelines in negotiating agreements on the extent to which USATDS counsel will share responsibility in providing client services on each installation.

d. The Commandant, The Judge Advocate General's School, Army (TJAGSA), will ensure that courses and instruction, together with course materials and outlines, are provided in areas of the law, policy, doctrine, and professional responsibility that are relevant to legal assistance. Course materials will include recommended questionnaires and check lists to be used during client interviews and sample letter formats for use in drafting correspondence on behalf of clients. Instruction should include the mechanics and computer applications involved in delivering legal assistance and in maintaining files and documenting the work done in each case. Additionally, similar instruction should be provided during Judge Advocate Triennial Training (JATT) or Judge Advocate Officers Advance Correspondence (JAOAC) courses and during on-site training provided for RC judge advocates, as appropriate. The Commandant is also responsible for providing new and updated legal assistance materials for periodic revision of the Legal Automation Army-Wide System–Legal Assistance (LAAWS–LA) software program.

e. The Chief, Information Management Office, OTJAG, will—

(1) Provide periodic updates and other changes and improvements to the LAAWS-LA software program.

(1.1) Assist the Chief, Legal Assistance Division, OTJAG in the production and procurement of legal assistance software programs to assemble legal assistance documents and reports, and in procuring software programs containing legal reference materials for incorporation in LAAWS-LA (para 1-4d). (Emphasis will be placed on obtaining software for use throughout the Active and Reserve components of the Armed Forces.)

(2) Duplicate and distribute the LAAWS-LA software program to all attorneys who are identified on the LAAWS-LA list maintained by the Chief, Legal Assistance Division, OTJAG.

*f.* Active Army and RC commanders are responsible for providing legal services within their commands to include those legal services provided under the legal assistance program. Commanders, in making decisions on the allocation of resources and the staffing of positions within their commands, determine the extent to which legal assistance services will be provided on their installations or within their commands.

(1) All commanders having one or more attorneys (as described in para 2-2a) assigned to their staffs will provide the following legal assistance services:

(a) Legal assistance services required by service members in conjunction with mobilization or deployment.

(b) Legal referral services for eligible legal assistance clients seeking legal help on personal legal problems or needs. (See paras 3-7h and i.)

(1) Commanders having one or more attorneys (as described in para 2-2a) assigned to their staffs or under their commands who are providing legal assistance on either a full or a part-time basis as part of their duty or job descriptions will provide —

(a) Adequate funding for the continuing legal education (CLE) of all attorneys performing legal assistance duties and for the training of clerical support staff.

(b) A building or office location within the command or on the installation that can be readily found (for example, adequate road signs, building markings) by those seeking legal assistance; that is easily accessible by those in the company of young children and by those who are elderly or physically limited; and that is structured or modified (for example, with sound-deadening materials such as rugs and drapes) to protect the confidentiality of attorney-client communications.

(c) Command support and adequate space, facilities, resources, and staffing—

1. For the delivery of professional legal services (for example, adequate furniture) ready means of access to U.S. and relevant State statutes and Army and command regulations and directives, modern computer and communication equipment as prescribed by AR 27-1 and the Legal Automation Army-Wide System (LAAWS).

2. For the free preparation and, where feasible, the electronic filing of Federal and State income tax returns for all eligible clients.

3. For procuring and utilizing available computer hardware and software programs, such as LAAWS, to prepare wills, advance medical directives (AMDs), powers of attorney, separation agreements, and other legal documents; and to compile and submit reports and to maintain records and files required by this regulation.

(2) Before making a decision, commanders will consult with their SJAs on the need, if any, to establish, continue, or discontinue commercial tax services (or any other legal assistance-type services) on their installations.

(3) Commanders responsible for legal assistance services will sponsor preventive law initiatives and establish preventive law services that meet the needs of their commands. (See paras 3-3 and 3-4.)

*g.* SJAs, or other supervising attorneys, as appropriate, are responsible for legal assistance services in the commands or on installations to which they are assigned.

(1) All SJAs will provide the following legal assistance services in the commands or on the installations to which they are assigned:

(a) Those required by service members in conjunction with mobilization or deployment.

(b) Legal referral services for eligible legal assistance clients seeking legal help on personal legal problems or needs not related to mobilization or deployment. (See paras 3-7h and i.)

(2) SJAs with one or more attorneys (as described in para 2-2a) providing legal assistance on either a full- or a part-time basis as part of a duty or job description, will—

(a) Establish local legal assistance policies and procedures consistent with this regulation.

(b) Establish, where appropriate, any limitations consistent with this regulation on who in their commands or on their installations may provide legal assistance; and the nature of legal assistance that may be provided.

(c) Authorize temporary variations (that is, less than 30 days duration in any one calendar year) from policies and procedures in this regulation when necessary to ensure effective legal assistance services if not inconsistent with requirements set by statute, prescribed by executive order, or required by higher authority. Notice of temporary variations that have been authorized by supervising attorneys will be sent by memorandum to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200. Requests to continue variations on a permanent basis (or for 30 days or more in any one calendar year) will be processed in accordance with paragraph 1-5.

(d) Supervise legal assistance, including review of all office administrative procedures and periodic review of incoming and outgoing correspondence (See para 4–8).

(e) Coordinate local legal assistance policies, to include the representation of clients in civilian courts and assisting clients to proceed *pro se* in civilian courts, with courts and organizations (for example, bar associations, State bar disciplinary bodies) having a legitimate interest in such policies. Local sensitivities and concerns will be considered in establishing legal assistance policies. Updated records will be maintained on the coordination that has occurred, and past complaints and their resolution, if any, concerning locally established legal assistance policies and practices.

(f) Invite commanders within the commands they serve to view the facilities from which legal assistance is provided.

(g) Keep commanders advised of the nature and scope of Army legal assistance, including Army tax services (and the need, if any, to establish, continue, or discontinue commercial tax services on their installations).

(h) Seek command support and involvement on preventive law and other legal assistance initiatives.

(i) Encourage an energetic and innovative approach toward legal assistance, especially in the areas of client and preventive law services, and automation.

(j) Provide training on this regulation, local legal assistance policies, and AR 27–26 to all those who may be called upon to provide legal assistance.

(k) Utilize a total Army and joint-service approach in providing legal assistance during war or national emergencies, or during or following any disaster that causes an increased need for legal services from eligible clients under this regulation (for example, recommending that RC judge advocates be called to active duty to help provide legal assistance to the primary next of kin of soldiers (PNOK), providing legal assistance to mission-essential or emergency-essential DOD employees in support of military operations outside the United States).

(l) Utilize RC members, to the fullest extent possible, to provide legal assistance services to all eligible clients.

(m) Timely provide all eligible clients, regardless of military department, installation, or command affiliation, with the same legal assistance services routinely provided clients affiliated with their own installations or commands.

(n) Attempt to enter into cooperative arrangements, evidenced by memoranda of agreement, with other military installations or commands in their geographical area, wherever feasible; (1) To improve the availability, scope, and quality of legal assistance services to all eligible clients; and (2) To maximize the savings in personnel and other resources that can be achieved through joint cooperative efforts.

(o) Notify the Chief, Legal Assistance Division, OTJAG through the SJA of the major Army command (MACOM) of any instance when a non-Army installation or command with assigned judge advocates or law specialists denies legal assistance services to Army clients that are routinely provided to its own clients.

(p) In coordination with installation Directors of Information Management (DOIMs), clearly identify and budget for legal assistance automation needs in word processing, case management, system security, legal research, LAAWS, electronic tax return filing, telecommunications, networking, maintenance, and training.

(q) Maintain records and submit reports as required by chapter 5 of this regulation.

## **1–5. Exceptions**

Requests for exceptions will be submitted through the MACOM SJA to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200.

## **Chapter 2 Legal Assistance Providers and Clients**

### **2–1. General**

a. The mission of the legal assistance program is to assist those eligible for legal assistance with their personal legal affairs in a timely and professional manner by —

- (1) Meeting their needs for information on personal legal matters.
- (2) Resolving their personal legal problems whenever possible.

b. The legal assistance program is a commander's program. The mission of the legal assistance program is based on the following military needs:

(1) *Readiness.* Because Active Army and RC soldiers and emergency-essential DOD civilian employees must be prepared for immediate mobilization and deployment, their personal legal affairs must be in order at all times. Although the goal is to prepare soldiers and emergency-essential DOD civilian employees for such eventualities well in advance of their occurrence, future legal needs cannot always be anticipated or met even under the best of plans. Possessing the capability to deliver legal assistance on short notice to great numbers during a brief period of time is essential to readiness.

(2) *Morale.* Fostering the high morale of soldiers and their families is an important aspect of readiness. High morale

is enhanced by providing soldiers and their families information, advice, and assistance responsive to their personal legal needs and problems.

(3) *Discipline.* Personal legal difficulties may cause low morale and disciplinary problems and may adversely affect combat readiness. Prompt legal assistance in resolving these difficulties is an effective preventive law measure.

(4) *Quality force.* Providing legal assistance is part of the Army's ongoing effort to maintain a quality of life that will attract quality people. The Army must take care of its own if it is to recruit and retain a quality force.

c. An attorney who provides legal assistance in accordance with this regulation to an eligible client is performing an official function of the U.S. Army. During the course of performing legal assistance duties, attorneys may utilize U.S. Government facilities and resources, including the use of appropriated fund telephones, letterhead stationary, and postage.

## **2-2. Authorization to provide legal assistance**

a. Unless inconsistent with superior orders or other duties or responsibilities, the following are authorized to provide legal assistance:

- (1) Active Army judge advocates.
- (2) Army judge advocates serving on active duty regardless of component.
- (3) Army National Guard (ARNG) judge advocates assigned to judge advocate positions when providing legal assistance in accordance with this regulation in a military duty or non-duty status.
- (4) U.S. Army Reserve (USAR) judge advocates assigned to judge advocate positions in troop program units (TPUs) when providing legal assistance in accordance with this regulation in a military duty or non-duty status.
- (5) RC judge advocates not assigned to the ARNG or a USAR TPU who have been authorized to provide legal assistance by the Chief, Legal Assistance Division, OTJAG in a military duty or non-duty status. (See para 2-2b.)
- (6) DA civilian attorneys.
- (7) Licensed or otherwise professionally qualified attorneys under foreign law who are employed by the U.S. Army and who work under the direction of a supervising attorney while providing legal assistance on foreign law matters.

b. RC judge advocates may earn retirement points in accordance with AR 140-185 and NGR 680-2 for performing legal assistance work.

- (1) Retirement points may be obtained by RC judge advocates while not in a military duty status for:
  - (a) Providing legal assistance to an eligible client.
  - (b) Helping another attorney providing legal assistance to an eligible client.
  - (c) Performing legal research on a legal assistance subject or publication at the request of a TJAGSA legal assistance instructor (for example, updating a section of the Family Law Guide or Wills Guide published by TJAGSA, work on a revision to LAAW S-LA).
- (2) RC judge advocates who wish to request authority to work on legal assistance matters in accordance with this subparagraph (even if not for retirement points), will apply using a DA Form 7206-R (Application to Perform Legal Assistance Work for Retirement Points and to be Listed in the JAGC Reserve Officer Legal Assistance Directory). (A copy of this form is at the end of this regulation and will be locally reproduced on 8½- by 11-inch paper.) The completed form should be mailed to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200. No application will be approved unless the applicant agrees to be listed in the Judge Advocate General Corps (JAGC) Reserve Officer Legal Assistance Directory. (See para 4-5.)

(3) RC judge advocates authorized to work on Army legal assistance matters in accordance with this subparagraph may obtain retirement points by submitting a completed DA Form 1380 (Record of Individual Performance of Reserve Duty Training)—

(a) For legal assistance services (paras 2-2b(1)(a) and (b)): through their unit if assigned to the ARNG or a USAR TPU or through Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200 if not assigned to the ARNG or a USAR TPU.

(b) For legal research on legal assistance subjects and publications (para 2-2b(1)(c)): through Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200 regardless of assignment.

(4) The supervising attorney signing the DA Form 1380 will perform the initial certification of the legal assistance work or research performed and forward the completed form to the U.S. Army Reserve Personnel Center (ARPER-CEN) with a copy furnished to the officer concerned. A Reserve judge advocate who performs legal assistance work may combine periods of less than two hours in a single day with such periods in other days in order to accumulate the two hours required for the award of a single retirement point. The point will be credited under the two-hour rule of AR 140-185 to the last day the work was performed where the work is performed over the course of two or more days. A maximum of one point is authorized for anyone calendar day under the two-hour rule.

(a) Every officer will maintain case files and detailed records of time spent working on Army legal assistance matters for retirement points. Every officer will submit, as a separate enclosure to the DA Form 1380, a complete listing of legal assistance duties performed. With regard to client services (para 2-2b(1)(a)), this enclosure will include the full name of each client assisted, the basis for each client's eligibility to receive legal assistance, the type of case

(for example, divorce, consumer credit), the nature of the assistance provided (for example, drafted separation agreement, made two telephone calls), and the time spent on each case.

(b) The enclosure describing Army legal assistance work performed will not be forwarded to ARPERCEN, but will be retained in the records of the forwarding officer.

### **2-3. Duty to provide legal assistance**

a. Those authorized to provide legal assistance have a duty to assist eligible clients requiring legal assistance. Such assistance will normally involve entering into an attorney-client relationship and undertaking the legal assistance required, if doing so is not inconsistent with superior orders or other duties and responsibilities.

b. Those authorized to provide legal assistance may be called on to perform legal assistance duties at any time, including periods while neither they nor their clients are in a military duty status. This regulation recognizes that the military duty status of an attorney providing legal assistance may vary from case to case as well as during the course of assisting a particular client. For example, a USAR or ARNG judge advocate who assists a client during inactive duty for training (IDT), annual training (AT), or active duty for training (ADT) may be called on by that client to provide further assistance on the same problem when the judge advocate is not in a military duty status. Also, USAR and ARNG judge advocates who are listed in the JAGC Reserve Officer Legal Assistance Directory may be called upon at anytime to assist on an issue or case referred by another judge advocate.

### **2-4. Training**

a. Supervising attorneys will ensure that judge advocates and civilian attorneys under their supervision receive continuing legal education (CLE) in the areas of the law, policy, and professional responsibility that are relevant to legal assistance, as well as on the mechanics and computer applications involved in delivering legal assistance services. Training should include attendance at courses sponsored by Government agencies, bar associations, and schools, including TJAGSA. In addition, supervising attorneys should periodically conduct CLEs for all those who provide, or who may be called upon to provide, legal assistance on the installations to which they are assigned. These CLEs should cover the laws affecting legal assistance cases in the jurisdictions adjoining their installations, including the way these laws are applied and the legal practices and procedures that prevail.

b. All attorneys authorized to provide legal assistance under paragraph 2-2 should receive some training in legal assistance since they may be called upon with little or no notice to perform such duties. Job and duty descriptions should allow maximum flexibility in this regard.

c. Training is enhanced by doing in peacetime that which is required for war. In this regard, for example, USAR and ARNG judge advocates who provide even limited legal assistance to RC members during peacetime will be better equipped and prepared to perform such duties during readiness exercises, during and following mobilization and deployment, and during and following demobilization. For this reason, Active Army SJAs should utilize RC judge advocates (when consistent with other mission requirements) to provide legal assistance on their installations during IDT, AT, and ADT.

### **2-5. Persons eligible to receive legal assistance**

a. The following persons are eligible to receive legal assistance (and, where noted, within the limitations described):

- (1) Active Component (AC) members of the Armed Forces of the United States (and their family members).
- (2) RC members of the Armed Forces of the United States who—
  - (a) Are serving on active duty pursuant to orders for more than 29 days (and their family members).
  - (b) Are serving on active duty pursuant to orders for a period of 29 days or less (and their family members). (Supervising attorneys may limit legal assistance to emergencies or to certain categories of cases based on availability of expertise or resources.)
  - (c) Are undergoing pre-mobilization legal preparation (PLP) (and their family members). (Supervising attorneys may limit legal assistance based on availability of expertise or resources.)
- (3) RC members of the Armed Forces of the United States, other than those listed in paragraph 2-5a(2), receive legal assistance from RC judge advocates as indicated in subparagraphs (a) through (d) below. (RC supervising attorneys may limit legal assistance to emergencies or to certain types of cases based on the availability of expertise or resources.)
  - (a) To RC members on military administrative matters (para 3-6g).
  - (b) To RC members and their family members as part of PLP.
  - (c) To RC members assigned to TPUs or as individual mobilization augmentees (IMAs), or alerted for mobilization, or personal legal problems and needs that may adversely affect readiness.
  - (d) To RC members on personal legal problems and needs that have arisen from, or been aggravated by, their mobilization. (Such assistance must commence not later than two years following the mobilized member's release from active duty.)

(4) Active Army and RC members of the Armed Forces of the United States who are receiving military retirement or disability pay (and their family members).

(5) Surviving family members of AC, RC, and retired members of the Armed Forces of the United States who would be eligible for legal assistance if the service or retired member were alive.

(6) Department of Defense (DOD) civilian employees (including DA employees)—

(a) Against whom pecuniary liability has been recommended under AR 735–5 with regard to presenting matters in rebuttal to, or on appeal from, such charges.

(b) Who are serving with the Armed Forces of the United States in a foreign country (and their family members who accompany them).

(c) Who have accepted employment outside the United States or who, if already on such duty, return to the United States on home leave (and their family members who will accompany or have accompanied them). (Legal assistance is limited, as determined by the supervising attorney, to matters that relate to processing for employment or, for an employee on home leave, to help with an ongoing legal assistance matter being handled outside the United States.)

(d) Who are in the United States, its possessions, or territories, and who are designated as “mission-essential” or “emergency-essential” civilian personnel, (and their family members on deployment-related matters, but only while the employee is deployed). (By virtue of this designation, at any time while they are encumbering such designated positions, these employees may receive legal assistance on matters related to their actual or possible deployment to a combat zone or on a contingency operation. Legal assistance is limited to matters, as determined by the supervising attorney, that relate to deployment. Legal assistance is authorized for employees and family members for a reasonable period after the employee returns from deployment to close out ongoing legal assistance matters related to deployment that arose before or during deployment.)

(e) Who are neither “mission-essential” or “emergency essential,” but who work in the United States, its possessions, or territories, and who are notified that they are to deploy to a combat zone or on a contingency operation (and their family members on deployment-related matters, but only while the employee is deployed). (These employees may receive legal assistance on matters related to their imminent or actual deployment. Legal assistance is limited to matters, as determined by the supervising attorney, that relate to deployment. Legal assistance is authorized for employees and family members for a reasonable period after the employee returns from deployment to close out ongoing legal assistance matters related to deployment that arose before or during deployment.)

(7) Civilian contractors accompanying the Armed Forces of the United States outside the United States (and their family members who accompany them), when DOD is contractually obligated to provide this assistance to such personnel as part of their logistical support, as indicated below:

(a) The legal assistance provided must be in accordance with—and not prohibited by—applicable international agreement, or approved by the host-nation government in some way.

(b) Legal assistance is limited to ministerial services (for example, notarial services), legal counseling (to include the review and discussion of legal correspondence and documents), legal document preparation (limited to powers of attorney and advanced medical directives (AMDs)), and help on retaining civilian lawyers. (See paras 3–7a, b, e, and i.)

(c) SJAs should recommend elimination of such contractual obligations whenever these contracts are reviewed or renegotiated.

(8) PNOK (as defined in AR 600–8–1, para 4–1a(20 Oct 94)), executors, personal representatives, administrators, and legally recognized estate representatives for matters relating to the settlement of estates of—

(a) Active Army or RC service members who die while in a military duty status.

(b) U.S. citizens and nationals who are civilian employees of the Department of Defense and who are serving with or accompanying U.S. Armed Forces outside the United States at the time of their deaths.

(9) Fiduciaries, including those who hold powers of attorney, who have been appointed by those listed below to manage their property or handle their personal affairs. (Legal services are limited to matters that would otherwise be within the scope of the legal assistance program if the grantor were present.)

(a) Active Army or RC service members who are serving in a combat zone or contingency operation.

(b) U.S. citizens and nationals who are civilian employees of the Department of Defense and who are serving with or accompanying U.S. Armed Forces in a combat zone or contingency operation.

(10) Members of other military forces while serving in the United States (and their family members who accompany them).

(11) Prisoners who, although discharged from military service, still remain confined within a U.S. military confinement facility.

b. A person seeking legal assistance will provide proof of eligibility prior to receiving legal assistance by displaying a military identification card, such as DD Form 2A (U.S. Armed Forces Identification Card), a DD Form 1173 (Uniform Services Identification and Privilege Card), military orders, or other documentation. See AR 600–8–14. Legal assistance may be provided over the telephone to a person claiming to be an eligible client only in the absence of a reasonable alternative.

c. In foreign countries, host-nation laws and status of forces agreements may limit the availability of legal assistance to certain categories of personnel who would otherwise be eligible for legal assistance under this regulation.

## **2-6. Limiting legal assistance to otherwise eligible persons**

*a.* A commander responsible for legal assistance services (para 1-4f) may limit legal assistance in the following ways when space, facilities, or legal or supporting staff are unavailable to provide full legal assistance services:

(1) *Active Army legal office.* A commander having one or more attorneys (as described in para 2-2a) assigned to their staff or under their commands who are providing legal assistance on either a full- or a part-time basis as part of their duty or job descriptions may limit legal assistance to those cases and services that are required under paragraphs 3-6 and 3-7, and may deny services to one or more of the categories of eligible persons listed in paragraphs 2-5a(2)(b), (4), (5), (6)(b) and (c), (8)(b), (9), and (10).

(2) *RC-Army legal office.* A commander may limit legal services (except those services required to be provided under the provisions of para 1-4f(1)) to certain types of legal assistance cases and services and to any of the categories of eligible persons listed under paragraph 2-5a.

*b.* Legal assistance will not be denied or delayed on the basis of the command, installation, or military department to which a client is assigned or with which a client is affiliated except as indicated below:

(1) A commander may deny certain legal assistance services, or legal assistance in certain cases, to eligible clients who are assigned to, or affiliated with, another military department that does not routinely provide such legal assistance services, or legal assistance in such cases. (For example, if the Air Force, as a matter of its legal assistance policy, does not routinely provide separation agreements to its domestic relations clients, then an Army commander may direct that such agreements not be drafted by Army legal assistance attorneys for Air Force clients.) A commander may also deny legal assistance to certain categories of non-Army clients to the same extent that Army or non-Army clients are not provided legal assistance by a non-Army command or installation that provides legal assistance in the same geographical area (that is, within a radius of 100 miles). (For example, if a nearby Air Force base denies legal assistance, or certain legal assistance services, to Army clients or certain categories of its own clients, then an Army commander may impose similar legal assistance limitations on Air Force clients.) A commander may delegate this authority to his or her SJA.

(2) The commander's decision will be based on the availability of Army legal assistance resources, and on the adverse effect that continuing legal assistance to non-Army clients would have on Army legal assistance services to Army clients.

(3) Before authorizing the denial of legal assistance, the SJA will—

*(a)* Attempt to resolve the problem through joint or cooperative efforts with other commands or installations in the geographical area that provide legal assistance services. (The differences that exist among various military departments on the scope of legal assistance authorized, or on the personnel or other resources available or dedicated to legal assistance, should not preclude cooperative arrangements regarding services in common.)

*(b)* Notify the Chief, Legal Assistance Division, OTJAG through the MACOM SJA of any proposal to deny legal assistance services. (See also para 1-4g(2)(o).)

*c.* An SJA may deny legal assistance for a period not to exceed one year to any eligible person who abuses legal assistance privileges. A person denied legal assistance services may submit a written explanation or rebuttal to the SJA. That decision, upon reconsideration, is final. Abuses that may result in denial of legal assistance privileges include, but are not limited to the following:

(1) Missing two or more legal assistance appointments without good cause or prior notification.

(2) Misconduct, dishonesty, or other unbecoming conduct during the course of seeking, receiving, or using legal assistance.

(3) Knowingly using a legal assistance service for a purpose prohibited by law or regulation.

*d.* A supervising attorney may request authority, through the MACOM SJA, to limit or deny legal assistance beyond the limitations authorized by this paragraph in accordance with paragraph 1-5. Requests should be addressed to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

## **Chapter 3 Legal Assistance Services**

### **Section I General**

#### **3-1. Background**

This chapter defines the scope of the Army legal assistance program and discusses the various types of cases and legal services within it. This breakdown between cases and services also provides the background for the categories used in maintaining the records and submitting the reports required in chapter 5.

### **3-2. Types of legal assistance services**

- a.* The legal assistance program consists of a number of client and preventive law services. (See paras 3-4 and 3-7.)
- b.* Legal assistance is provided in a variety of settings by Active Army and RC judge advocates and civilian attorneys, and by legal specialists, paralegals, and other legal staff working under their supervision:
- (1) During combat readiness exercises such as an emergency deployment readiness exercise (EDRE) or an ARNG readiness for mobilization exercise (REMOBE) or mobilization deployment readiness exercise (MODRE).
  - (2) During a RC PLP.
  - (3) During soldier readiness program (SRP) processing.
  - (4) During a demobilization briefing.
  - (5) During a noncombatant evacuation operation (NEO).
  - (6) During a scheduled or unscheduled client interview.
  - (7) During an informal conversation, in response to a casual question or request for assistance.
  - (8) In preparing and filing Federal and State income tax returns.
  - (9) By giving classes and briefings and by writing and publishing articles on preventive law subjects.

## **Section II**

### **Preventive Law Services**

#### **3-3. General**

- a.* Commanders are responsible for ensuring that preventive law services are provided within their commands.
- b.* Supervising attorneys will ensure that preventive law services are provided by attorneys performing legal assistance duties, as well as by others under their supervision. Attorneys should be aggressive and innovative in disseminating information to service members and their families that is responsive to potential legal problems and issues.

#### **3-4. Preventive law measures**

- a.* In assisting commanders to carry out their preventive law responsibilities, supervising attorneys should—
- (1) Examine the common legal problems confronted by service members and family members to determine whether changes in law or regulation could benefit them, and then suggest regulatory changes or legislation through appropriate channels to effect those changes.
  - (2) Seek support from bar associations to provide no-fee or reduced-fee legal services for service members and family members with low incomes.
  - (3) Identify businesses that take unfair advantage of service members and family members and develop procedures to help combat such practices.
  - (4) Assist military housing referral offices and disciplinary control boards in ensuring fair treatment of service members and family members by landlords and businesses.
  - (5) Share innovative measures (for example, the use of mediation services to resolve certain legal disputes) and other items of interest (for example, changes in State law affecting service members and family members) with other attorneys providing legal assistance, such as by publishing articles in military legal publications of general circulation and placing information on the electronic bulletin board.
- b.* Local print and electronic media and training and education programs will be used to advise service members and their families of:
- (1) Their legal rights and entitlements.
  - (2) Timely legal issues and local legal problems and concerns.
  - (3) The importance of considering the legal consequences of their actions prior to signing legal documents such as purchase agreements, contracts, leases, and separation agreements.
  - (4) The importance of recognizing legal issues and seeking timely legal advice rather than ignoring potential legal problems.
  - (5) The office locations (with telephone numbers and hours of operation) where legal assistance is available.

## **Section III**

### **Client Services**

#### **3-5. Scope**

- a.* Attorneys providing legal assistance will not assist clients on matters outside the scope of the legal assistance program. The scope of the legal assistance program is defined in this section by the types of cases in which legal assistance may be provided (para 3-6), and by the types of legal services which may be provided in those cases (para 3-7). The scope of legal assistance is also defined by limitations on certain legal services and cases (para 3-8).
- b.* Some cases are entirely outside the scope of the legal assistance program and no legal assistance may be provided

(para 3–8a). Some matters are within the Legal Assistance Program, but certain legal services on those matters are outside the scope of the legal assistance program (paras 3–7 and 3–8b). A matter entirely within the legal assistance program may also cease to be within the legal assistance program if the client is paying a fee for professional legal services for help on that matter (for example, to a civilian lawyer to whom the client was referred). (See para 3–7h for situations in which legal services may continue to be provided.)

c. Paragraphs 3–6 and 3–7 also indicate the types of cases in which an Active Army legal office is required to provide legal assistance and those cases and legal services which are optional—that is, those where a supervising attorney may decline to provide legal assistance because available resources, personnel, or expertise are insufficient to provide the assistance needed. Where appropriate, other limitations and policy guidance are provided.

(1) The listing of legal assistance cases and services in paragraphs 3–5 and 3–6 is not exclusive. With regard to cases and services not listed, supervising attorneys will determine whether available resources, personnel, and expertise are sufficient to provide the assistance needed.

(2) Eligible clients may be refused certain optional legal services (para 3–7), or legal assistance altogether in certain optional cases, when supervising attorneys determine that available resources, personnel, or expertise are insufficient to provide the legal assistance needed. Supervising attorneys will also consider these criteria with regard to required legal assistance services and cases before providing notice of temporary variation or making a request for exception pursuant to paragraph 1–4g(3). In all cases, whenever legal assistance cannot be rendered, every effort will be made to refer clients (in accordance with para 3–7h) to attorneys who can assist them.

### **3–6. Types of cases**

a. *Family law.* Legal assistance will be provided in marriage, annulment, legal separation, divorce, financial nonsupport, child custody and visitation, and paternity cases. Legal assistance in adoption and other family law cases may be provided based on the availability of expertise and resources. Legal assistance in adoption cases may include appointment by a court as a guardian ad litem and assistance on placement.

(1) AR 608–99 prescribes Army policy which requires soldiers to provide financial support to family members, and to obey court orders on financial support, child custody and visitation, and paternity. Similar departmental instructions exist in the other military departments. Attorneys providing legal assistance on these matters should communicate directly with the commander of the service member involved. However, resolving these matters in court should also be pursued whenever practical and advantageous to the client.

(2) In exceptional cases, after efforts to resolve AR 608–99 matters with the responsible commander(s) have failed to produce the desired results, attorneys providing legal assistance may contact the appropriate command or installation inspector general, SJA, or other staff officer for help. SJAs may contact the proponent of AR 608–99 (Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200) on legal issues involving the interpretation of AR 608–99 that cannot be resolved locally. (See AR 608–99, paras 1–4b, c, d, e, f, and g, and 1–9.) Inspector General assistance is provided on financial nonsupport cases pursuant to AR 20–1, para 6–6a.

b. *Estates.* Legal assistance will be provided on wills, testamentary trusts for the benefit of minors, guardianships, and the designation of beneficiaries under life insurance policies (including the Servicemen’s Group Life Insurance (SGLI)). Legal assistance will also be provided on preparing AMDs and anatomical gift designations. Legal assistance may be provided on other aspects of estate planning based on the availability of expertise and resources.

(1) Every service member for whom a will is prepared will be provided legal advice on designating beneficiaries under SGLI (or other insurance policies, as applicable) that will best carry out the service member’s intent in light of his or her personal situation. As a matter of Army policy, attorneys will not recommend so-called “by-law” or “by-will” (or “to-my-estate”) SGLI beneficiary designations to any service member, regardless of military service affiliation. Where the insured is a soldier, “by-law” and “by-will” designations are prohibited. See AR 600–8–1 (20 Oct 94) and Appendix C of this regulation for guidance on assisting service members with SGLI beneficiary designations. Non-Army clients who indicate that they have directed their SGLI benefits to be distributed “by law” should be advised of the effect this direction has on the distribution of SGLI proceeds. In cases where an existing designation does not comport with a service member’s wishes, or simply needs revision in the case of a soldier who has not replaced an existing “by-law” or “by-will” designation, the service member will be assisted on executing a VA Form SGLV–8286 (Servicemen’s Group Life Insurance Election and Certificate). This form may be obtained through normal publications channels. The form for soldiers will be executed in accordance with AR 600–8–1. Any designation or change of beneficiary by a soldier on a SGLV–8286 is not effective unless received by the custodian of the soldier’s DA Form 201 (Military Personnel Records Jacket (MPRJ), U.S. Army) before the soldier’s death. All clients should be advised to file newly executed forms in their military records. They should also be provided the telephone and room and building numbers (or address) of the custodian for those records.

(a) Attorneys who provide legal assistance should maintain sufficient copies of SGLV–8286 for use by their clients. Attorneys should not use any other form or continuation form to designate SGLI beneficiaries unless specifically approved by the proponent for AR 600–8–1 (20 Oct 94).

(b) Those providing legal assistance to soldiers during EDREs, REMOBEs, MODREs, SRPs, and NEOs should request to be stationed before the personnel and finance sections so that soldiers can receive legal advice before they

designate SGLI and final pay beneficiaries. This advice will be made available to soldiers regardless of whether or not wills are prepared for them.

(2) No will may be executed until an attorney interviews the client and reviews the will. An attorney shall be present to supervise the execution of the will and to review the will after the client and witnesses have signed it. The attorney who drafts the will shall insert his or her name on the will as its drafter, together with the designation for a State or other legal bar of which he or she is a member, using the following language: "This document was prepared under the authority of 10 U.S.C. §1044 and implementing military regulations and instructions, by (*name of attorney*), who is licensed to practice law in (*name of one State or other legal bar*)."

(a) When providing routine legal assistance, attorneys should encourage eligible clients who meet any of the criteria in para 3-6b(2)(b) to obtain wills, and should provide wills to all those who request them. The same legal and professional standards that apply to preparing and executing wills within an Army legal office apply to those that are prepared and executed during EDREs, REMOBES, MODREs, SRPs, and NEOs. Where those standards cannot be met follow-up legal assistance appointments should be made to prepare or execute wills for soldiers who need them. In appropriate cases, soldiers may be encouraged to have wills (or new wills) drafted and executed following their mobilization or deployment.

(b) During mobilization or deployment, the priority and allocation of legal resources should be based on need. The absence of a will does not make a service member non-deployable. The need for a routine will by a service member being mobilized or deployed must be weighed against the needs of other service members for wills and other legal services (for example, resolving child custody, landlord-tenant, or consumer law problems). When legal resources are limited, the priority for drafting and executing wills should be given to service members to whom any of the following applies: (1) those who have a minor child; (2) those whose primary beneficiary is a minor; (3) those whose net estate (excluding insurance, jointly-owned property, and other non-probate property) is valued at more than \$10,000 (or a higher dollar limit if applicable law allows small estate administration for estates of lesser amounts); or (4) those who desire their property to be distributed in a manner different from that which would occur under the applicable laws of intestate succession or under an existing will. The drafting and execution of wills (or new wills) for all other service members may be delayed until such time that legal resources are available following mobilization or deployment.

(c) The execution of preprinted fill-in-the-blank wills is limited to clients domiciled in states that specifically authorize the execution of such wills. If authorized by statute, a properly drafted and executed fill-in-the-blank will complies with JAGC standards.

(3) Consistent with this regulation, every effort will be made to assist PNOK in probating wills and settling estates (particularly uncontested or exempt-from-administration proceedings) of service members who die while in a military duty status. (See paras 2-5a(9) and 3-7g(2)(d)). When available resources, personnel, or expertise are insufficient to provide the legal assistance required, clients should be referred to other attorneys who provide legal assistance or to civilian lawyers in accordance with paragraph 3-7h. Attorneys assisting a PNOK with a problem related to a service member's designation of SGLI beneficiaries should review the provisions of Chapter 38, Code of Federal Regulations, Part 9 (Servicemen's Group Life Insurance and Veterans' Group Life Insurance) for restrictions on beneficiary entitlements.

(4) Priority will be given to handling the special needs of clients with life-threatening injuries or illnesses. With regard to service members, attorneys providing legal assistance should be generally familiar with the benefits payable from the military, the Department of Veterans' Affairs, and the Social Security Administration to the survivors of service members who die while on active duty or in a retired status. They should also be generally familiar with the reasons for carrying out so-called "death-bed retirements." Assistance in such cases may be obtained from the installation Physical Evaluation Board Liaison Officer, the installation Retirement Services Officer, or Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200. See AR 600-87, appendix C for a description of the Survivor Benefit Plan, and AR 40-3, chapter 8 regarding referral of cases to physical evaluation boards.

*c. Real property.* Legal assistance will be provided to tenants on leases and landlord-tenant issues and disputes involving a client's principal residence, including the termination of pre-service leases under the Soldiers' and Sailors' Civil Relief Act (SSCRA) (50 USC App. 500-548, and 560-591). Legal assistance may be provided on matters relating to the purchase, sale, and rental of a client's principal residence and other real property. (See, however, para 3-8a(2) on the prohibition against assisting clients on private business activities.) Legal assistance may include the drafting of documents or recommended provisions within those documents.

*d. Personal property.* Legal assistance will be provided to those purchasing personal property on all legal matters relating to the purchase, including, but not limited to, contracts, chattel mortgages, security agreements, warranties, cancellations, and other consumer affairs matters. Legal assistance to those selling or leasing personal property to others may be provided based on the availability of expertise and resources. (See, however, para 3-8a(2) on the prohibition against assisting clients on private business activities.)

*e. Economic.*

(1) Legal assistance will be provided to debtors on disputes over lending agreements, and to those requiring help on bankruptcy, garnishment orders, involuntary allotment applications for judgment indebtedness, debt, banking, credit

card, property insurance problems, and non-government claims (including Article 139 claims). See AR 600–15 and AR 27–20. Legal assistance will also be provided on limiting interest on pre-service obligations (including mortgages) under the SSCRA.

(2) Legal assistance will also be provided to those seeking reemployment under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 U.S. Code §§ 4301–4333), and comparable State statutes subject to the following restrictions:

(a) Under USERRA, service members who leave civilian jobs to go on active duty have the right to return to those jobs when they are released from active duty. The primary responsibility for enforcing the protection afforded by USERRA rests with the United States Department of Labor (DOL) through its Veterans' Employment and Training Services (VETS). DOL and Department of Justice (DOJ) will not pursue any relief in a reemployment case where a service member is represented by an attorney. Therefore, in cases where a service member desires to pursue relief pursuant to USERRA, attorneys providing legal assistance will not take any action which could be viewed as legal representation of the service member (for example, contacting an employer on a USERRA case constitutes legal representation).

(b) Legal assistance on VRRRL matters is limited to the following: (1) Conducting mobilization briefings and advising service members of the notice requirements of USERRA; (2) Conducting demobilization briefings and otherwise advising returning service members of their rights under the USERRA and applicable State law, if any; (3) Providing sample letter formats for use by returning service members in asserting their USERRA rights with their employers; (4) Referring service members to VETS or the National Committee for Employer Support of the Guard and Reserve (NCESGR); (5) Providing service members DOL Form 1010 (Eligibility Data Form: Veterans' Reemployment Rights Program) to open a file with VETS and assisting in the preparation of the form; (6) Periodically contacting service members who have sought help on employment problems to determine if their employment problems have been resolved.

(c) Legal assistance on USERRA matters should be coordinated with officials within appropriate State agencies or DOL. Any request for an exception to the foregoing limitations must be approved in advance by the Chief, Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310–2200.

(d) The restrictions in subparagraphs 3–6e(2)(a), (b), and (c) do not apply to attorneys providing legal assistance for clients seeking redress exclusively in State courts or State administrative agencies (for example, pursuant to a State-enacted veteran reemployment or anti-discrimination law).

(3) Legal assistance to creditors on disputes over lending agreements may be provided based on the availability of expertise and resources.

*f. Civilian administrative.* This category of cases includes administrative and quasi-judicial matters within the primary jurisdiction of a municipal, State, Federal, or foreign agency (for example, State-licensed driving privileges). Legal assistance will be provided on requests for notarizations. Legal assistance may be provided on name change, immigration, naturalization, welfare assistance, and other cases based on the availability of expertise and resources.

*g. Military administrative.*

(1) Legal assistance will be provided to clients on military administrative matters if required by law or Army regulation (including this regulation). In the absence of such requirement, a supervising attorney may decline to provide legal assistance. Cases in which legal assistance is required under this (or another) regulation are indicated in parentheses in paragraphs 3–6g(4) and (5).

(2) Subject to other USATDS mission requirements, USATDS attorneys should ordinarily assist soldiers on military administrative actions that—

(a) Are initiated on the basis of alleged violations of the Uniform Code of Military Justice (UCMJ); or

(b) Are related to impending, pending or recently completed UCMJ proceedings.

(3) Paragraphs 3–6g(4) and (5) divide military administrative cases between attorneys assigned to SJA offices and those assigned to USATDS offices. This division assumes an absence of either of the two factors listed in paragraph 3–6g(2). The presence of either factor will convert a legal assistance case into a USATDS case. This division of cases between legal assistance and USATDS is designed to:

(a) Promote efficiency by limiting the need for more than one attorney or office to assist a soldier in any particular case.

(b) Enhance attorney-client relationships by avoiding unnecessary “referrals” between attorneys.

(c) Foster uniformity from installation to installation to the fullest extent allowed by the resources available.

(d) Define the scope of the legal assistance program so as to develop an improved statistical base upon which to focus training efforts.

(e) Facilitate agreement on the extent to which USATDS attorneys share legal assistance responsibilities.

(4) SJA (that is, legal assistance) cases:

(a) Line of duty investigations (AR 600–8–1), (18 Sep 86) (required).

(b) Reports of survey (AR 735–5) (required).

(c) Officer evaluation reports (OERs) (AR 623–105) (required).

- (d) Noncommissioned officer evaluation reports (NCOERs) (AR 623–205) (required).
- (e) Relief for cause reviews (AR 623–105) (required).
- (f) Bars to reenlistment (AR 601–280) (optional).
- (g) Waivers to allow reenlistment (AR 601–280) (optional).
- (h) Security clearance revocations (AR 380–67) (optional).
- (i) Suspension of favorable personnel actions (AR 600–8–2) (optional).
- (j) Memoranda of reprimand (AR 600–37) (required).
- (k) Article 138, UCMJ complaints (AR 27–10) (required).
- (l) Inspector General Investigations (AR 20–1) (required for military personnel, but optional for civilian personnel).
- (m) Other investigations (AR 15–6) (required).
- (n) Expungement of military records (AR 600–37) (optional).
- (o) Hardship discharges (AR 635–200) (required).
- (p) Compassionate reassignments (AR 614–100) (officer) and AR 614–200 (enlisted personnel)) (required).
- (q) Physical evaluation boards (AR 635–40) (optional).
- (r) Flying evaluation boards (AR 600–105) (optional).
- (s) Quality accreditation for doctors (AR 40–68) (optional).
- (t) Medical evaluation boards (AR 40–3) (optional).
- (u) Qualitative Management Program (AR 601–280) (optional).
- (v) Officer unqualified resignations by reason of pregnancy, and resignations in lieu of discharge because of failure to meet statutory or regulatory requirements (AR 635–120) (required).
- (w) Military driving privileges (AR 190–5) (optional).
- (x) Correction of military records (AR 15–185) (required).
- (5) USATDS (that is, non-legal assistance) cases:
  - (a) Officer elimination actions (AR 635–100) (required).
  - (b) Officer resignations in lieu of administrative elimination proceedings and resignations for the good of the service (AR 6 35–120) (required).
  - (c) Enlisted separation actions (AR 635–200, chapters 5-13 (personality disorder), 7 (defective/fraudulent enlistment/reenlistment), 8 (pregnancy if notification procedure is used), 9 (alcohol/drug abuse), 10 (for the good of the service), 11 (entry level performance/conduct), 13 (unsatisfactory performance), 14 (misconduct), and 18 (overweight)) (required).
  - (d) Reductions in grade (AR 600–200) (required).
  - (e) Recruiter misconduct (AR 601–1) (optional).

*h. Torts.*

(1) Legal assistance will be provided on invoking whatever protections may be afforded under the SSCRA on matters relating to the prosecution or defense of civil lawsuits based on alleged tortious conduct. Subject to the availability of expertise and resources, other legal assistance may be provided, but such assistance will be limited to counseling and assistance on retaining a civilian lawyer (para 3–7*h* and *i*). (See para 3–8 for other limitations and considerations on providing legal assistance on tort matters.)

(2) Those providing legal assistance should be alert to situations where a client is facing a civil lawsuit as a result of actions taken within the scope of his or her official duties (for example, a soldier on duty injures someone while driving a Government vehicle). As these clients may be entitled to representation by the Department of Justice, they should immediately be referred to a claims judge advocate or U.S. Army Litigation Center, ATTN: JALS–LTT, Ballston Metro Center Building, 901 N. Stuart St., Arlington, VA 22203–1837.

*i. Taxes.* Legal assistance will be provided on real and personal property tax issues and on the preparation of Federal and State income tax returns. Legal assistance may be provided on estate, inheritance and gift tax matters, electronic filing of income tax returns, and appealing tax rulings and other findings based on the availability of expertise and resources. Tax assistance on private business activities is outside the scope of the legal assistance program with the exception noted in paragraph 3–8*a*(2) for family child care (FCC) providers.

(1) Income tax assistance is an important aspect of a commander's legal assistance program. Supervising attorneys should seek command support to appoint unit tax advisors (UTAs), to detail special duty (SD) soldiers, and to recruit volunteers (for example, through Army Community Service (ACS)). When feasible, attorneys should seek command support to obtain equipment to file electronically Federal and State income tax returns. When command support is obtained, supervising attorneys should:

- (a) Establish training programs for UTAs and SD soldiers.
- (b) Sponsor training courses conducted by Federal and State taxing authorities on the installation.
- (c) Make tax forms available for filing returns and related petitions and appeals.

(2) Attorneys, paralegals, UTAs, SD soldiers, and volunteers will not sign income tax returns as tax preparers, even when they render assistance in completing tax forms. When appropriate, they may indicate that such forms were

prepared under the Internal Revenue Service (IRS) Volunteer Income Tax Assistance (VITA) program. Supervising attorneys will supervise all tax assistance services on their installations, except those provided by commercial tax preparers.

*j. Civilian criminal matters.* Legal assistance may be provided on civilian criminal matters based on the availability of expertise and resources. Clients seeking assistance on civilian criminal matters may be provided general advice on civilian criminal matters, such as explaining the nature of the criminal charge, possible punishments, and criminal procedure. Attorneys providing legal assistance may contact civilian court or prosecuting officials to obtain information, and to request delays in proceedings, dismissal or reduction of charges, and other such matters. However, except for cases pending before a U.S. Magistrate on a military installation, attorneys providing legal assistance may not provide in-court representation to clients in civilian criminal proceedings. (See para 3-7g(2)(c).) Clients may be provided assistance on retaining a civilian lawyer (para 3-7h and i).

### 3-7. Types of services

Consistent with this regulation, attorneys providing legal assistance in each type of case discussed in paragraph 3-6 may provide one or more of the following types of legal services:

*a. Ministerial services.* Some services, such as witnessing signatures to documents or providing notary services, are provided by attorneys, or by non-attorney personnel under their supervision. Such services usually complement legal services and are required.

*b. Legal counseling.* Legal counseling involves providing legal advice to a client. Legal counseling may be provided on one or more occasions during a client interview, in a telephone conversation with a client, or in a letter addressed to a client. This type of legal service is required whenever necessary to assist a client in a required case (para 3-6).

*c. Legal correspondence.*

(1) Although all legal assistance involves legal counseling, only some cases require legal correspondence to be sent to others in order to assist clients with their legal problems. Legal correspondence includes a letter that is signed by an attorney on behalf of a client, as well as a letter that is prepared by the client for the client's signature, but which is reviewed and edited by an attorney (for example, rebuttals to OERs, NCOERs, and reports of survey). This type of legal service is required whenever necessary to assist a client in a required case (para 3-6).

(2) All legal correspondence (for example, letters, electronic messages, facsimile transmissions) sent on behalf of clients should indicate that the attorney is representing a named client and should include the following or similar words: "I represent (name)" or "I write on behalf of my client, (name)." Attorneys providing legal assistance should not state that their clients are represented by an office (for example, "This office represents Mrs. Smith."). Such statements are inaccurate and potentially misleading. See, however, AR 608-99, paragraph 1-4d(3) on sending command messages on behalf of clients in nonsupport cases.

(3) Legal correspondence should not include disclaimers (for example, "This letter represents my own professional opinion as a legal assistance attorney, and not the position of the U.S. Army.")

*d. Legal negotiation.*

(1) Legal negotiation involves one or more discussions between an attorney representing a client with another party (or his or her attorney) whose interests will usually be adverse to that client. The discussions may be face-to-face or over the telephone, and may be supplemented with other means of communication, such as facsimile machines. Legal negotiation may or may not be preceded or followed by the dispatch of legal correspondence, but it will often achieve quicker and more satisfactory results than that which is accomplished by sending legal correspondence alone. This type of legal service is required whenever necessary to assist a client in a required case (para 3-6).

(2) An attorney who discusses a matter on behalf of a client should comply with the guidance in paragraph 3-7c(2) with regard to avoiding inaccurate and misleading statements.

*e. Legal document preparation.* This type of legal assistance includes the drafting, completion, and execution of documents (for example, wills, powers of attorney, leases, lease clauses), Federal and State income tax returns, and other legal papers, and is required whenever necessary to assist a client in a required case (para 3-6). Based on the availability of expertise and resources, separation agreements, *inter vivos* trusts, and other documents may also be prepared.

(1) The following preamble implements 10 U.S.C. §1044b and will be included in bold type on each general and special power of attorney prepared in an Army legal office. The preamble will be inserted as the first paragraph of each power of attorney following the heading of the document identifying it as either a general or special power of attorney. The words "Know all men by these presents," or similar introductory language, will follow this preamble.

This is a **MILITARY POWER OF ATTORNEY** prepared pursuant to Title 10, United States Code, Section 1044b and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney under the laws of a state, the District of Columbia, or a territory, commonwealth, or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.

(2) Because a general power of attorney gives such broad powers to the holder, its use is never advisable when a more limited special power of attorney can accomplish the desired purpose. A client who requests a general power of attorney for use by other than a trusted spouse or relative should be cautioned as to the serious legal problems that may arise from its misuse.

*f. Legal document filing.* Based on the availability of expertise and resources, legal assistance may be provided on filing documents, tax returns, and other legal papers to complement other legal services.

(1) *Electronic filing of tax returns.* Army legal offices that are equipped to assist clients in electronically filing their tax returns can save substantial sums of money for clients who might otherwise have to pay high interest rates or user fees to commercial tax preparers to obtain immediate use of income tax refunds that are due to them.

(2) *Pro se assistance.*

(a) *Pro se* assistance is the help rendered to non-lawyer clients to enable those clients to file legal documents, papers, or pleadings in civil proceedings, such as small claims or uncontested divorces. Legal assistance may include preparing necessary documents and assisting with their submission to local courts. However, only a supervising attorney may authorize *pro se* assistance. Consistent with this regulation (para 1-4g(5) and 3-8), authorization may be on a case-by-case basis or for certain categories of cases. A supervising attorney may further authorize a client to be accompanied to the location of the civil proceedings in which a client is proceeding *pro se*.

(b) Those providing legal assistance to clients on civil proceedings covered by the SSCRA are cautioned that a request for stay of proceedings (or a letter) sent by a client or in the client's behalf may have the unintended effect of constituting consent to a court's jurisdiction.

(c) *Pro se* assistance is not in-court representation.

*g. In-court representation.*

(1) Maximum legal assistance should be provided to all service members on active duty. However, only a supervising attorney can authorize in-court representation by an attorney providing legal assistance. Unless on active duty, USAR and ARNG judge advocates (including those assigned to TPUs) must also receive approval from the Chief, Legal Assistance Division, OTJAG before providing in-court representation. Consistent with this regulation (paras 1-4g(5) and 3-8), authorization may be on a case-by-case basis or for certain categories of cases. For example, a supervising attorney may authorize in-court representation in a particular case to provide an attorney an opportunity to develop or maintain certain legal skills or to further professional development. It may also be authorized to advance certain command objectives (for example, protecting service members from certain unfair business practices). On the other hand, in-court representation may be prohibited in a certain case because it involves a matter in which the United States has an interest. (See AR 27-40, para 1-6.) It may also be prohibited in certain or in all categories of cases because it might detract from the quality or availability of other legal assistance services, or because the attorneys available do not possess the requisite qualifications or bar memberships.

(2) Types of in-court representation cases.

(a) *Military justice proceedings.* Attorneys providing legal assistance (except those assigned to USATDS) may not provide in-court representation for military personnel in military justice proceedings. These cases are outside the scope of the legal assistance program. (See para 3-8a(1).)

(b) *Military administrative proceedings.* Attorneys providing legal assistance may represent clients in military administrative hearings only when representation by an attorney is authorized by military regulation. Ordinarily, USATDS attorneys represent clients in these hearings. (See para 3-6g.)

(c) *Civilian criminal proceedings.* Except for cases pending before a U.S. Magistrate on a military installation, attorneys providing legal assistance may not provide in-court representation to clients in civilian criminal proceedings. (See para 3-6j.)

(d) *Civil proceedings.* Except for cases described in paragraphs 3-6a (regarding appointment as a guardian ad litem in an adoption case), and 3-6b(3) (regarding assistance to certain PNOK) e(2), (regarding assistance under USERRA and comparable state statutes), and in AR 608-18, paragraph 1-6j(13) (regarding in-court representation of abused children), in-court representation is limited to service members who are eligible for legal assistance pursuant to paragraphs 2-5a(1), (2), or (3); and (2) f or whom hiring civilian lawyers would entail substantial financial hardship to themselves or their families.

(3) Supervising attorneys will determine whether a client satisfies the substantial financial hardship test on a case-by-case basis. Service members in the pay grades of E4 and below ordinarily qualify for in-court representation if they have no other significant income beyond their military pay. The income (and, where applicable, the rank) of a service member's spouse will be considered if the spouse is also a named party to the proceeding and the spouse's interests are not adverse to the soldier's interests. Supervising attorneys will require service members above the pay grade of E4 to provide financial information under oath to support any determination that hiring a civilian lawyer would entail a substantial financial hardship.

(4) In-court representation may occur in any one or combination of the following methods.

(a) *Bar membership.* The attorney providing legal assistance is qualified (through bar membership or otherwise) to represent clients in the particular Federal, State, or foreign jurisdiction.

(b) *State-approved program.* The attorney providing legal assistance from an Active Army legal office is authorized to represent clients pursuant to a written agreement with the State bar or pursuant to a motion granted by an appropriate court of the State concerned.

(5) Service members represented pursuant to this paragraph are only responsible for paying court costs and administrative filing fees. When practicable, Active Army or RC Army legal offices, as appropriate, will provide supplies and as much clerical support as possible. An attorney providing legal assistance may claim costs (except for items or services provided by the Army) from an opposing party, but may not accept attorney fees.

*h. Legal referral.*

(1) Attorneys providing legal assistance may refer a client to an attorney in another military legal office, to a civilian lawyer, or to another office or agency whenever referral is in the best interest of the client or required by this regulation.

(2) Clients should be assisted whenever possible without referral. Unnecessary referrals delay the delivery of legal assistance and cause inconvenience to clients. Unless required by this regulation, a client should not be referred unless referral is in the best interest of the client. This means that a non-mandatory referral must result in more effective assistance, or in assistance that will be provided sooner than without referral.

(3) An attorney providing legal assistance should weigh the following considerations before referring a client to an attorney in another military legal office, to a civilian lawyer, or to another office or agency for assistance on a matter within the legal assistance program:

(a) The work load of the attorney making the referral in contrast with that of the military attorney, civilian lawyer, or agency receiving the referral.

(b) The attorney's expertise in the particular area of assistance required by the client in contrast with that of the other military attorney, civilian lawyer, or other office or agency receiving the referral.

(c) The goals or interests of the client.

(d) Convenience to the client.

(e) Cost to the client. (Every effort should be made to minimize the legal costs of clients who are eligible for legal assistance. An attorney providing legal assistance may negotiate the fee for professional legal services with a civilian lawyer on behalf of a legal assistance client.)

(4) Supervising attorneys will monitor referrals. Excessive use of referrals among Army attorneys may indicate a need for additional training or supervision. In some instances, discontinuation of legal assistance, or consolidation of legal assistance programs between Army legal offices in close proximity may be warranted.

(5) Clients requesting assistance for services outside the legal assistance program should be referred to civilian lawyers or other offices or agencies from which such assistance may be obtained.

(6) A client may be referred in any of the following ways:

(a) A client may be referred to a military or civilian office or agency (for example, ACS, the Army Family Advocacy Program, a State consumer protection office, a lawyer referral agency) for assistance. For legal problems within the legal assistance program, the attorney should provide the client the telephone number, office location, and name of the person to whom the client is being referred. That person should be notified of the referral to ensure that assistance will be provided. In such cases, the attorney should indicate a willingness to the client to provide follow-up legal assistance if needed.

(b) A client may be referred to an attorney in another military legal office for a matter within the legal assistance program or to a civilian lawyer for assistance on a matter within or outside the legal assistance program. The attorney making the referral should, whenever possible, personally contact the attorney to whom the referral is being made to ensure that assistance will be provided. (Outside the U.S., an attorney providing legal assistance may solicit legal representation on behalf of a client by writing to one or more civilian lawyers whose names have been provided by the client or the attorney.) The attorney should then provide the client with the telephone number, office location, and name of the attorney to whom the client is being referred. Upon making the referral, the attorney should terminate the attorney-client relationship. The purpose here is to conserve military resources and to avoid duplication of effort. However, in order to protect the interests of a client, legal assistance services may continue on other matters within the legal assistance program, or on the same matter, if legal assistance is requested by the client, or by the civilian lawyer on behalf of the client.

(7) On matters within the legal assistance program, when referral to another attorney is appropriate, the following is the order of preference (if consistent with the goals or interests of the client and the other provisions of this regulation) in which referrals should be considered:

(a) An attorney in the same Army legal office (for example, a fellow attorney providing legal assistance as part of his or her duties, an administrative law officer, a trial counsel).

(b) An attorney in another Army legal office of the same component in close proximity (for example, a branch office, a USATDS office).

(c) An attorney in an Army legal office of another component (for example, a referral from an attorney in an Active Army legal office to a RC judge advocate) or a legal office of one of the other military services in close proximity.

(d) A civilian lawyer willing to assist the client on a no-fee basis in an appropriate case. (Note that legal services provided *pro bono publico* are not always on a no-fee basis because a reduced fee for professional services may be permissible in such cases in some jurisdictions.)

(e) A civilian lawyer willing to assist a client on a reduced-fee basis in an appropriate case.

(f) A civilian lawyer whose fees are reasonable for the locale in which he or she practices. (A referral to a lawyer in this category may be preferable over all others because of the expertise of the particular lawyer or the needs of the client.)

(8) In referring a client to a civilian lawyer on a matter outside the scope of the legal assistance program (that is, on a fee basis), the attorney making the referral will take care to avoid the appearance of favoritism by regularly referring clients to one particular lawyer, an unreasonably limited number of lawyers, or only to those lawyers listed in the JAGC Reserve Officer Legal Assistance Directory. (See para 4–5.) Each referral, when ever possible, should be based on a knowledge of the particular lawyer’s skill and expertise, normal fee arrangements, and ability to meet the specific legal needs of the client. A referral should not be made to a civilian lawyer who is known to be pending disciplinary action by a court or other licensing body, or who is known to be practicing law with no malpractice insurance (or with malpractice insurance in less than a reasonable amount).

(9) An attorney making any referral should make it clear to his or her client that any decision to consult with or be represented by the recommended lawyer is solely that of the client and that the client is free to retain any lawyer. No referral should be made without first discussing the case with the lawyer to whom the referral is being made.

(10) An attorney making a referral may express an opinion about the ability of a particular lawyer. However, the client should be advised that any opinion expressed about a particular lawyer is a personal, not official opinion, and in no way reflects the position of the U.S. Army or the United States Government.

*i. Providing lists.*

(1) In some instances, a client may not desire a referral to be made, but rather, is seeking only the name or a list of names of civilian lawyers who possess a particular expertise and who practice in a particular geographical area.

(2) Although the use of lists is discouraged, attorneys who use them may provide the name of a civilian lawyer or list of names of civilian lawyers to a client without making an actual referral. The provisions contained in paragraphs 3–7h(1) through (5), (6)(b)2, (8), (9), and (10) apply to attorneys who provide a civilian lawyer’s name or list of names to a client. However, copies of the JAGC Reserve Officer Legal Assistance Directory, or portions thereof, will not be provided to clients.

*j. Mediation.* Mediation (including other alternative dispute resolution services, such as arbitration) is a method of settling disputes outside a court setting by using a neutral third party to act as a link between the parties. A neutral third party, by definition, can never have advised or represented either party to the dispute on any matter. Based on the availability of expertise and resources, an SJA may authorize mediation services as part of the command’s legal assistance program. Attorneys and other individuals who serve as mediators will comply with the ethical standards of AR 27–26, appendix B, Rule 2.2.

### **3–8. Limitations on services**

*a.* Unless authorized in a particular case by the Chief, Legal Assistance Division, OTJAG (pursuant to para 1–4b(3)) or a supervising attorney (pursuant to para 1–4g(3)), attorneys providing legal assistance will not provide legal advice on matters that are outside the scope of the legal assistance program. A person seeking assistance on such matters may be referred to a civilian lawyer or agency (para 3–7h) or provided a list of lawyers (para 3–7i) The following matters are outside the scope of the legal assistance program and are not reported as legal assistance cases:

(1) *Military justice matters.* Attorneys providing legal assistance (except those assigned to USATDS) may not provide advice to service members seeking help on UCMJ issues or on proceedings being conducted pursuant to the UCMJ or implementing military regulations. These service members will be referred to USATDS attorneys, military defense counsel in one of the other military services, or to civilian lawyers, as appropriate. (See para 3–7g(2)(a).)

(2) *Private business activities.* Those seeking assistance on private business activities will be informed that providing such help is outside the scope of the legal assistance program. However, FCC providers who are eligible for legal assistance may be assisted with reporting their income from child care activities on their income tax returns. (See AR 608–10.)

(3) *Litigation against the United States.*

(a) Attorneys providing legal assistance will neither advise, nor appear as counsel before any tribunal for, a client concerning a claim against the United States or a civil lawsuit in which the United States has an interest. (See para 3–8b(1).)

(b) Should the circumstances of a particular case indicate that in-court representation by an attorney providing legal assistance may be appropriate, the supervising attorney must first obtain approval from TJAG for such representation. (See AR 27–40, para 1–6.) This requirement does not apply to non-criminal Federal income tax matters (para 3–6i), bankruptcy proceedings (para 3–6e), or civilian criminal proceedings (para 3–7g(2)(c)) and civil lawsuits (para

3-7g(2)(d)) brought before a U.S. magistrate on a military installation. Supervising attorneys may authorize in-court representation in these cases in accordance with paragraph 3-7g.

(4) Employment matters. All employment matters, except those involving enforcement or USERRA, are outside the scope of the legal assistance program.

b. Attorneys providing legal assistance may provide limited legal assistance on the cases described in this subparagraph. All clients seeking assistance on such matters may be referred to a civilian lawyer or to another office or agency (para 3-7h) or provided a list of lawyers (para 3-7i). Although attorney-client relationships may be formed, the following limitations will be observed:

(1) *Claims or civil lawsuits against the United States.* A person seeking to file a claim or lawsuit against the United States will be referred to the claims or other appropriate office responsible for handling claims on such matters on or off the installation. Legal assistance on these matters will be limited to general advice on administrative or legal procedures and filing requirements, and on the client's need to retain a civilian lawyer in order to obtain further legal advice or assistance.

(2) *Contingent legal fee cases.* Except as indicated below, legal assistance will be limited to general advice on civil lawsuits, court procedures and filing requirements, the potential merits of the case, and the client's need to retain a civilian lawyer in order to obtain further legal advice or assistance.

(a) An attorney may investigate and develop a potential class action suit as part of a preventive law measure even though such case may eventually be handled by a civilian lawyer for a contingent fee. (See paras 3-4a(3) and (4).)

(b) An attorney may provide legal assistance on Federal and State veteran reemployment rights cases (para 3-6e(2)).

(3) *Prepaid-legal-representation cases.* These cases include those in which a person or organization is required by contract or law to provide the assistance required (for example, provision of legal defense in a tort case by an insurance company; preparation and filing of an amended income tax return by a commercial tax preparer to correct a mistake made by that preparer). Legal assistance will be limited to general advice on civil lawsuits, court procedures and filing requirements, and on the potential merits of the case, and on the client's need to contact the insurance company or other organization that will pursue or defend the lawsuit or provide the assistance needed.

(4) *Standards of conduct issues.* While an attorney providing legal assistance may assist clients on standards of conduct issues, the attorney may not provide such clients with an agency position concerning post-employment, honoraria, procurement integrity, and similar standards of conduct issues. Rather, the attorney will refer such clients to the Ethics Counselors of their organizations or commands and advise them that, although their Ethics Counselor is probably an attorney, there is no attorney-client privilege or confidentiality between them and their Ethics Counselor.

(5) *Victim/Witness Assistance Program.* The Army's victim/witness assistance program is primarily a military justice program. (See AR 27-10, chap 18.) In the absence of a conflict of interest, an attorney providing legal assistance is not precluded from serving as a victim/witness liaison in a particular criminal case. However, any assistance rendered to a person as a victim/witness liaison is outside the scope of the legal assistance program and the data pertaining to such assistance will not be included in legal assistance reports. There is also no attorney-client privilege or confidentiality between an attorney serving as a victim/witness liaison and the person he or she is assisting under the victim/witness assistance program. Therefore, an attorney should not serve as a victim/witness liaison for the same person to whom the attorney is providing legal assistance on a related matter.

## **Chapter 4**

### **Professional Matters**

#### **Section I**

##### **General**

#### **4-1. Professionalism**

a. Attorneys providing legal assistance will exhibit the highest professionalism at all times. This professionalism will be reflected in:

- (1) The appearance and quality of all work performed.
- (2) The conduct and demeanor of attorneys and all those assisting them.
- (3) The appearance of furniture, equipment, offices and other work areas, and reception and waiting rooms.

b. Attorneys providing legal assistance to clients will form attorney-client relationships with them, and will fully represent them within the bounds of the law, this regulation, and professional ethics.

#### **4-2. Liaison with civilian bar**

Attorneys providing legal assistance should establish and maintain liaison with national, State, and local bar organizations. Membership in professional organizations, especially local branches involved in providing legal services pertinent to the military community, and attendance at professional meetings and seminars is encouraged. See AR 215-1,

paragraph 3–14, regarding the use of nonappropriated funds to purchase such memberships. Upon receipt of necessary approvals, attorneys assigned to Active Army legal offices may attend meetings of private professional organizations at Government expense (AR 1–211) or while on permissive temporary duty (TDY) (AR 600–8–10).

#### **4–3. Liability**

*a.* An attorney who provides legal assistance under this regulation to an eligible client is performing an official function of the U.S. Army. Nevertheless, each action taken or opinion given by an attorney on behalf of a legal assistance client will reflect that attorney’s personal, considered judgment as an individual member of the legal profession.

*b.* Under the provisions of 10 USC 1054, the exclusive remedy for injury or loss of property caused by the negligent or wrongful act or omission of any attorney, paralegal, law specialist, authorized volunteer, or other member of an Army legal office acting within the scope of his or her duties is a claim against the United States under the provisions of the Federal Torts Claims Act (28 USC 2679) if the acts complained of occurred in the United States, its possessions, commonwealth, or territories, or the Military Claims Act if the acts occurred in a foreign country. Information on representation by the Department of Justice can be found in 28 C.F.R., section 50.15. Any attorney or other person facing a negligence action in this regard should be immediately referred to the claims office or the attorney responsible for handling claims within the Army legal office, or to Commander, U.S. Army Claims Service, 4411 Llewellyn Avenue, Fort George G, Meade, Maryland 20755–5360. If judicial action has been filed, the attorney or other person should immediately be referred to U.S. Army Litigation Center, ATTN: JALS–LTT, Ballston Metro Center Building, 901 N. Stuart St., Arlington, VA 22203–1837. Upon certification filed with the court by the Attorney General of the United States that the attorney or other person was acting within the scope of his or her office or employment at the time the incident out of which the claim arose, the United States shall be substituted as the defendant.

*c.* An attorney may also apply for indemnification in accordance with 10 USC 1054(f) and AR 27–20, paragraph 3–21, for legal malpractice liability arising from duties performed pursuant to this regulation.

*d.* Soldiers appointed by competent authority to serve without additional compensation as UTAs or detailed as SD soldiers to perform like duties are—

(1) Performing official military duty while rendering tax assistance to others under an installation tax assistance program; and

(2) Considered to be employees for purposes of the Federal Tort Claims Act.

*e.* This subparagraph contains guidance on liability and related matters pertaining to the use of volunteers within the legal assistance program. Supervising attorneys will provide clear guidance to all volunteers concerning the need to protect from disclosure all the communications and records protected by the attorney-client privilege. See paragraph 4–8. Also, see 28 USC 2679 and 28 C.F.R., section 50.15 on procedures for requesting Department of Justice representation.

(1) Those who assist with the preparation of tax returns under the IRS VITA program have no legal liability for the tax returns prepared under this program (Internal Revenue Code, section 7705 and Treasury Regulation, section 301.7701–15).

(2) Those who provide voluntary tax assistance services through ACS and official family support groups (pursuant to 10 USC 1588 and AR 608–1, para 4–2) and who are subject to day-to-day control by appropriate Federal employees or officers may be considered to be Government employees for purposes of the Federal Torts Claims Act. However, the following applies:

(*a*) Competent authority must authorize acceptance of the services.

(*b*) There must be day-to-day control of the volunteer’s services by Federal personnel.

(*c*) The volunteer must receive no compensation (other than reimbursed incidental expenses pursuant to AR 215–1, para 3–14*j*.)

(*d*) The tort liability must arise from acts or omissions within the scope of authorization.

(3) Student volunteers who assist those providing legal assistance (pursuant to 5 USC 3111) and who are subject to day-to-day control by appropriate Federal employees or officers may be considered to be Government employees for purposes of the Federal Torts Claims Act. However, in addition to the criteria listed in paragraph 3–4*e*(2)(*a*), (*b*), and (*d*), the following applies:

(*a*) The volunteer must receive no compensation. (Reimbursed incidental expenses pursuant to AR 215–1, para 3–14*j* are not authorized.)

(*b*) The volunteer must be enrolled full-time in a junior college, college, university, law school, or comparable recognized educational institution in or outside the United States.

(*c*) The voluntary services provided must be part of a program, established in conjunction with the educational institution at which the volunteer is enrolled, that is designed to provide educational experiences for students.

(*d*) The services provided by the volunteer must not displace any employee.

(*e*) A Privacy Act record can not be disclosed to the volunteer without the prior written consent of the individual to whom the record pertains (for example, the client)

## **Section II Professional Resources**

### **4-4. Legal Automation Army-Wide System (LAAWS)**

*a.* The LAAWS-LA software program represents Army policy for the appropriate format to be followed in preparing legal assistance documents, records and reports. The use of a standardized system improves legal assistance Army wide by reducing (or eliminating) the time required to train attorneys and support personnel as they move from one legal office to another within the same or different components of the Army. However, LAAWS-LA is only a guide for preparing legal documents; it is not a substitute for professional judgment and discretion.

*b.* Suggestions on substantive changes to, and recommendations on new or updated materials for, the LAAWS-LA software program should be submitted to The Judge Advocate General's School (JAGS-ADA), 600 Massie Road, Charlottesville, VA 22903-1781. Problems, and suggested solutions to problems, encountered in using the LAAWS-LA software program should be brought to the attention of the LAAWS Project Manager, LAAWS Project Office, Fort Belvoir, VA 22060-5385. Authorized users may obtain copies of the LAAWS-LA software program from the LAAWS project manager at this address.

*c.* Factors, such as the unavailability of updated LAAWS programs or compatible equipment, the availability of suitable alternatives, or military or client needs or requirements may warrant the use of computer software programs other than LAAWS-LA in providing legal assistance.

### **4-5. JAGC Reserve Officer Legal Assistance Directory**

*a.* The Chief, Legal Assistance Division, OTJAG will maintain and publish the JAGC Reserve Officer Legal Assistance Directory. This directory, which will be periodically updated and republished, will contain the names of RC judge advocates whose applications have been approved pursuant to paragraph 2-2*b*.

*b.* The directory, which may be expanded to include reserve judge advocates of the other services, will contain the name, rank, reserve status, bar admission, areas of legal expertise, geographical areas of practice, civilian occupation, and office address and telephone and telecopier number of each listed officer. This regulation governs those in the Army who are listed in the directory and who use it.

*c.* The purpose of the directory is to enhance the ability of Active Army and RC attorneys to communicate with each other on legal assistance issues and to coordinate the delivery of legal assistance services in particular cases.

*d.* A client referral made to a listed RC judge advocate on a matter within the scope of the legal assistance program shall be in accordance with this regulation and on a no-fee basis. (See paras 3-7*h* and 4-7.) Each RC judge advocate listed in the directory, by virtue of being listed, has agreed to participate in the legal assistance program and to assist fellow judge advocates and others authorized to provide legal assistance on legal questions and issues in his or her areas of expertise. A listed RC judge advocate may, but is not required to, accept a client referral, but any referral accepted as an legal assistance case will be accepted on a no-fee basis. See paragraph 4-7 and AR 27-26 on other ethical considerations.

*e.* A listed judge advocate, acting in a private capacity, may accept a client referral on a fee-basis from an attorney providing legal assistance if that is the stated reason for the referral. In this regard, the client's understanding at the time of the referral is of paramount importance. See paragraph 3-7*h*(8), 4-7, and AR 27-26 for other ethical considerations.

## **Section III Professional Conduct**

### **4-6. General**

*a.* Those providing legal assistance to clients will not make statements or send correspondence that purports to be on behalf of the United States, the U.S. Army, or the command or legal office to which they are assigned. A supervising attorney may act on behalf of an Army command or Army legal office in pursuing relief for a particular legal assistance client if authorized to do so by the client and the appropriate commander. (See also AR 608-99, para 1-4*d*(3).) In the absence of such authorization, those seeking an official interpretation or position should be referred to the person responsible for such matters (for example, an official legal opinion on the interpretation of an Army regulation should be requested through the SJA, and, when appropriate, to the proponent of the regulation).

*b.* Attorneys providing legal assistance should communicate directly with one another and with their supervising attorneys whenever necessary and appropriate to resolve a client's problem promptly or to enhance the effectiveness of the Army legal assistance program. Help may also be sought from MACOM SJAs from instructors within the Legal Assistance Branch of the Administrative and Civil Law Division at TJAGSA, and from attorneys within the Legal Assistance Division, OTJAG. Questions about Army legal assistance policy should be addressed to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200.

### **4-7. Ethical standards**

*a.* AR 27-26 sets forth the rules of professional conduct for all those who provide legal assistance within the Army.

See AR 27-1 as to instances in which those who provide legal assistance must obtain TJAG approval before engaging in the private practice of law.

*b.* An attorney who provides legal assistance should refer a case to another lawyer (para 3-7*h*) whenever the client's needs exceed either the attorney's competence or authority to render assistance. If the scope of legal assistance is limited by superior order, by this or another regulation, or by law, the attorney should advise the client of such limitation at the earliest opportunity.

*c.* Unless the attorney-client relationship is properly terminated, an attorney providing legal assistance should carry through to conclusion all matters undertaken for a client.

*d.* No one may request or accept any benefit or gratuity (for example, a gift, a loan, a promise of a future legal referral) from any source as payment for performing official duties pursuant to this regulation. The receipt of any benefit or gratuity will be promptly disclosed to the supervising attorney.

(1) An active Army or RC attorney may not request or accept any actual or constructive compensation or benefit for, or in connection with, the referral to a lawyer in private practice a matter in which the attorney became involved with in a military legal assistance capacity.

(2) An active Army or RC attorney may not refer a client with whom the attorney has communicated substantively on a legal assistance matter to himself or herself, or to the firm in which he or she works in a private capacity, for the same general matter for which the client sought legal assistance except on a no-fee basis. The same general matter includes one or more types of cases within any one of the ten categories of cases listed within paragraph 3-6, or which arises out of the same factual situation or course of events.

(3) An active Army or RC attorney may represent an eligible client in a private capacity concerning new matters, even though an attorney-client relationship might have been first established in a military legal assistance capacity.

(4) In making a referral or accepting a client on a matter outside the scope of the legal assistance program (that is, on a fee basis), an Active Army or RC attorney will promptly establish with the client an understanding that a fee for legal services will be charged.

#### **4-8. Attorney-client privilege**

*a.* Communications between attorney and client are privileged. See AR 27-26. Those providing legal assistance will carefully guard the attorney-client relationship and protect the confidentiality of all privileged communications with their clients, as well as the confidentiality of other privileged information or documents that may be acquired. Privileged communications will be disclosed only in accordance with applicable law. If a client authorizes the disclosure of privileged matters, such authorization should be obtained in writing, and the attorney should keep a copy of the authorization.

*b.* Those who assist attorneys providing legal assistance will maintain the same strict standards of confidentiality. Attorneys will ensure that those who assist them are fully instructed as to the nature and scope of privileged communications.

*c.* Those who supervise attorneys providing legal assistance will maintain and enforce the same strict standards of confidentiality. Supervising attorneys are authorized to review all office administrative activities, procedures, and incoming and out-going correspondence. These individuals perform a role similar to that of the senior partners of a law firm except where a potential for a conflict of interest exists.

(1) Supervising attorneys and attorneys providing legal assistance will be sensitive to potential conflicts of interest. For example, if an attorney advises a soldier on an appeal from an adverse efficiency report or on a report of survey, a supervising attorney should not provide advice to that attorney on that appeal nor supervise or review the work product of that attorney-client relationship if he or she may later be called upon to advise the command on the same matter. This precaution especially applies to SJAs, deputy SJAs, and chiefs of administrative law who supervise legal assistance services.

(2) Attorneys who provide legal assistance should advise their supervising attorneys of the potential for such conflicts. Supervising attorneys should provide clear guidance to office personnel as to which matters should be included in, and excluded from, legal assistance reading files.

#### **4-9. Conflicts of interest**

*a.* Those providing legal assistance should avoid conflicts of interest. A conflict may prevent an attorney, and in some instances, all the attorneys in an Army legal office from providing legal assistance to a particular client. See AR 27-26, appendix B, Rules 1.7 through 1.10 regarding conflict of interest and imputed disqualification.

*b.* Supervising attorneys will establish procedures to ensure that:

(1) All clients are screened to avoid inadvertent conflicts.

(2) Full explanations are given to every client who cannot be assisted by attorneys in an Army legal office because of a conflict.

(3) Clients who cannot be assisted because of a conflict are referred in accordance with paragraph 3-7*h*, specifically, paragraphs 3-7*h*(6)(*b*) and (7).

(4) The confidentiality of attorney-client communications is protected.

c. Army policy discourages attorneys from the same legal office from providing legal assistance to both parties involved in a domestic or other legal dispute (other than legal referral or provision of a list of attorneys in accordance with paragraph 3-7*h* and *i*, respectively). See AR 27-26, appendix B, Rule 1.10, regarding imputed disqualification. Supervising attorneys will provide guidance on issues and cases involving imputed disqualification. Supervising attorneys may authorize exceptions when other alternatives are not feasible (for example, referral to an attorney in another military legal office, a USATDS attorney, or a RC judge advocate). In cases where exceptions are approved, those attorneys providing legal assistance from the same Army legal office will—

- (1) Obtain the informed consent of both clients;
- (2) Make and maintain records of their consent in the clients' files (para 5-1); and
- (3) Further protect confidential attorney-client communications by using different clerical personnel to assist the clients and by separating files and filing locations within the Army legal office.

d. In the following estate planning cases, attorneys providing legal assistance should consider and resolve any conflicts of interest prior to undertaking legal representation:

- (1) Joint requests by spouses for the preparation of wills or other estate planning documents, particularly if either spouse has a child from a prior relationship.
- (2) Requests (or apparent requests) for legal assistance on behalf of a third party (for example, a younger person accompanying an elderly client who requests a will or power of attorney on behalf of the client).

#### **4-10. Investigations and advisory opinions**

Alleged violations of AR 27-26, appendix B, and requests for advisory opinions will be processed in accordance with AR 27-1.

## **Chapter 5 Administration**

### **5-1. General**

a. In addition to the DA Form 2465 (Client Legal Assistance Record) discussed in paragraph 5-2, supervising attorneys should require that temporary files (or computer records) be maintained on each client who receives other than routine legal services (for example, those whose assistance involved more than just notarial services or the preparation of a power of attorney). A temporary file should include copies of (or references to) checklists and work sheets used to provide legal advice, copies of correspondence or documents drafted by the attorney, and other memoranda and notes relating to the legal assistance provided to the client.

b. When possible, original papers, documents, and other materials provided by a client should be photocopied and returned to the client immediately. The client should be counseled to retain the originals in a safe accessible place.

c. Supervising attorneys will establish procedures to:

- (1) Dispose of temporary client files, DA Form 2465, administrative files, and other privileged and nonprivileged material in accordance with AR 25-400-2. (AR 27-40, AR 25-55, and AR 340-21 control the release of nonprivileged information to the public.)
- (2) Determine what matters get filed, saved for future reference, or eventually destroyed, taking into account the need to maintain a record on some cases to protect the Government from liability from any claims that may arise. (See para 4-9*c*(2).)

### **5-2. DA Form 2465**

a. Those providing legal assistance will record client interview data on DA Form 2465. This form may be obtained through normal publications channels. It may also be generated and maintained through the LAAWS-LA software program. Appendix B contains instructions (para B-3) and codes (table B-1) for completing this record, and an example of a completed DA Form 2465 (fig B-1). Completed records should be filed alphabetically in a manner and location that will protect the privacy of clients.

b. The DA Form 2465 may be used, but is not required for routine services such as notarizations and powers of attorney. However, an accounting of such services should be maintained for reporting purposes.

### **5-3. DA Form 4944-R (RCS JAC-81)**

a. A DA Form 4944-R (Report on Legal Assistance Services) will be prepared annually by each active Army legal office. Appendix B contains instructions (para B-4) and codes (table B-1) on completing this report. Each office will use the current LAAWS-LA software program to produce the paper copy of the report that is submitted. Both the paper copy and the computer disk containing this report will be submitted to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200 by the first day of February each year and will reflect all legal assistance services provided during the preceding calendar year.

*b.* RC Army legal offices are not required to complete and submit a DA Form 4944-R to HQDA under this regulation. However, any report on legal assistance activities rendered by RC Army legal offices will use DA Form 4944-R and comply with the instructions in appendix B. (A copy of this form is at the end of this regulation and be locally reproduced on 8 1/2- by 11-inch paper or generated using the LAAWS-LA software program.

#### **5-4. Other reports**

*a.* After-Action Report on Tax Assistance

(1) An after-action report on tax assistance will be prepared annually by each Active Army legal office. The report will be prepared in military memorandum format in accordance with guidance issued by the Chief, Legal Assistance Division, OTJAG. The report will be submitted to Legal Assistance Division, The Judge Advocate General, 2200 Army Pentagon, Washington, DC 20310-2200 by 1 June each year for Army legal offices in the U.S., and by 1 July each year for Army legal offices located outside the U.S., and will reflect all tax assistance services provided during the tax season. The tax season is the period 1 January through 30 April of that year for Army legal offices in the U.S., and the period 1 January through 15 June of that year for legal offices located outside the U.S. The report will provide information including, but not limited to the following:

(*a*) The number of attorneys, UTAs, SD soldiers, volunteers, and legal office support personnel providing tax assistance.

(*b*) The number and type (for example, 1040s, 1040As, 1040EZs) of Federal returns, and the number of State returns, prepared and filed by them, and the number of tax inquiries answered by them.

(*c*) The effect, if any, on Army tax assistance services and clients by similar services provided by commercial tax preparers allowed to operate on the installation.

(2) Interim reports on tax assistance may be required in order to meet IRS VITA requirements.

*b.* The Chief, Legal Assistance Division OTJAB may request such other reports as may be required from Army legal offices providing legal assistance.

#### **5-5. Control of privileged materials**

*a.* Information in temporary client files and on DA Form 2465 are privileged and protected under the attorney-client privilege (which includes the attorney-work-product doctrine). Only those who are providing or supervising, or assisting in the provision of, legal assistance to a client may have access to privileged information relating to that client.

*b.* The attorney providing legal assistance will supervise the filing of documents, and will decide the disposition (including destruction) of any papers or records of privileged information in any case in which legal assistance was provided.

*c.* Temporary client files, DA Form 2465, and other privileged materials will be kept separate from administrative and other nonprivileged files.

*d.* Attorneys providing legal assistance will ensure that documents withdrawn for reference or precedential use bear no identification of the client.

*e.* Information contained on DA Form 2465 and in client files that is retrievable by the client's name is releasable to the client under the Privacy Act pursuant to AR 340-21.

## **Appendix A References**

### **Section I Required Publications**

#### **AR 27-1**

Judge Advocate Legal Service. (Cited in paras 1-4*f*, 4-7, and 4-10.)

#### **AR 27-10**

Military Justice. (Cited in paras 1-4*c*, 3-6*g*, and 3-8*b*(5).)

#### **AR 27-20**

Claims. (Cited in paras 3-6*e* and 4-3*c*.)

#### **AR 27-26**

Rules of Professional Conduct for Lawyers. (Cited in paras 1-4*g*, 3-7*j*, 4-5, 4-7, 4-8, 4-9, and 4-10.)

#### **AR 27-40**

Litigation. (Cited in paras 3-8*a* and 5-1*c*.)

#### **AR 40-3**

Medical, Dental, and Veterinary Care. (Cited in para 3-6*b*(4).)

#### **AR 600-87**

Retirement Services Program. (Cited in para 3-6*b*(4).)

#### **AR 608-1**

Army Community Service Program. (Cited in para 4-3*e*.)

#### **AR 608-18**

The Army Family Advocacy Program. (Cited in para 3-7*g*.)

#### **AR 608-99**

Family Support, Child Custody, and Paternity. (Cited in paras 3-6*a*, 3-7*c* and 4-6*a*.)

### **Section II Related Publications**

#### **AR 1-211 (obsolete)**

Attendance of Military and/or Civilian Personnel at Private Organization Meetings

#### **AR 15-6**

Procedures for Investigating Officers and Boards of Officers

#### **AR 15-185**

Army Board for Correction of Military Records

#### **AR 20-1**

Inspector General Activities and Procedures

#### **AR 25-400-2 (corrected title)**

The Army Records Information Management System (ARIMS)

#### **AR 25-55**

The Department of the Army Freedom of Information Act Program

#### **AR 27-55**

Notarial Services

**AR 140–185**

Training and Retirement Point Credits and Unit Level Strength Accounting Records

**AR 190–24 (corrected title)**

Armed Force Disciplinary Control Boards and Off-Installation Liaison and Operations

**AR 215–1 (corrected title)**

Military Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities

**AR 340–17 (obsolete)**

Release of Information and Records from Army Files

**AR 340–21**

The Army Privacy Program

**AR 380–67**

The Department of the Army Personnel Security Program

**AR 600–8–1 (corrected title)**

Army Casualty Program

**AR 600–8–2**

Suspension of Favorable Personnel Actions

**AR 600–8–7**

Retirement Services Program

**AR 600–8–10**

Leave and Passes

**AR 600–8–14 (corrected title)**

Identification Cards for Members of the Uniform Services, Their Family Members, and Other Eligible Personnel

**AR 600–15**

Indebtedness of Military Personnel

**AR 600–37**

Unfavorable Information

**AR 600–105**

Aviation Service of Rated Army Officers

**AR 600–200 (superseded by AR 600–201)**

Enlisted Personnel Management System

**AR 601–1**

Assignment of Enlisted Personnel to the U.S. Army Recruiting Command

**AR 601–280 (corrected title)**

Army Retention Program

**AR 608–10**

Child Development Services

**AR 623–105 (obsolete)**

Officer Evaluation Reporting System

**AR 623–205 (obsolete)**

Enlisted Evaluation Reporting System

**AR 635-40**

Physical Evaluation for Retention, Retirement, or Separation

**AR 635-100 (obsolete)**

Officer Personnel

**AR 635-120 (obsolete)**

Officer Resignations and Discharges

**AR 635-200 (corrected title)**

Active Duty Enlisted Administrative Separations

**AR 690-11 (corrected title)**

Use and Management of Civilian Personnel in Support of Military Contingencies

**AR 690-300**

Employment (Civilian Personnel)

**AR 735-5**

Policies and Procedures for Property Accountability

**DA Pam 608-33 (obsolete)**

Casualty Assistance Handbook

**DODD 1404.10**

Emergency-Essential (E-E) DOD U.S. Citizen Civilian Employees

**NGR 680-2**

Automated Retirement Points Accounting System

**Section III**

**Prescribed Forms**

Department of the Army (DA) forms can be downloaded from the Army Publishing Directorate (APD) Web site, at <http://www.apd.army.mil/>.

**DA Form 2465**

Client Legal Assistance Record (Prescribed in para 5-2.)

**DA Form 4944-R**

Report on Legal Assistance Services (Prescribed in para 5-3.)

**DA Form 7206**

Application to Perform Legal Assistance Work for Retirement Points and to be Listed in the JAGC Reserve Officer Legal Assistance Directory (Prescribed in para 2-2*b*.)

**Section IV**

**Referenced Forms**

Department of the Army (DA) forms can be downloaded from the Army Publishing Directorate (APD) Web site, at <http://www.apd.army.mil/>.

**DA Form 201**

Military Personnel Records Jacket (MPRJ), U.S. Army

**DA Form 1380**

Record of Individual Performance of Reserve Duty Training

**DD Form 2A (corrected name)**

Armed Forces of the United States Identification Card

## **DD Form 1173**

Uniformed Services Identification and Privilege Card (DOD forms can be downloaded from the DOD Forms Web site, at: <http://www.dtic.mil/whs/directives/infomgt/forms/index.htm/>.)

## **DOL Form VETS-1010 (corrected title)**

Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veterans' Preference (Available at <http://webapps.dol.gov/libraryforms/go-us-dol-form.asp?FormNumber=242>)

## **SGLV-8286**

Servicemembers' Group Life Insurance Election and Certificate (Available at <http://www.insurance.va.gov/sgliSite/default.htm/>.)

## **Appendix B**

### **Instructions for completing DA Form 2465 (Client Legal Assistance Record) and DA Form 4944-R (Report on Legal Assistance Services)**

#### **B-1. General**

*a.* The Client Legal Assistance Record and Report on Legal Assistance Services are designed to:

(1) Collect only the information that needs to be maintained so as to cause the least administrative burden as possible.

(2) Use codes (identical for each form) to facilitate ease of manual and computer-assisted recording and consolidation.

(3) Capture data that accurately describes the type of legal assistance cases (that is, legal problems and needs) that are being handled for each client and for all clients throughout the Army.

(4) Capture data that accurately describes the type of legal assistance services that are being delivered to each client and to all clients throughout the Army.

*b.* The purpose of the instructions which follow is to foster:

(1) Uniformity in the recording and reporting of legal assistance cases and services throughout the Army.

(2) The elimination of practices that overstate the number of legal assistance cases.

(3) The collection of data that will be meaningful to commanders and officials within and outside of DA.

#### **B-2. Instructions common to both forms**

*a. Legal assistance cases.* A legal assistance case is a personal legal problem or need (listed in para 3-6) for which an eligible client receives legal assistance and other services (listed in para 3-7) from attorneys or paralegals in an Army legal office. The statistic that is sought here is the type of case in which legal assistance is being provided, not the number of consultations or the number of attorneys or paralegals involved in meeting a client's legal needs.

(1) Although a legal assistance consultation will not always fit squarely within one of the categories of cases (for example, family law, estates) or types of cases (for example, nonsupport, divorce) defined in paragraph 3-6, attorneys providing legal assistance should ordinarily designate only one category and type of case for each client assisted during a consultation or follow-up visit. The category and type of case selected should reflect the primary reason the client is seeking legal assistance or the area in which most legal services are being provided.

(2) The only exception to the foregoing subparagraph is a legal assistance case in which legal services (other than counseling, referral, or furnishing a list of lawyers) are provided on entirely unrelated legal assistance problems. One legal assistance problem is unrelated to another if they are listed under different subparagraphs of paragraph 3-6.

(3) One or more consultations may be required in order to address a legal problem or need, but each legal problem, solved or unsolved, or legal assistance need, met or unmet, is one legal assistance case. A legal assistance case in which consultations or other work continues from one calendar year to another is still one legal assistance case. The case is counted as a legal assistance case only for the calendar year in which the client is first assisted on a particular legal problem. However, if there has been no legal assistance activity in a particular case for the preceding 24 months, a subsequent legal assistance consultation on the same legal problem should be counted as a new case.

(4) A legal assistance case handled by USATDS attorney, or by an attorney who does not ordinarily provide legal assistance, is still a legal assistance case. The legal services that are provided and the records and statistics that are generated are governed by this regulation. The only exception is any military administrative case (para 3-6g) handled by a USATDS attorney. Such cases are USATDS cases for regulatory and statistical purposes.

(5) The statistics reported for income tax cases on the DA Form 4944-R, Part IV, usually will not correspond to the statistics reported for income tax returns prepared and electronically filed on Part III of this form nor on the After-Action Report on Tax Assistance for the following reasons:

*(a)* A client reported as a tax case during one calendar year may have received legal help on income tax preparation

or electronic filing in prior calendar years. The DA Form 2465 and DA Form 4944-R for subsequent years would not reflect a new client for tax assistance services; rather, all that would be reflected on these forms and on the After-Action Report is that the same client received legal assistance tax services (that is, tax preparation and electronic filing) in subsequent years.

(b) The legal assistance tax cases or tax services reported on the DA Form 4944-R, Parts III and IV, are those cases and services pertaining to clients for whom a DA Form 2465 was prepared. In most instances, a DA Form 2465 is not completed for those who receive tax assistance from UTAs and volunteers. Such tax assistance service, however, should be entered on the LAAWS-LA generated DA Form 4944 in Part II. A DA Form 2465 is ordinarily prepared only for clients who are directly assisted by attorneys or those under their immediate supervision.

(c) The After-Action Report on Tax Assistance reflects the total number of persons assisted on the installation during the tax season as defined in paragraph 5-4a(1), not for the entire calendar year as required by paragraph 5-3a.

(6) Notarizations and powers of attorneys are counted as services, not cases.

(7) The following are provided as examples of the foregoing:

(a) A client who is assisted on a separation and pending divorce and who has related questions on child support and custody and on the disposition of the home in which the client's family resides is one divorce case, not four cases (that is, divorce, nonsupport, custody, and real property.)

(b) A client for whom an attorney provides a will and dispatches a letter on a nonsupport problem is counted as two legal assistance cases.

(c) A client for whom two different attorneys provide assistance on the client's income taxes during three successive years is one legal assistance tax case. The same is true for a client assisted with a paternity problem over the course of two years. (Note that legal assistance services are counted elsewhere, but the number of clients assisted with their taxes or on paternity problems does not increase merely because the assistance rendered extends beyond the end of a calendar year.)

b. *Legal assistance services.* One or more legal assistance services (para 3-7) may be provided in a legal assistance case. Each type of service, including duplicative services, will be recorded. For example, a nonsupport case may involve two client interviews during which legal counseling was provided, and after which the attorney composes and sends three letters in the client's behalf. The services in this case would be counted as two legal counseling and three correspondence. However, only one nonsupport case would be reported, even if different attorneys were involved in providing these legal services. (Note that each consultation, or office visit with an attorney, will almost always involve some legal counseling, and hence each such consultation or visit may be counted as including legal counseling for statistical purposes.)

### **B-3. Instructions on the DA Form 2465**

Legal assistance codes for use in DA Form 2465 are listed in table B-1. An example of a completed DA Form 2465 is at figure B-1.

#### *a. Client data.*

(1) *Block 1.* Enter the client's name.

(2) *Block 2.* Check the appropriate client category (that is, service member, family member of service member, retired service member/family member, DOD civilian/family member, or other).

(3) *Blocks 3, 10, 11, and 12, respectively.* If applicable, enter the military grade, military organization, and PCS and ETS dates of the client or sponsor.

(a) If the client and his or her spouse are both service members, enter this data as it pertains to the client only.

(b) If the client is a retired service member (or family member of one), enter the retired military grade of the client (or sponsor).

(c) If the client is a DOD civilian employee (or family member of one), enter the organization of the client (or sponsor), and PCS date, if applicable.

(4) *Blocks 4, 5, 7, 8, and 9 respectively.* Enter the client's social security number, marital status (that is, single, married, divorced, or widowed), local mailing address, and daytime and home telephone number.

(5) *Block 6.* If the client is married, enter the name of the client's spouse in block 6.

b. *Mode.* Record the code that reflects where legal assistance was provided to the client (for example, during the course of regular duties (CL), during an EDRE (CE)). A case that starts out as one type of case (for example, a will (WW)) in one mode remains in that mode until legal services for that type of case are completed (e.g., the will is prepared and/or executed (SW)).

c. *Type case.* Record the code that reflects the type of legal assistance case (that is, legal problem or need) in which the client is seeking assistance. Generally, there should be only one entry for each client during any one consultation or visit with an attorney, unless the client is assisted (not merely counselled or referred) on two or more entirely unrelated legal problems or needs. When a case code is used for the first time, it should be circled on the DA Form 2465. See figure B-1 for examples. Only new case entries are counted for statistical purposes when the totals of these entries are inserted in DA Form 4944-4, Part IV. (This method of computation is performed automatically when client records are maintained using the LAAWS-LA software program.)

*d. Type of services.* Record the code that reflects the type or types of legal assistance services provided to a client in each legal assistance case on a particular legal problem or need.

(1) Each legal assistance case, by definition, will include at least one instance of counseling. (Note that although some counseling may be involved in providing services such as notarizations and powers of attorneys, these services are not counted as legal assistance cases.)

(2) Each client interview will involve some legal counseling (SC) regardless of whatever other type of legal service may also be rendered at the time. Therefore, multiple entries of legal counseling (SC) may be made in a case that involves only one legal problem.

(3) Multiple entries may also be made for correspondence (SL) and documents prepared, reviewed, and/or executed (SP, SW, SG, SA, SO). However, the same letter or document should not be a basis for multiple entries regardless of the number of times a particular letter or document was the subject of a legal assistance visit.

(4) Only one of each type of the following entries for legal services should ordinarily be made in any one legal assistance case:

(a) Negotiation (SN).

(b) Referral (RA, RR, RN, RF, RL).

(c) *Pro se* assistance (SS, SU, SF).

(d) In-court representation (SI, SD, SB).

(e) Preparation of tax returns — limited to one TF and one TS entry per year, unless one or more amended returns are prepared, in which case each return prepared may be counted separately. (A joint return is counted as only one tax return; the client is the person for whom a DA Form 2465 is prepared.)

(f) Electronic filing of tax returns — limited to one TE and one TT entry per year. (A joint return is counted as only one tax return; the client is the person for whom a DA Form 2465 is prepared.)

(g) Mediation (SM).

#### **B-4. Instructions on the DA Form 4944-R**

*a. Part I.* Record the number of personnel who were present (including those assigned but away on ordinary leave or pass), or who as Reservists were available (for example, as Individual Mobilization Augmentees, Reservists during weekend drills) to provide legal assistance or legal assistance support services on the last duty day of the reporting period. A person is a part-time legal assistance attorney, paralegal, or clerk if he or she on average performs legal assistance duties one or more hours per duty day, but less than on a full-time duty basis. (The client services reported in Part III, Section B, and the cases reported in Part IV include those handled by the categories of personnel listed in this block who were assigned or attached for duty to the reporting Army legal office at any time during the reporting period.)

*b. Part II.* Record the number of instances that clients were provided legal assistance services from attorneys and paralegals during the course of regular duties and during the exercises and other events listed. (Note that what is counted here is the number of times that a “mode” is matched with a “case” and “service.” Also note that powers of attorney and notarizations are services, not cases, that are tabulated elsewhere on the report.)

*c. Part III.*

(1) *Section A.* Record the number of classes or briefings given by any attorney assigned to the Army legal office on substantive legal assistance issues and the number of those in attendance. Also record the number of articles or booklets actually published during the period by any attorney assigned to the Army legal office on substantive legal assistance issues. Include articles published in installation newspapers, those published in Army wide publications such as *The Army Lawyer*, or in State or national law journals.

(2) *Section B.* More than one type of legal service can be provided to a client in any legal assistance case. The statistic that is tracked here is the number and type of services provided, not the particular case or type of case in which it occurred. (Note that the type of case and client category is reported in Part IV of this report for a new client, or in Part IV of an earlier report for those assisted during an earlier period on the same legal problems.)

(a) *Notarizations.* Record the number of notarizations provided, regardless of whether or not they were accompanied by another legal service, such as the execution of a will.

(b) *Legal counseling.* Record the number of times clients were counseled by an attorney or paralegal during the reporting period. Every case for which a DA Form 2465 is prepared ordinarily involves at least one instance of legal counseling. Subsequent interviews, and even some follow-up telephone calls may involve other instances of legal counseling. Record the total number of client interviews or separate conversations with clients in which legal counseling was provided.

(c) *Legal correspondence.* Record the total number of letters, electronic messages, facsimile transmissions, and other written correspondence signed and sent by attorneys on behalf of legal assistance clients, as well as those which were prepared for the signature of clients or were prepared by clients and reviewed and/or edited by attorneys. Multiple entries may be made for multiple letters, but the same letter should not be a basis for multiple entries regardless of the number of times a particular letter was the subject of a legal assistance visit. Do not include documents or other papers relating to other legal services (for example, *pro se* assistance, in-court representation).

(d) *Legal negotiation.* Record the number of legal assistance cases in which an attorney negotiated with one or more adverse parties (for example, creditor, landlord, spouse, another attorney, a Government official, including a commander), in person or by telephone, on behalf of a client. More than one adverse party may be involved in any one case, but only one negotiation will be recorded for each case. Do not record the number of conversations or adverse parties.

(e) *Legal document preparation.* Record the total number of documents prepared and/or executed by attorneys on behalf of legal assistance clients, as well as those which were prepared by clients or by opposing parties or counsel, but were reviewed and/or edited and/or executed by attorneys within the Army legal office. Multiple entries may be made for multiple documents, but the same document should not be a basis for multiple entries regardless of the number of times a particular document was the subject of a legal assistance visit. For example, a will prepared and executed is counted as one will, as is a will that is prepared, but never executed. Repeated drafts of the same will are also counted as one will. Do not include documents or other papers relating to other legal services (for example, *pro se* assistance, in-court representation).

(f) *Other legal document preparation.* Record the total number of other documents (that is, other than powers of attorney, wills, SGLI forms, and separation agreements) prepared and/or executed by attorneys on behalf of legal assistance clients, as well as those which were prepared by clients or by opposing parties or counsel, but reviewed and/or edited and/or executed by attorneys within the Army legal office. Other documents would include trust agreements, contracts, settlement agreements, prenuptial agreements, and leases, as well as the drafting of specific clauses with those documents.

(g) *Income tax returns.* Record the number of cases in which Federal and State income tax returns were prepared, including the number of amended Federal and State returns electronically filed. (Some States do not authorize electronic filing.)

(h) *Pro se assistance.* Record the number of cases in which non-lawyer clients were assisted in their efforts to proceed as *pro se* parties in civil proceedings in Federal, State, and foreign jurisdictions.

(i) *In-court representation.* Record the number of cases in which clients were provided in-court representation in court proceedings conducted in Federal, State, and foreign jurisdictions.

(j) *Legal referral.* Record the number of cases in which an attorney communicated with another attorney and arranged the referral of a client for help on a matter within or outside the scope of legal assistance. (See paras 3–7h and 3–8.) Include among the referrals to civilian attorneys those referrals accepted by reservists in their civilian capacity.

(k) *Other legal referral.* Record the number of referrals made to other than an attorney, such as to State or Federal agencies, or to programs or offices within the military (for example, the family advocacy program, inspector general).

(l) *Provided lawyer list.* Record the total number of clients who were otherwise directed elsewhere for legal help, including lawyer referral services operated by State and local bar associations.

(m) *Mediation.* Record the number of cases in which clients were provided mediation or other alternative dispute resolution services (for example, arbitration). Include only those cases in which these services are provided under the supervision of the commander responsible for providing legal assistance services.

#### d. Part IV.

##### (1) Family law.

(a) *Nonsupport.* Record the number of clients in non-paternity cases where an issue of financial support for a spouse or child was the primary reason behind the request for legal assistance.

(b) *Paternity.* Record the number of clients in paternity cases involving nonsupport, custody, visitation, and other issues.

(c) *Custody.* Record the number of clients in non-paternity cases in which child custody or visitation was the primary reason behind the request for legal assistance.

(d) *Divorce.* Record the number of clients requesting help where a request for information or help on a divorce, marital dissolution, annulment, or legal separation was the primary reason behind the request for legal assistance.

(e) *Adoption.* Record the number of clients requesting help on adoptions.

(f) *Other.* Record the number of clients in all other family law cases (for example, prenuptial agreements, marriage, dependency determinations for military identification cards, welfare assistance) in which legal assistance was provided.

##### (2) Estates.

(a) *Wills/SGLI.* Record the number of clients provided assistance on wills, AMDs, and SGLI selections, whether or not documents were prepared or executed.

(b) *Casualty assistance.* Record the number of casualty assistance clients receiving legal assistance in their capacity as the primary next of kin.

(c) *Other.* Record the number of clients in all other estate cases (for example, trusts, life insurance, guardianships) in which legal assistance was provided.

(3) *Real property.* Record the number of clients in cases involving contracts, leases, warranties, mortgages, and other legal problems arising from the purchase, sale, or ownership of real property in which legal assistance was provided.

(4) *Personal property.* Record the number of clients in cases involving contracts, warranties, security interests,

consumer affairs, and other legal problems arising from the purchase, sale, or ownership of personal property in which legal assistance was provided.

(5) *Economic*. Record the number of clients assisted on bankruptcy, garnishment orders, involuntary allotment applications for judgment indebtedness, lending agreements, banking, credit card, and debt problems, property insurance issues, non-government claims (including Article 139 claims), and other financial matters, and the number of service members seeking assistance under a state veteran reemployment rights law or the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (38 USC 4301–4333). Record as claims cases only those for which a procedure for collection is provided by military regulation (for example, Article 139, UCMJ claims pursuant to AR 27–20). Other “claims” cases will more appropriately fall within other categories on the report (for example, torts, real or personal property, estates). Record as bankruptcy cases only those in which the primary counseling or assistance rendered involved bankruptcy law.

(6) *Civilian administrative*. Record the number of clients assisted on change of name that were not accompanied by another type of legal service. Include under “citizenship” any case involving immigration or naturalization. Include under “other” any matter not listed on the form that includes a civilian administrative matter under municipal, State Federal, or foreign law.

(7) *Military administrative*. Record only those cases in which legal assistance on a military administrative matter was initially provided to a client by an attorney not assigned to USATDS; or, following a referral, was eventually provided by an attorney not assigned to USATDS. Under the “other” category include the total number of clients assisted by attorneys not assigned to USATDS on any military administrative matters not listed. Note the following guidance:

(a) Officer evaluation reports (AR 623–105) include relief for cause reviews.

(b) Hardship cases include requests or issues involving hardship discharges (AR 635–200) and compassionate reassignments (AR 614–100 (officer) and AR 614–200 (enlisted)).

(8) *Torts*. Include the prosecution or defense of all tort matters that do not involve procedures governed by military regulations or that do not have the U.S. Government as a party.

(9) *Taxes*. Cases included in this category would include all tax assistance provided to clients, including those for whom a State or Federal tax return was prepared or electronically filed.

(10) *Civilian criminal*. Record the number of clients assisted on civilian criminal matters in Federal, State, or foreign courts.

(11) *Total clients/total cases*. The number reflected here is the total of all the cases above, and reflects the number of new legal problems or needs (that is, new cases) during the reporting period. (Note that this number excludes services, such as notarizations and powers of attorneys.) This number should be smaller than the total number of clients assisted in Part II as that number reflects the total number of instances in which all clients were assisted on old and/or new legal problems.

**Table B–1**  
**Legal assistance codes for DA Form 2465**

Codes	Category
<b>Reason for assistance (mode)</b>	
CL	Legal assistance provided during course of regular duties
CE	Emergency deployment readiness exercise (EDRE)
CN	Noncombatant evacuation operation (NEO)
CM	Mobilization deployment readiness exercise (MODRE) or readiness for mobilization exercise (REMOBE)
CP	Premobilization legal preparation (PLP)
CS	Soldier readiness program (formerly the preparation of replacements for overseas movement (POR); it also includes for the purpose of this report a preparation for overseas movement (POM)
CD	Demobilization briefing
<b>Case type</b>	
<i>Family law</i>	
FN	Nonsupport
FP	Paternity
FC	Custody/visitation
FD	Divorce/separation

**Table B-1**  
**Legal assistance codes for DA Form 2465—Continued**

Codes	Category
FA	Adoption
FO	Other
	<i>Estates</i>
WW	Wills/SGLI
WC	Casualty assistance cases
WO	Other
	<i>Real property</i>
RT	To tenant on lease (or lease problem)
RL	To landlord on lease (or lease problem)
RB	To buyer
RS	To seller
RO	Other (not tax-related)
PP	<i>Personal property</i>
	<i>Economic</i>
NB	Bankruptcy
ND	Debts
NI	Insurance problem (other than life insurance)
NV	Veteran reemployment
NC	Claims
NO	Other
	<i>Civilian administrative</i>
AN	Change of name
AC	Citizenship
AO	Other
	<i>Military administrative</i>
ML	Line of duty investigation (AR 608-8-1) (18 Sep 86)
MS	Report of survey (AR 735-5)
ME	Officer or noncommissioned officer evaluation report (AR 623-105 or AR 623-205, respectively)
MB	Bar to reenlistment (AR 601-280)
MC	Security clearance revocation (AR 380-67)
MR	Memoranda of reprimand (AR 600-37)
MU	Article 138, UCMJ complaint (AR 27-10)
MH	Hardship cases
MT	Other
TC	<i>Torts</i>
	<i>Taxes</i>
TP	Property taxes
TI	Income taxes
TO	Other taxes
VC	<i>Civilian criminal</i>
<b>Types of services</b>	
ZN	Notarization

**Table B-1**  
**Legal assistance codes for DA Form 2465—Continued**

Codes	Category
SC	Legal counseling
SL	Legal correspondence
SN	Legal negotiation
SP	Power of attorney prepared, reviewed, edited, and/or executed
SW	Will prepared, reviewed, edited, and/or executed
SG	SGLV-8286 prepared, reviewed, edited, and/or executed regarding SGLI
SA	Separation agreement prepared, reviewed, edited, and/or executed
SO	Other document prepared, reviewed, edited, and/or executed
TF	Federal income tax return prepared
TE	Federal income tax return electronically filed
TS	State or local income tax return prepared
TT	State or local income tax return electronically filed
SS	<i>Pro se</i> assistance in State proceeding
SU	<i>Pro se</i> assistance in Federal (non-military) proceeding
SF	<i>Pro se</i> assistance in foreign proceeding
SI	In-court representation in State proceeding
SD	In-court representation in Federal (non-military) proceeding
SB	In-court representation in foreign proceeding
RA	Referral to active component attorney
RR	Referral to reserve component attorney
RN	Referral to a civilian attorney on a no-fee basis
RF	Referral to a civilian attorney on a fee basis
RL	Provided lawyer's name, a list of lawyers' names, or referred to a State or local lawyer referral office
RO	Other referral, such as to a State or Federal agency or another military office or program
SM	Mediation

**DATA REQUIRED BY THE PRIVACY ACT OF 1974**

**AUTHORITY** Title 16, USC, Section 3013.  
**PRINCIPAL PURPOSE** The purpose of this form is to assist the attorney in preparing legal documents for the client, and to prepare statistical reports on legal assistance services provided during the year. The information on this form is protected by the attorney-client privilege and may be released only in accordance with law or with approval of the client.  
**ROUTINE USES** Information on this form will be used to provide legal advice and to prepare legal correspondence and documents for the client, and to prepare statistical reports.  
**DISCLOSURE** Voluntary. However, nondisclosure may preclude the legal assistance desired by the client.

1 NAME (Last, First, MI) **COLEMAN, JOHANNIE D.** 2 CLIENT CATEGORY  
 SVC MBR  FAM MBR  RET S&FM  DOD CIV FM  OTHER

3 MIL GRADE OF CLIENT OR SPONSOR **E3** 4 CLIENT'S SSN **123-45-6789** 5 MARITAL STATUS **MARRIED** 6 SPOUSE'S NAME **EDMOND W.**

7 CLIENT'S LOCAL MAILING ADDRESS (include ZIP Code) **123 CANNON, FT BLANK, MO 68765** 8 CLIENT'S DAYTIME PHONE **135 791-3579** 9 CLIENT'S HOME PHONE **246 802-4680**

10 MILITARY ORGANIZATION OF CLIENT OR SPONSOR **HNC, 5th BN, 13th INF, FT BLANK, MO** 11 PCS **NA** 12 ETS **1 JUN 95**

\* IF APPLICABLE

(DO NOT WRITE BELOW THIS LINE)

DATE	ATTORNEY	MODE	TYPE CASE	TYPE OF SERVICES	REMARKS
1 FEB 93	SMITH	CL	TL	SC TF TS TB	Advised to file amended 91 returns re child care expenses
9 FEB 93	SMITH	CL	TI	SC TF TS	Amended 91 returns prepared
5 APR 93	JONES	CE	WW	SC SP SN	To make appointment to provide additional info on draft will
9 APR 93	CLARK	CE	WW	SC	5 APR will draft completed and executed in LAO

DA FORM 2465, JUL 92      DA FORM 2465, MAR 84 IS OBSOLETE      CLIENT LEGAL ASSISTANCE RECORD  
For use of this form, see AR 27-3; the proponent agency is OTJAG

DATE	ATTORNEY	MODE	TYPE CASE	TYPE OF SERVICES	REMARKS
7 JUN 93	WHITE	CL	FD	SC	Provided general advice on divorce law
6 JUN 93	WHITE	CL	WW	SC SP SG SW	New SPNSW - helped on wording SGLI form to name mother trustee on proceeds
8 SEP 93	WHITE	CL	FD	SC SN SA	Reviewed SA - called husband's atty (Mr. Black) & demanded child support of 450/m.
13 SEP 93	WHITE	CL	FD	SC RF RL	Rec. Mr Jones - arranged appointment. Also provided lawyer referral no.
"	"	CL	RT	SC SO	Reviewed apartment lease - OK
4 OCT 93	BLACK	CL	MS	SC SO	Helped on wording response re loss of mil. equip. (radio)
7 APR 94	BROWN	CL	TI	SC TF TS TB	
21 APR 94	BROWN	CL	VC	SC SN	Talked DA (Harvey) into reducing reckless driving charge to speeding
5 OCT 94	BROWN	CL	AN	SC	Divorce final in May 94 - wants to change name - will process pro se
22 OCT 94	BROWN	CL	AN	SS	Pro se petition prepared for filing

REVERSE OF DA FORM 2465, JUL 92

Figure B-1. Example of a completed DA Form 2465

## Appendix C Instructions for completing part 2, SGLV 8286 (Servicemen's Group Life Insurance Election and Certificate)

### C-1. Beneficiary Designations

a. All soldiers electing SGLI coverage should designate each principal and contingent beneficiary by name or relationship. Soldiers may not designate beneficiaries "BY LAW" or "BY WILL."

b. A service member may designate as beneficiary any person, firm, corporation, or legal entity, including a charitable organization or a trust. A principal (first) and a contingent (second) beneficiary may be designated. A contingent beneficiary receives the SGLI proceeds if the principal beneficiary dies before the service member. When a service member designates more than one beneficiary, the SGLV 8286 must clearly show each beneficiary designated as either "Principal" or "Contingent." When the service member designates two or more beneficiaries as principal or contingent, the fraction of SGLI proceeds to be paid each beneficiary will be shown on the form. (Note that unless otherwise indicated designated beneficiaries take per capita: a descendant of the beneficiary is excluded unless specifically named as a principal or contingent beneficiary.)

c. Designation of children. As with adults, children may be designated by name. However, they may also be designated by relationship when the service member desires to provide the same amount of SGLI proceeds to each child.

(1) Designation of children by relationship is desirable when, because of the number of children being designated, it eliminates the need for adding a continuation sheet to the SGLV 8286. This type designation also provides for after-born children.

(2) A service member designating children by relationship is not required to provide information on the SGLV 8286 as to their names, addresses, or social security numbers.

(3) Service members, even those with only one child, should not designate "my child," since this may exclude children born after the designation. Those with one child wishing to designate the child as a beneficiary should use the phrase "my child(ren)." A service member who has one or more children may designate all of them as beneficiary(ies) by using the phrase "my children." A service member previously married may designate those children as "My children from my marriage to Jane C. Smith." A service member who has children from more than one marriage may designate all the service member's children from one marriage only and no others as beneficiaries by naming the spouse or former spouse who is also the child(ren)'s natural parent.

(4) When a service member has step-children, adopted children, or children born out of wedlock, the service member should designate them by name, rather than by relationship.

(5) Service members designating minors (persons under the age of 18 years), regardless of the relationship, if any, between the service member and the children, will be counseled in accordance with para C-2.

d. A service member may designate a custodian for a beneficiary who is a minor under the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA). This process permits the service member, not a court of law, to determine who will act in the minor's best interest. Designation of a custodian will normally ensure that there is no delay in payment of the SGLI proceeds.

e. Designation of a trustee named in a will. A service member may designate a trustee under a trust established in a will. The will must be signed (executed) prior to completing the SGLV 8286.

f. Designation of a trustee named in a trust document (outside a will). A service member may designate a trustee under a trust established in a trust document (outside a will). This document may be titled a "Trust Agreement" or a "Declaration of Trust". The service member must have the trust document prepared and signed (executed) prior to completing the SGLV 8286.

g. Designation of all beneficiaries will remain in effect until properly changed by the service member or until the SGLI is automatically canceled or terminated. Termination of one period of military duty and entry into another period of military duty will not automatically cancel the designation, except where there is a break in service. When there is a break in service the previous beneficiary designation is canceled. (See 38 Code of Federal Regulations (CFR) part 9.16).

### C-2. Counseling on beneficiary designations.

a. *Initial requirement.* The rights, benefits, and privileges available under SGLI will be explained to all eligible service members entitled to coverage upon initial entry on AD, or to USAR or ARNG. All service members will be advised that any questions they have about SGLV 8286 or their beneficiary designations may be answered by attorneys who provide legal assistance at no expense to the service members by servicing staff or command judge advocate offices. (See AR 27-3, para 3-6b.) Except for the unusual designations (para C-2b), all counseling required by this

paragraph may be performed by providing written handouts. Legal advice as to content of such handouts may be provided by the servicing staff and command judge advocates.

*b. Unusual designation.* When a service member is likely to be survived by family members or parents and names some other person or organization as a beneficiary, an officer, warrant officer, senior NCO (E7DE9), or civilian (GS-6 or higher) employee will counsel the service member. At a minimum, the counselor will advise the service member that SGLI is intended to provide some form of financial security for family members or parents. Additionally, service members will be informed that election of beneficiaries is a personal choice requiring careful consideration. If the service member insists on an unusual designation, the person providing the counseling to the service member will insert the following notation near the bottom of the SGLV 8286: "On (insert date) this service member was counseled regarding this unusual beneficiary designation." The person who counseled the service member will sign and date the form.

*c. Designation of minors directly by name or by relationship.* A service member who wishes to name a minor as a principal or contingent beneficiary, directly by name or by relationship, will be advised that SGLI proceeds cannot be directly paid to a minor, except for a minor spouse. The service member will be further advised of the following advantages and disadvantages of designating minors in this manner:

(1) Advantages:

(a) This designation can be made immediately when time is of the essence. No will or trust document needs to be prepared and executed and no trustee needs to be contacted to determine whether he or she is willing to serve as executor or trustee.

(b) Upon the service member's death, a court will determine the person best qualified to serve as custodian of the SGLI proceeds for the benefit of the minor at a time when appointment of the custodian becomes necessary.

(c) If the SGLI proceeds are the only major asset in the service member's estate, probate may be avoided altogether (which may not be the case when SGLI proceeds are payable pursuant to a trust established by a will).

(2) Disadvantages:

(a) Before the SGLI proceeds may be released and used for the benefit of a minor (other than a minor spouse), an adult acting on behalf of the minor (or appointed by a court to do so) must petition a court to be appointed the guardian for the SGLI proceeds. Since the appointment of a guardian takes place after the service member's death, the service member has no input as to the person selected to act for the minor. In many cases, the person appointed guardian for a child who is designated as a SGLI beneficiary may be the service member's spouse or former spouse.

(b) Most courts will require the guardian to pay for a surety bond to ensure payment of the SGLI proceeds.

(c) Under some state laws, only a certain amount of money may be spent on behalf of a minor each month, or year, despite the service member's election; if more is needed, the approval of a judge must be obtained.

(d) Certain bond, court, and legal expenses will have to be paid out of the SGLI proceeds initially as well as throughout the period of time the designated beneficiary remains a minor.

(e) The distribution of SGLI proceeds will be delayed pending the appointment of a guardian.

(f) All SGLI proceeds will usually have to be paid to the minor at age 18, regardless of the minor's maturity, or lack thereof.

*d. Designations of custodians and trustees.* Although designating a custodian for minor beneficiaries or a trustee for minor and/or adult beneficiaries may be preferable to designating some persons directly by name (or by relationship) as SGLI beneficiaries, these methods require certain steps to be taken before such designations can be made. A service member, however, should not delay -- nor should the service member be counseled to delay -- completing the SGLV 8286 to complete those steps. For example, it is preferable that service members designate a minor beneficiary directly by name or by relationship and later execute a new SGLV 8286 after they have found a person who has agreed to serve as the minor's custodian or trustee.

*e. Designation of a custodian.* A service member who desires to name a custodian for a minor as the principal or contingent beneficiary under the UGMA or the UTMA will be advised that prior to completing the SGLV 8286, they should contact and obtain the approval of the friend, relative, or financial or other institution they want to serve as the UGMA/UTMA custodian for distribution of the SGLI proceeds. Transfer of SGLI benefits under the UGMA/UTMA may be for the benefit of a minor child or children, regardless of their relationship, if any, to the service member. The service member will be further advised of the following advantages and disadvantages:

(1) Advantages:

(a) There is no requirement for court involvement. The court appointment of a custodian and the probate of a will is not required in order to pay SGLI proceeds. If the SGLI proceeds are the only major asset in the service member's estate, the delay and expense involved in probate may be avoided altogether.

(b) The service member, not a court, determines who will act in the minor's best interest with regard to the use of SGLI proceeds.

(c) The UGMA/UTMA custodian can use the SGLI proceeds, as the UGMA/UTMA custodian determines is appropriate, for the benefit of the child(ren) during the period of time the child(ren) remain minor(s).

(d) Ordinarily the UGMA/UTMA custodian will not be required to pay for a surety bond to receive the SGLI proceeds.

(e) There ordinarily will be no delay in the distribution of SGLI proceeds to the designated UGMA/UTMA custodian.

(2) Disadvantages:

(a) All SGLI proceeds will usually have to be paid to the minor at age 18, regardless of the minor's maturity, or lack thereof.

(b) There is no automatic court supervision of the UGMA/UTMA custodian.

(c) There is no surety bond required that could protect the minor's funds from theft, fraud, waste, and other such acts by the UGMA/UTMA custodian.

f. *Designating a trustee under a trust established in a will.* A service member who wishes to designate a trustee under a trust established in a will (a testamentary trust) as a primary or contingent beneficiary will be advised that before completing the SGLV 8286, the service member must have a will prepared that contains a trust, and the service member must sign (execute) the will. The trust in the will may be established for minors or adults, regardless of their relationship, if any, to the service member. The service member will be further advised of the following advantages and disadvantages:

(1) Advantages:

(a) The need (and related expense) of maintaining a surety bond may be waived in the will.

(b) The trustee can use the SGLI proceeds for the benefit of the minor for the period of time, and in the manner specified, in the will. Direct distribution of SGLI proceeds may be delayed beyond the 18th birthday of the minor (for example, upon completion of college, or age 25, whichever occurs first).

(2) Disadvantages:

(a) The will, which might not have otherwise required probate (for example, because of the small amount of other property in the service member's estate), will have to be probated and the court will need to appoint the trustee before the designated trustee may receive the SGLI proceeds. Court and legal expenses will have to be paid.

(b) The distribution of SGLI proceeds will be delayed.

(c) There is no surety bond required that could protect the minor's funds from theft, fraud, waste, and other such acts by the trustee.

g. *Designating a trustee under a trust established in a trust document (outside a will).* A service member who wishes to designate a trustee under a trust established in a trust document as a primary or contingent beneficiary will be advised that before completing the SGLV 8286, the service member must have a trust document prepared, and the service member must sign (execute) the trust document. The trust document may be established for minors or adults, regardless of their relationship, if any, to the service member. The service member will be further advised of the following advantages and disadvantages of designating a trustee under a trust established in a trust document as a primary or contingent beneficiary:

(1) Advantages:

(a) There is no requirement for court involvement. The court appointment of a guardian and the probate of a will is not required in order to distribute SGLI proceeds. Court costs and attorney's fees can usually be avoided.

(b) A surety bond (and related expense of maintaining the bond) is not required.

(c) There ordinarily will be no delay in the distribution of SGLI proceeds to the trustee.

(d) The trustee can use the SGLI proceeds for the benefit of the minor for the period of time specified in the trust document in the manner stated in the trust document. Direct distribution of SGLI proceeds may be delayed beyond the 18th birthday of the minor (for example, upon completion of college, or age 25, whichever occurs first).

(2) Disadvantages:

(a) There is no court supervision of the trustee.

(b) There is no surety bond required that could protect the minor's funds from theft, fraud, waste, and other such acts by the trustee.

(c) The service member will usually have to pay a civilian lawyer to draft and execute a trust document.

h. *Failure to properly name beneficiary.* Service members will be advised that if beneficiaries are not designated, or the designation fails (for example, the designated beneficiary dies before the service member dies; a trustee is designated, but no trust was established), SGLI proceeds will be paid in accordance with 38 U.S. Code, Section 1970, which provides for SGLI proceeds to be paid in the following order:

(1) Widow or widower; if none, to—

(2) Child or children in equal shares with the share of any deceased child distributed among the descendants of that child; if none, to—

(3) Parent(s) in equal shares; if none, to—

(4) The executor or administrator of the service member's estate; if none, to—

(5) Other next of kin.

## **Glossary**

### **Section I Abbreviations**

#### **AA**

active Army

#### **ACS**

Army Community Service

#### **ADT**

active duty for training

#### **AGR**

active guard reserve

#### **AMD**

advance medical directive

#### **ARNG**

Army National Guard

#### **ARPERCEN**

Army Reserve Personnel Center

#### **AT**

annual training

#### **CFR**

Code of Federal Regulations

#### **CLE**

continuing legal education

#### **DA**

Department of the Army

#### **DOD**

Department of Defense

#### **DOIM**

Director of Information Management

#### **DOJ**

Department of Justice

#### **DOL**

Department of Labor

#### **EDRE**

emergency deployment readiness exercise

#### **FCC**

family child care

#### **HQDA**

Headquarters, Department of the Army

#### **JAGC**

Judge Advocate General's Corps

**JAOAC**

judge advocate officer advanced course

**JATT**

Judge Advocate Triennial Training

**IDT**

inactive duty training

**IRS**

Internal Revenue Service

**LAAWS**

Legal Automation Army-wide System

**LAAWS-LA**

Legal Automation Army-Wide System–Legal Assistance

**MACOM**

major Army command

**MODRE**

mobilization deployment readiness exercise

**MUSARC**

Major U.S. Army Reserve Command

**MPRJ**

military personnel records jacket

**NCOER**

noncommissioned officer evaluation report

**NEO**

noncombatant evacuation operation

**OER**

officer evaluation report

**OTJAG**

Office of The Judge Advocate General

**PERSCOM**

personnel command

**PLP**

premobilization legal preparation

**PNOK**

primary next of kin

**RC**

reserve component

**REMOBE**

readiness for mobilization evaluation

**SD**

special duty

**SGLI**

Servicemen's Group Life Insurance

**SJA**

staff judge advocate

**SRP**

Soldier Readiness Program

**SSCRA**

Soldiers and Sailors Civil Relief Act of 1940

**TDY**

temporary duty

**TJAG**

The Judge Advocate General

**TJAGSA**

The Judge Advocate General's School, Army

**TPU**

troop program unit

**UCMJ**

Uniform Code of Military Justice

**USERRA**

Uniformed Services Employment and Reemployment Rights Act

**USAR**

U.S. Army Reserve

**USATDS**

U.S. Army Trial Defense Service

**UTA**

unit tax advisor

**VETS**

Veterans' Employment and Training Services

**VITA**

Volunteer Income Tax Assistance

**Section II****Terms****Advance medical directive**

Any written declaration regarding future medical treatment—

*a.* To provide, withdraw, or withhold life-prolonging procedures, including hydration and sustenance, in the event of a terminal condition or persistent vegetative state; or

*b.* To appoint another person to make health care decisions for the declarant under circumstances stated in the declaration if the declarant is determined to be incapable of making informed health care decisions.

**Armed Forces of the United States**

For the purpose of this regulation, this term includes the U.S. Army, U.S. Navy, U.S. Marine Corps, the U.S. Air Force, and the U.S. Coast Guard.

**Army legal office**

A legal office within the active Army or the Army Reserve in which one or more attorneys provide legal assistance on a full- or part-time basis.

**Active Army attorney**

An attorney (military or civilian) who provides legal assistance within the active Army, or, if the context so indicates, the active component of any armed service.

**Attorney**

A judge advocate or DA civilian attorney who provides legal assistance.

**Case**

A personal legal problem or need for which an eligible client receives legal assistance. For statistical purposes, one type of problem (for example, paternity) or need (for example, income tax assistance) is one legal assistance case regardless of the number of attorneys from an Army legal office involved in providing assistance or the duration of the assistance provided.

**Civilian lawyer**

A person engaged on a full- or part-time basis in the private practice of law or in the practice of law as a public servant (for example, public defender) or volunteer (for example, legal aid bureau) in the United States or in a foreign country.

**Civilian criminal proceeding**

A criminal or quasi-criminal trial or other judicial hearing conducted by a municipal, State, Federal (outside DOD), or foreign judge or official.

**Civil proceeding**

A trial or hearing in a noncriminal proceeding, either judicial or administrative in nature, conducted by a municipal, State, Federal (outside DOD), or foreign judge or official.

**Combat zone**

An area so defined by executive order of the President.

**Commander**

A commissioned or warrant officer who, by virtue of that officer's grade and assignment, exercises primary command authority over a military organization, installation or prescribed territorial area, that under pertinent official directives is recognized as a command.

**Commanders responsible for legal assistance services**

Commander having one or more attorneys (as described in para 2-2a) assigned to their staff or under their command performing legal assistance duties on a full- or part-time basis.

**Contingency operation**

A military operation as defined by 10 USC 101(a)(13).

**Contingent legal fee case**

The type of case where the fee for professional legal services charged by civilian lawyers customarily is dependent upon the successful outcome of the case and agreed to be a percentage of the client's recovery (Actions in tort, such as personal injury, wrongful death, and property damage matters are often handled on this basis).

**Civilian contractor**

A person not otherwise authorized legal assistance who has a contract—or works for a person or firm having contract—with the DOD or any of its entities, including one of the military departments

**Demobilization legal counseling**

Advice to Service members on legal benefits, protections, entitlements, rights, and problems relating to their release from active duty.

**Department of the Army civilian attorney**

Civilian attorney under the overall qualifying authority of the Army General Counsel, as delegated to TJAG, the

Command Counsel, Army Materiel Command, or the Chief Counsel, Army Corps of Engineers. (See AR 690–200, chap 213.)

### **Durable power of attorney**

A written instrument by which a person (the principal) appoints another as his agent and by which the principal grants the agent the authority to perform certain specified acts or kinds of acts on behalf of the principal, and which specifies that the authority so conferred will either—

- a.* Not be affected by the subsequent disability or incapacity of the principal, or
- b.* Will become effective upon the disability or incapacity of the principal.

### **Emergency-essential civilian employee**

A DOD civilian employee who is designated, or who occupies a position that is designated, by a manager or supervisor as “emergency essential,” and who would be transferred or deployed outside the United States, or required to remain outside the United States during a crisis in support of a military operation. The position occupied by this employee is required to ensure the success of combat operations or to support combat-essential systems subsequent to mobilization, an evacuation order, or some other type of military crisis.

### **Employment matters**

Government or private employment issues, such as hiring decisions, adverse personnel actions (including firing and revocation of security clearances), discrimination, unemployment benefits, workers’ compensation, and other such employment matters.

### **Family members**

As to eligibility for legal assistance, “family members” include—

- a.* A lawful spouse of a sponsor.
- b.* A sponsor’s former spouse who is eligible for commissary and exchange privileges under the Uniform Services Former Spouses Protection Act and applicable regulations.
- c.* An unmarried child who is under 21 years of age and who is—
  - (1) A legitimate child of a sponsor.
  - (2) An illegitimate child whose parentage has been admitted in writing by a sponsor or a sponsor has been judicially decreed by other than a foreign court to be the child’s parent.
  - (3) An adopted or preadoptive child of a sponsor.
  - (4) A stepchild of a sponsor.
  - (5) A foster child (or ward) for whom a sponsor possesses a legal decree or other instrument issued by a court of law or placement agency awarding custody of the child to the sponsor.
- d.* An unmarried child, as defined in *c*(1) through *c*(5), above, but who is 21 years or older and less than 23 years of age, and is dependent upon a sponsor for more than one-half of his or her support, and is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of the Army.
- e.* An unmarried child, as defined in *c*(1) through *c*(5), above, but who is 21 years of age or older and incapable of self-support because of a mental or physical handicap.
- f.* A parent, stepparent, parent by adoption, or parent-in-law of a sponsor who is dependent on the sponsor for more than one-half of his or her support. (For the purpose of this regulation, the relationship between a stepparent and stepchild ends if the stepparent divorces the parent.)

### **Fee basis**

A fee for professional legal services is charged to the client.

### **In-court representation**

Appearing, or providing notice of appearance, as counsel on behalf of a client in a military, civil, or civilian-criminal proceeding, or taking any action which constitutes or could require counsel to appear as the attorney of record in any such proceeding.

### **Judge advocate**

General and commissioned officers within the Judge Advocate General’s Corps. (See AR 27–1.)

### **Legal assistance**

Legal advice, counseling, and other help provided to eligible clients on their personal legal affairs under this regulation.

**Military administrative**

Pertaining to a nonmilitary justice action conducted pursuant to military regulation.

**Military duty status**

Includes periods during which a military member, while in the line of duty, is on active duty, ADT, IDT, or AT, including periods while en route to and from such duty. It does not include periods when a military member is in a civilian status, such as when a Reserve officer is performing legal assistance work for retirement points, regardless of whether such points are requested or awarded.

**Military justice proceeding**

A court-martial or hearing conducted pursuant to the UCMJ or implementing military regulations.

**Military legal office**

An office within a component of one of the armed services from which one or more attorneys provides legal assistance on a full- or part-time basis.

**Military proceeding**

A military justice or military administrative proceeding.

**Ministerial service**

A type of assistance that does not require the exercise of personal judgment or discretion, such as witnessing or notarizing documents.

**Mission-essential civilian employee**

A DOD civilian employee who has not yet been designated as “emergency essential,” or whose position has not yet been identified as “emergency essential,” but whose performance of duty has been determined by appropriate management officials within DOD to be essential to the success of a military operation or mission outside the United States.

**No-fee basis**

No fee for professional legal services is charged. The client may still be held accountable for paying—or reimbursing the attorney for the payment of—court costs and administrative filing fees.

**Personal legal affairs**

The legal matters of an individual for which legal assistance may be provided under this regulation.

**Preadoptive child**

A child in the lawful custody of a sponsor for whom the sponsor has initiated legal proceedings to adopt.

**Power of attorney**

An instrument in writing by which a person (the principal) appoints another as his or her agent and grants the agent the authority to perform certain specified acts or kinds of acts on behalf of the principal.

**Premobilization legal preparation**

Legal assistance counseling, and the preparation and execution of necessary legal documents, for reserve component members assigned to troop program units or as individual mobilization augmentees, and nontroop program reserve component members alerted for mobilization. These reserve component members and their family members receive legal assistance in anticipation of the always present possibility of mobilization.

**Prepaid-legal representation case**

A case in which another party, such as an insurance company or other organization, is obligated to provide a civilian lawyer or other assistance at no cost to the client.

**Principal residence**

A family residence which, through rental or purchase, the client occupies, seeks to occupy, or once occupied, but, because of military orders, no longer occupies.

**Private business activities**

Personal and commercial business activities intended to result in an economic gain, including, but not limited to, sole proprietorships, partnerships, corporations, commercial investments, property purchased for the purpose of resale or lease, and commercial real estate dealings. This term does not include personal investments, such as individual

retirement accounts or mutual funds, or the rental or sale of a principal residence or personal belongings of the type or in the quantity usually found within a principal residence.

**Pro bono publico**

Legal services provided by civilian attorneys “for the public good or welfare” on a voluntary basis or to comply with State bar requirements.

**Pro se**

An appearance in a proceeding by a person who represents himself or herself without the assistance of counsel during the proceeding.

**Reduced-fee basis**

The fee for professional legal services is reduced substantially below that which prevails for a particular legal service in the locale in which the civilian attorney practices. The client may still be held accountable for paying, or reimbursing the lawyer for the payment of, court costs and administrative filing fees.

**Reserve component**

The ARNG and the USAR, or, if the context so indicates, a RC of any armed service.

**Reserve component Army legal office**

A legal office within the ARNG or USAR in which one or more attorneys provide legal assistance on a full- or part-time basis.

**Reserve component attorney**

A judge advocate who provides legal assistance within the ARNG or the USAR, or, if the context so indicates, within a RC of any armed service.

**Service**

A preventive law measure or client service provided under this regulation.

**Service member**

A military member in the Armed Forces of the United States.

**Soldier Readiness Program**

An Army program that establishes a set of administrative requirements which must be met before individual soldier or unit movement, both during peacetime and mobilization. This program replaces the preparation of replacements for overseas movement (POR) qualification.

**Sponsor**

A person who is entitled to legal assistance under this regulation by virtue of his or her military service or employment.

**Staff judge advocate**

The principal legal advisor on the staff of an active Army commander who possesses general court-martial convening authority, or, within the RC, the principal legal advisor to a State adjutant general or to a commander of a major reserve command. As used in this regulation, this term also includes a command judge advocate or chief counsel on the staff of an active Army commander.

**Supervising attorney**

A staff or command judge advocate, deputy staff or deputy command judge advocate, judge advocate officer in charge, chief of legal assistance, DA civilian attorney, or other active Army or RC judge advocate officer exercising supervisory responsibilities over Army legal assistance services. This term also includes commanders of Legal Services Organizations within the USAR and commanders of JAGC detachments specifically designated to perform legal assistance missions. Supervisory responsibilities may be limited or further delegated by competent authority. The Chief, Legal Assistance Division, OTJAG serves as the supervising attorney of RC judge advocate officers in the Army, who

are not assigned to the ARNG or to USAR TPUs, when they are performing legal assistance work for retirement points.

**Will**

The declaration by a person (the testator) of how the testator desires the testator's property to be disposed of after the testator's death.

**Section III**

**Special Abbreviations and Terms**

This section contains no entries.

## Index

This index is organized alphabetically by topic and subtopic. Topics and subtopics are identified by paragraph number.

Active Army, , 2-1, 2-2, 2-4, 2-6, 3-2, 3-5, 3-7, 4-2,4-5, 4-7, 5-3, 5-4  
Active component, , 1-1, 2-5  
Active duty for training, , 1-4, 2-2, 2-4  
Advance medical directives, , 1-4, 3-6  
Annual training, , 1-4, 2-2, 2-4  
Army Community Service, , 3-5, 3-6, 3-7, 4-3  
Army National Guard, , 2-2, 2-3, 2-4, 3-2, 3-7  
Army Legal Assistance Program, , 1-1, 1-4, 2-1, 2-5, 3-1, 3-2, 3-5, 3-6, 3-7, 3-8, 4-3, 4-5, 4-6, 4-7  
Chief, Legal Assistance Division, OTJAG, , 1-4, 2-2, 3-6, 4-5, 5-4  
Civilian administrative cases,, 3-6  
Civilian courts,, 1-4, 3-6  
Civilian criminal matters or proceedings,, 3-6, 3-7  
Civilian employees, , 2-5  
Civilian lawyer (in private practice),, 3-5, 3-6, 3-7, 3-8, 4-7  
Claims (lawsuits) against the United States,, 3-8, 4-3, 5-1  
Commander,, 1-4, 2-1, 2-6, 3-3, 3-4, 3-6, 3-7, 4-6  
Conflicts of interest,, 4-8, 4-9  
Contingent legal fees,, 3-8  
Continuing legal education,, 1-4  
Courts,, 1-4, 3-6, 3-7, 4-3  
Correspondence,, 1-4, 3-7, 4-8, 5-1  
Department of Army (DA) civilian attorneys,, 2-2  
Department of Defense civilian clients,, 2-5  
Department of Justice,, 3-6  
Department of Labor,, 3-6  
Director of Information Management,, 1-4  
Documents,, 1-4, 3-4, 3-6, 3-7, 4-4, 4-8, 4-9, 5-1, 5-5  
Economic cases,, 3-6  
Emergency deployment readiness exercise,, 3-2, 3-6  
Employees,, 1-4, 2-1, 2-5, 4-3  
Estate planning,, 3-6, 4-9  
Estate representatives,, 2-5  
Estates,, 2-5, 3-6  
Estate taxes,, 3-6  
Exceptions, , 1-4, 1-5  
Family child care providers, , 3-6, 3-8  
Family law cases,, 3-6  
Federal Tort Claims Act,, 3-8, 4-3  
Fiduciaries,, 2-5  
Inactive duty for training,, 1-4, 2-2, 2-3, 2-4  
Income tax,, 1-4, 3-2, 3-6, 3-7, 3-8  
In-court representation,, 3-6, 3-7, 3-8  
Information Management Office,, 1-4  
Internal Revenue Service,, 3-6, 4-3  
Judge Advocate General Corps Reserve Officer Legal Assistance Directory,, 2-2, 2-3, 3-7, 4-5  
Judge Advocate Officers Advance Correspondence Course,, 1-4  
Judge Advocate Triennial Training Course,, 1-4  
Legal Automated Army-wide System (LAAWS),, 1-4, 4-4  
Legal counseling,, 3-7  
Legal research,, 1-4, 2-2  
Legal training,, 1-4, 2-4

**Liability,, 4-3, 5-1**  
**Limiting (denying) legal assistance services,, 2-5, 2-6**  
**Litigation against the United States,, 3-8,**  
**Major U.S. Army Reserve Command,, 1-4**  
**Mediation,, 3-7**  
**Military administrative cases,, 2-5, 3-6, 3-7**  
**Military justice cases,, 3-7, 3-8**  
**Military Claims Act,, 3-8**  
**Military Personnel and Civilian Employee Claims Act,, 3-8**  
**Ministerial services,, 3-7**  
**Mobilization deployment readiness exercise,, 3-2, 3-6**  
**National Committee for Employer Support of the Guard and Reserve,, 3-6**  
**Negotiation,, 3-7**  
**Noncommissioned Officer Evaluation Report,, 3-6**  
**Office of The Judge Advocate General,, 1-4**  
**Officer Evaluation Report,, 3-6**  
**Noncombatant evacuation operation, 3-2,, 3-6**  
**Powers of attorney,, 1-4, 2-5, 3-6, 3-7, 5-2**  
**Premobilization legal preparation,, 2-5, 3-2, 3-6**  
**Prepaid legal representation,, 3-8**  
**Preventive law,, 1-4, 2-1, 3-2, 3-3, 3-4**  
**Primary next of kin,, 1-4, 2-5**  
**Private business activities,, 3-6, 3-8**  
**Privilege, attorney-client,, 3-8, 4-3, 4-8, 5-5**  
**Prisoners,, 2-5**  
**Pro bono publico,, 3-7**  
**Professional conduct (ethics and conflicts of interest),, 4-1, 4-6, 4-7, 4-8, 4-9, 4-10**  
**Property (real and personal),, 2-5, 3-6, 4-3**  
*Pro se,, 1-4, 3-7*  
**Readiness for mobilization exercise,, 3-2, 3-6**  
**Records,, 1-4, 2-2, 3-1, 3-5, 3-6, 4-3, 4-9, 5-1, 5-2, 5-5**  
**Referrals,, 2-3, 3-4, 3-6, 3-7, 3-8, 4-5, 4-7, 4-9**  
**Reserve component**  
     Judge advocates,, 1-4, 2-2, 2-3, 2-4, 3-7, 4-5, 4-7, 4-9  
     Legal assistance to,, 2-1, 2-5, 3-2  
     Legal offices,, 2-6, 5-3  
     Readiness, , 2-1  
**Retirement points, , 1-4, 2-2**  
**Separation agreements,, 1-4, 2-2, 3-4, 3-6**  
**Servicemen's Group Life Insurance,, 3-6, app C**  
**Soldier readiness program,, 3-2, 3-6**  
**Soldiers' and Sailors' Civil Relief Act,, 3-6**  
**Special duty soldiers,, 3-6, 4-3**  
**Staff judge advocate,, 1-4, 3-6, 4-6**  
**Standards**  
     conduct issues,, 3-8  
     confidentiality,, 4-8  
     ethical,, 3-7, 4-7  
     professionalism,, 3-6, 4-1, 4-8  
**Supervising attorney,, 1-4, 2-2, 2-4, 2-5, 2-6, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 4-3, 4-6, 4-7, 4-8, 4-9, 5-1, 5-5**  
**Tax,, 3-6, 5-4**  
**The Judge Advocate General,, 1-4**

The Judge Advocate General's School, U.S. Army,, 1-4, 4-4, 4-6  
Torts,, 3-6  
Troop Program Units,, 2-2  
Uniform Code Of Military Justice,, 3-6, 3-8  
Uniformed Services Employment and Reemployment Rights Act of 1994,, 3-6, 3-7, 3-8  
U.S. Army Reserve,, 2-2, 2-3, 2-4, 3-7  
U.S. Army Reserve Personnel Center,, 2-2  
U.S. Army Trial Defense Service (USATDS),, 1-4, 3-6, 3-7, 3-8  
Unit tax advisors,, 3-6  
Variations,, 1-4  
Veterans' Employment and Training Services,, 3-6  
Volunteer Income Tax Assistance program,, 3-6, 4-3  
Volunteers,, 3-6, 4-3  
Wills, , 1-4, 3-6, 3-7, 4-9

**UNCLASSIFIED**

**PIN 054974-000**