

4. (Services) Please provide the program plans, procedures, and status for the victim attorney programs required by DoD to be established by November 1, 2013. Please include:

4a. The Service's program status;

USA	<p>The U.S. Army is now at Initial Operating Capability (IOC) for the Special Victim Counsel (SVC) program. The Judge Advocate General (TJAG), Lieutenant General Flora D. Darpino, determined that the Army program will be known as the Special Victim Counsel (SVC) Program. She has published a TJAG Sends and a Policy Memorandum on this program. Special Victim Counsel will be judge advocates operating under the Legal Assistance Program. The U.S. Army SVC program will be at Full Operating Capability (FOC) by 1 January 2014.</p> <p>Two instructional courses have been completed, training a total of 67 SVCs, 52 Active Army counsel, 13 ARNG Counsel and two Reserve Component counsel. The Active Army SVCs are located at 32 installations. Those installations without a resident SVC have an identified installation to turn to for SVC support. The SVC Program Manager (PM) has the ability to allocate assets as needed to ensure every Army Special Victim has access to a SVC if desired. Counsel are now seeing clients and SVCs have already made appearances on behalf of clients in courts-martial motions hearings. Many of the Chiefs of Legal Assistance (CLA) have already received SVC training.</p>
USAF	<p>(AF) The Air Force is in full compliance with Secretary Hagel's 14 August 2013 directive. On 28 January 2013, the Air Force implemented a Special Victims' Counsel (SVC) Program as a pilot program for the Department of Defense (DoD), providing qualified Judge Advocates (JAGs) to represent sexual assault victims. On 1 June 2013, the SVC Program transitioned from 60 JAGs serving as SVCs part-time, to 24 JAGs serving as SVCs full time under an independent chain of command in the Air Force Legal Operations Agency (AFLOA), Special Victims' Counsel Division (CLSV).</p>
USN	<p>Initial Operating Capability on 1 NOV 2013:</p> <p>-We will have nine trained and certified VLC in place. The locations where counsel are present include: U.S. Naval Academy, Oceana, Mayport, Great Lakes, Coronado, San Diego, Bremerton, Pearl Harbor and Guam. Six more VLC will report in November for a total of 15. Additional locations receiving VLC coverage in November include Norfolk, Pensacola, Gulfport, Everett and Rota,</p> <p>The goal is to physically locate VLC at or near Fleet & Family Service Centers. All VLC have private offices. Eight VLC are located near or with SARC/VAs (See attachment for organizational structure and locations).</p> <p>*** NOTE: Navy provided 2 powerpoint slides that portray the VLC locations and report dates</p>
USMC	<p>An Officer in Charge (OIC) (O-6 Judge Advocate), located at Headquarters, U. S. Marine Corps (HQMC), leads the VLCO and is responsible for the professional</p>

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	<p>supervision of Marine Corps victims' legal counsel (VLC) and the delivery of victims' legal counsel Services throughout the Marine Corps. The Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) will oversee the OIC, VLCO.</p> <p>Four (4) Regional Victims' Legal Counsel Offices have been established at MCB Camp Lejeune, MCB Camp Pendleton, MCB Camp Butler, and MCB Quantico. These offices are operational and are providing legal services to victims of sexual assault and other crimes. Victims' legal counsel services for Marine Forces Reserve units will be coordinated by the office at MCB Quantico.</p> <p>By 1 January 2014, at full operational capability, additional victim legal counsel offices will also be available to provide victims' legal counsel services at MCB Kaneohe Bay, HI; MCAS Miramar, CA; MCAGCC 29 Palms, CA; and MCRD Parris Island, SC, and will provide victims' legal counsel services across the Marine Corps.</p> <p>To date, all VLC have attended the Air Force Special Victims' Counsel Course at Maxwell AFB, Montgomery, AL.</p>
USCG	<p>The Coast Guard established its Special Victim's Counsel program on 15 July 2013 as part of the Coast Guard's Strategic Plan for Sexual Assault Prevention and Response. Currently 14 active duty Coast Guard judge advocates are qualified and designated as Special Victim's Counsel (SVC) (this represents approximately 10% of Coast Guard active duty judge advocates serving in legal assignments). These SVCs provide services as a collateral duty. The Office of Special Victim's Counsel (OSVC) at Coast Guard Headquarters oversees and manages the program in close coordination with other offices that provide services to victims. The OSVC and a Special Victim's Counsel Working Group (also established on 15 July 2013) are tasked with developing and implementing a plan for a Final Operational Capability (FOC) for the Special Victim's Counsel program in FY14. FOC will include full-time SVCs.</p>

4b. The description of the services that the victim attorney will provide to sexual assault victims including scope and duration of representation;

USA	<p>Special Victim Counsel are judge advocate legal assistance attorneys who have received specialized training and are designated by their Staff Judge Advocate (SJA) as SVCs. An SVC's role is to zealously represent the victim of a sexual assault. Based on a victim's decisions, the SVC will represent their best interests even if it does not align with those of the government of the United States or with those of the accused. An SVC's primary duty is to the victim and no other person, organization, or entity. Special Victim Counsel will work to empower the victim by fostering their understanding of the military justice process and providing them with specialized legal assistance. This will be accomplished by providing effective and timely advice, being available to assist throughout the entire military justice process, and providing appropriate advocacy to ensure that the rights a victim is entitled to are fully realized. The mission of the SVC is to provide the client with confidential legal representation</p>
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related to issues that may arise as a result of the sexual assault. Representation will end at initial action by the General Court-Martial Convening Authority (GCMCA) or similar disposition of the complaint or when the client determines services are no-longer required.

Special Victim Counsel services include:

- Accompany and advise the victim during interviews, examinations, hearings, and court-martial proceedings;
- Represent the victim in courts-martial proceedings as permitted by law;
- Referral of the victim to the U.S. Army Trial Defense Service (TDS) for collateral misconduct, if necessary;
- Advocate the victim’s interest with government counsel and commanders on disposition options;
- Assist the victim with post-trial submissions to include victim impact statements;
- Advise the victim on collateral civil issues arising from the crime;
- Provide the victim with legal assistance services as needed;
- Answer any questions that the victim may have about the courts-martial process; and
- Coordinate with the Victim Witness Liaison (VWL) and Victim Advocates (VA) to insure that the victim is informed of:
 - Their reporting options;
 - Their rights as a victim;
 - Their eligibility for military and Veterans Administration (VA) benefits;
 - Their right to request an expedited transfer;
 - Their ability to obtain a military protective order and/or a civilian protective order; and
 - The nature of the military justice system and victim’s rights/duties.

USAF	<p><u>Advocacy to Military Justice Actors and Air Force and Department of Defense Agencies</u></p> <table border="1"> <thead> <tr> <th>Representation Offered to Victim</th> <th>Governing Authority</th> </tr> </thead> <tbody> <tr> <td>Civil Legal Matters (may include traditional legal assistance)</td> <td>AFI 51-504, para. 1.4.16 OSD/GC Memo, “Legal Assistance to Victims of</td> </tr> <tr> <td>General and Special Courts-Martial</td> <td>UCMJ</td> </tr> <tr> <td>Article 32 Pretrial Investigations</td> <td>Article 32, Uniform Code of Military Justice (UCMJ)</td> </tr> <tr> <td>Pretrial Confinement Hearings</td> <td>RCM 305</td> </tr> <tr> <td>Summary Courts-Martial</td> <td>AFI 51-201 RCM 1301</td> </tr> <tr> <td>Depositions</td> <td>RCM 702</td> </tr> <tr> <td>Courts of Inquiry</td> <td>Article 135, UCMJ AFI</td> </tr> <tr> <td>Post-Trial – Matters Submitted to the Convening</td> <td>RCM 1107</td> </tr> <tr> <td>Clemency and Parole Boards</td> <td>DoDI 1325.7</td> </tr> </tbody> </table>		Representation Offered to Victim	Governing Authority	Civil Legal Matters (may include traditional legal assistance)	AFI 51-504, para. 1.4.16 OSD/GC Memo, “Legal Assistance to Victims of	General and Special Courts-Martial	UCMJ	Article 32 Pretrial Investigations	Article 32, Uniform Code of Military Justice (UCMJ)	Pretrial Confinement Hearings	RCM 305	Summary Courts-Martial	AFI 51-201 RCM 1301	Depositions	RCM 702	Courts of Inquiry	Article 135, UCMJ AFI	Post-Trial – Matters Submitted to the Convening	RCM 1107	Clemency and Parole Boards	DoDI 1325.7
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Investigations	Includes all investigations, inquiries, etc., in which the client is a victim
Article 138, UCMJ	AFI 51-904 (Note: This AFI does not provide a right to military counsel, but assistance
Notaries and Administrative Oaths	AFI 51-504
<u>Advocacy to Civilian Agencies</u>	
Representation Offered to Victim	Governing Authority
United States Civilian Criminal Jurisdiction Advice	AFI 51-504, para. 1.4.16 OSD/GC Memo, "Legal Assistance to Victims of
Foreign Criminal Jurisdiction Advice	AFI 51-703, para. 7
Civil Legal Matters	OSD/GC Memo, "Legal Assistance to Victims of Sexual Assault," 9 Nov 12
<p>Covered Collateral Misconduct, when the Client's Status is "Subject." Covered collateral misconduct is misconduct committed by a victim of a sexual assault that has a direct nexus to the sexual assault. When collateral misconduct arises, an SVC will continue to represent the victim for categories of services listed above, and may also represent the victim for covered collateral misconduct IAW the SVC Rules of Practice and Procedure, with the victim's consent.</p> <p>Referral Services. If an SVC determines that a person seeking representation needs any of the services listed below, the member is offered the opportunity to be referred to the office of primary responsibility and/or to the applicable DoD or AF instruction. If the SVC already has an attorney-client relationship with the member, then the SVC uses discretion in determining how to proceed.</p> <p>An SVC will not assist a member in preparing IG complaints, Military Equal Opportunity Complaints, Congressional Complaints, or similar matters. However, if an SVC is already representing a client, the SVC may advise the client that these and similar avenues exist for addressing a complaint. Further, the SVC may review a client's IG, Congressional, or similar complaint for the purpose of assuring that the contents of the complaint do not jeopardize the client's rights or position with respect to the matter that led to the original representation. When doing so, the SVC advises the client that the review is for that limited purpose. An SVC may submit a Freedom of Information Act (FOIA)/Privacy Act request for his or her client in the furtherance of a representation on a matter within the category of services provided.</p>	
Referral Service	Governing Authority
Board of Correction of Military Records (Representation is prohibited; however, the client may be advised of	AFI 36-2603, para. 3.7
Civilian Criminal Matters, where the victim is the subject (Except to explain	AFI 51-504, para. 1.7.1
Claims	AFI 51-501

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	Discharge Review Board (Representation is prohibited; however, the client may be advised of	DoDI 1332.28, E3.2.4
	MEO Complaints	AFI 36-2706
	IG Complaints	AFI 90-301
	OPR and EPR Corrections	AFI 36-2401 (MPF)
	Pay Problems	Defense Finance and Accounting Services (DFAS-DE)(AFM
	Other Official Problems (within jurisdiction of	AFI 51-504
	FOIA/Privacy Act Requests	DoD 5400.7-R, AFI 33-332, Ch. 4
	Formal Physical Evaluation Boards, Medical	AFI 36-3212 and AFI 44-157
	Duration of SVC-Client Relationship. Once an SVC is detailed to represent a victim of sexual assault, the SVC remains the counsel for all matters relating to the sexual assault, unless released by the victim. In general, the SVC-client relationship terminates when case disposition is complete. For courts-martial, case disposition is considered complete at action or earlier termination of charges. The SVC-client relationship will be terminated after case disposition once all ongoing legal needs are met and upon agreement between the parties.	
USN	<p>Description of services: VLC will advise clients on the Military Justice System, proceedings and roles as applicable in their particular case. They will advise on Rights afforded under the Victim Witness Assistance Program; role of the Victim Advocate and any privileges between the victim and the VA; victim's duties to the court, responsibility to testify, and proceedings the victim may observe or participate in; criminal liability of the victim from collateral misconduct and the right to seek defense services; services available for medical support, including emotional & mental health counseling; eligibility for military/veteran benefits; and availability of Legal Assistance counsel to assist with personal civil legal matters or assist with obtaining military/veteran benefits. Navy VLC will work with SARCs and VAs to assist with military protective orders or restraining orders; liaise with victim's command, investigators, and trial counsel; attend interviews and court proceedings; file motions or other court documents; and appear in court on victims' behalf where the victim has standing.</p> <p>Scope of services: VLC will form an attorney client relationship with the victim. VLC will assist clients in understanding the difference between a Restricted and Unrestricted report and how to change reporting status if desired. In a restricted report situation, the VLC will explain that they are limited in their ability to provide legal services (e.g., expedited transfer not applicable). VLC will promote and protect the victims' rights and interests in the military justice system. This includes with permission of the client:</p> <ul style="list-style-type: none"> - advocating on the victims' behalf to NCIS, Convening Authorities, Staff Judge Advocates, trial counsel, defense counsel, pretrial investigation officers, pretrial confinement initial review officers and military judges. - VLC if requested and available will attend interviews with investigators, trial counsel and defense counsel. If unable to attend in person (i.e. remote location of 	

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victim), VLC will make efforts to attend interviews via video-teleconferencing or by telephone or attempt to reschedule the interview to permit attendance by the VTC if possible.

- VLC will assist the victim in obtaining information relevant to the case, including the status of the investigation and the status of the accused.
- VLC will assist and facilitate communication with trial counsel where the victim has a right to confer such as whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.
- If the accused is charged, the VLC will represent the victim in the military justice proceeding such as an Article 32 pretrial investigation or a court-martial where the victim is afforded an opportunity to be present and to be heard. VLC will present facts and legal argument on the victims' behalf and through written pleadings and oral argument if permitted by the court. VLC will attend all military justice proceedings where the victim testifies.
- If there is collateral misconduct connected to the sexual assault on the part of the victim, the VLC will provide limited personal representation advice regarding the alleged misconduct. VLC will explain the potential consequences of the collateral misconduct and what disciplinary action could be taken against the victim. With permission of the victim, the VLC may advocate on the victim's behalf to military authorities regarding the collateral misconduct. If the victim faces administrative or disciplinary proceedings connected to the collateral misconduct, the VLC will work with the defense counsel to promote and protect the victim's rights and interests.
- If there is misconduct not directly connected to the reported sexual assault, VLC will coordinate referral of the victim to the nearest Defense Service Office. Any conversations regarding the misconduct between the victim and the VLC will remain confidential.
- VLC will provide basic legal assistance directly connected to the reported sexual assault. This includes notarizations and basic powers of attorney. If assistance is needed on more substantive legal assistance matters, the VLC will coordinate referral to the nearest Regional Legal Service Office.
- VLC will assist victims who believe they are being retaliated against by advising them of potential avenues of relief such as submitting an Article 1150 or Article 138 Complaint, requesting mast, or filing a Congressional and reviewing any complaint submitted by the victim. VLC will act in a PERSREP capacity so long as the retaliation is related to the report of sexual assault. If the retaliation is unrelated to the report of sexual assault, the VLC will coordinate referral to a defense counsel for PERSREP advice.

Duration of Attorney-Client Relationship: The attorney-client relationship will continue until the victim releases the VLC; the legal aspects of the reported sexual assault are concluded (after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority, or in the case of a court martial, after action is taken on the findings and sentence by the Convening Authority); or one of the parties transfers to a new duty station or terminates military service. - If the victim transfers out of the geographic area before completion of the case, the victim may request a new VLC and the old VLC will be released from the case if a new counsel is assigned. If

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	<p>the victim transfers but the legal processing of the case remains at the original location, the original VLC will continue with the case unless the victim requests release of the original VLC.</p> <ul style="list-style-type: none"> - If the VLC transfers or terminates military service before completion of the case, the VLC will assist the victim in acquiring a new VLC, will complete a turnover of the case with the new VLC, and will maintain confidences. - If a VLC is required to withdraw from a case due to a conflict of interest or for legal or ethical obligations, the VLC will protect the interests of the victim by giving reasonable notice of withdrawal, allowing the victim time to obtain alternate VLC if applicable, and delivering papers and property to the victim to which they are entitled.
USMC	<p><u>Eligibility:</u> Victims' legal counsel services are intended for active duty military members and reservists on active duty, and all other eligible victims as resources permit. A victim is a person who has suffered physical, emotional, or pecuniary harm as a result of a crime in violation of the Uniform Code of Military Justice.</p> <p><u>Scope of Representation:</u> VLC will provide confidential legal assistance to eligible victims of crime in place of legal assistance attorneys. They will fully advise victims of their rights in the military justice process and, when detailed, will represent them at military justice proceedings, in accordance with statute, regulation, and case law. If a victim may have been involved in collateral misconduct, the VLC will refer the victim, when appropriate, to the Marine Corps Defense Services Organization. If a victim requires traditional legal assistance services, the VLC will refer the victim, when appropriate, to the legal assistance office.</p> <p><u>Duration of Representation:</u> A VLC's representation is considered complete when the convening authority has taken action in the case; unless the case is resolved sooner. Marine judge advocates assigned as VLC are expected to remain in the VLC billet for at least 18 months. Procedures are in place for notifying the victim and finding him or her a new VLC should his or her current VLC be reassigned or discharged/retired.</p>
USCG	<p>Coast Guard Special Victim's Counsel (SVC) provide assistance to victims in answering questions about the military justice process, availability of other victim support services, and can engage and interact with other Victim Advocates (VAs), Sexual Assault Response Coordinators (SARCs), trial and defense counsel and commands to help the victim protect his or her interests. In most cases, SVC services are provided through telephonic communications. When appropriate, SVCs attend military justice proceedings (including Article 32 investigations); interviews that victims have with investigators, trial counsel, and defense counsel; and other events. In appropriate circumstances, a SVC may make an appearance on behalf of a victim in a military justice proceeding, file motions or otherwise represent the interests of the victim in a proceeding.</p> <p>SVCs can also assist victims in working through legal concerns relating to underlying sexual assault allegations other than military justice/discipline issues. For example, SVCs have been successful in assisting victims with re-assignment or related</p>

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	command issues (i.e. helping victims understand relevant personnel policies and interfacing with command representatives when needed).
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4c. How the victim attorneys will be integrated with existing legal assistance or victim advocate services also offered by the Service and how the Service intends to de-conflict any overlap;

USA	The SVC will work in Legal Assistance Offices across the U.S. Army and be supervised by the respective Chief of Legal Services at the installation. They are required to coordinate with each stakeholder located at the installation: VWL, VA, unit VA, Special Victim Prosecutor, Trial Counsel, Trial Defense Counsel, SJA, CID and others on the services they provide. In addition, each SVC will establish contact with local SARC/Victim Advocates and must establish procedures for expedited referral of victim-clients who request SVC services. In each of these relationships, the SVC will work with those individuals to coordinate support for the victim and avoid duplication of efforts. Chiefs of Legal Assistance will assign each victim-client to an SVC. Conflicts checks will be run before SVCs are assigned or makes initial contact with the victim-client. Special Victim's data will be recorded in the Army Legal Assistance Client Information System. If the Chief of Legal Assistance is unable to appoint a SVC due to a conflict, the Chief of Legal Assistance will coordinate with the SVC Program Manager for the designation of an alternate SVC.
USAF	(AF) The first individual to make contact with the eligible victim (for example, SARC, Victim Advocate, Family Advocacy Program, military investigator, victim liaison, or legal office personnel) will inform the victim of the availability of SVC services, as an extension of legal assistance for victims, in accordance with 10 U.S.C. § 1565b, utilizing DD Form 2701, Initial Information for Victims and Witnesses of Crime. Victims may also contact SVC offices directly to request SVC representation. SVCs work closely with Victim and Witness Assistance Personnel to ensure that all rights afforded to crime victims are provided to represented clients. SVCs also work closely with victim advocates to ensure that all mental and emotional needs of represented victims are being met. While there are overlapping responsibilities, the provision of services is a fully-integrated, holistic team approach to take care of victims of sexual assault. While an SVC might be involved in areas of overlapping responsibility, only the SVC can address legal needs and concerns, including in-court representation.
USN	VLC services are in addition to, and not in lieu of, other victim advocate services offered by the Navy. SARCs will oversee the management of a sexual assault case. Victim advocates will facilitate access to service providers and be the day-to-day support person to ensure the victim knows what services are available. There may be overlap by Trial Counsel and VLC in providing necessary VWAP forms to the victim. VLC and TC will communicate early and often in a case to ensure each counsel understands what has been provided to the victim in terms of legal forms and information. VLC are communicating and training with SARC and VAs so all players understand their own roles and each other's.
USMC	VLCs will provide confidential legal assistance to eligible victims of sexual assault and other crimes in place of legal assistance attorneys. The VLCO is a separate

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	<p>structure from that of Marine Corps Legal Assistance Offices. VLCs will provide confidential advice and counseling to eligible victims and will coordinate with the Legal Assistance Office should a victim need traditional legal assistance that is unrelated to the crime to which the client is a victim.</p> <p>Victims' legal counsel services will supplement, not replace, other victim services such as the Family Advocacy Program (FAP), the Sexual Assault Prevention And Response (SAPR)</p> <p>Program, Victim Advocates (VA), the Victim-Witness Assistance Program (VWAP), and services provided by Chaplains and medical personnel. To ensure victims are informed of their eligibility to victims' legal counsel services, upon seeking assistance from a Sexual Assault Response Coordinator (SARC), SAPR or FAP VA, military criminal investigator, victim/witness liaison or coordinator, or trial counsel, all eligible persons who assert direct physical, emotional, or pecuniary harm as a result of the commission of a sexual assault shall be informed of and given the opportunity to consult with a VLC.</p>
USCG	<p>Integration is facilitated in part by the Special Victim's Counsel Working Group that supports the Office of Special Victim's Counsel (OSVC). The Working Group includes representatives of the office which directs Coast Guard legal Assistance services and representation in Physical Disability Evaluation System cases. That office and OSVC both report to the Deputy Judge Advocate General, in part to facilitate that coordination. In addition, one option under consideration for Final Operational Capability is placing OSVC and the Director of Coast Guard legal Assistance within the same office.</p> <p>SVC services are closely coordinated with services provided by other Victim Advocates, SARCs, chaplains and others. This coordination will continue in the FOC phase of operations.</p>

4d. The cost and resources required to support the program, including the number of JAGs and paralegals, the reporting structure and the impact it has on the overall JAG Corps structure;

USA	<p>The U.S. Army currently has 67 judge advocates trained as SVCs across the Army, 52 Active Army counsel, 13 ARNG Counsel and two Reserve Component counsel. Because SVCs will work in the legal assistance offices, they will have access to paralegal and civilian support. They will be supervised and rated by the Chief of Legal Assistance. In the rare case where there is a conflict between the Chief of Legal Assistance the SVC will be supervised by the SVC Program Manager (PM). Special Victim Counsel's technical supervisor is the PM and they may engage the PM directly with their concerns and issues. Standing up the SVC program will have an impact on legal assistance services across the Army and TJAG has given SJAs authority to limit services to retirees and their family members in order to meet the demand to serve victims of sexual assault. In addition, the Chief of Staff of the Army has authorized the mobilization of 20 Reserve Component judge advocates to serve as backfill in</p>
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	<p>some of the legal assistance offices. At this time the required number of SVCs is unknown. The Judge Advocate General has tasked the SVC PM to gather data over the next 12 months to determine the required resources.</p>
USAF	<p>(AF) For FY 2014, it is anticipated that the SVC Program will require \$2.25M to operate. The cost of the program includes supplies and services; travel; education and training; and IT equipment.</p> <p>The number and type of personnel necessary for a sustainable SVC Program is dependent upon statutory and policy eligibility restrictions, the number of clients sustained on an annual basis, and the organizational structure of the program.</p> <p>With the current caseload of 409 clients (534 clients over the life of the program over nine months) and anticipated increases in client demand, we expect a sustainable program to require 29 SVCs and 10 paralegals. The headquarters element for policy and management requires an O-6 Division Chief, a Civilian Deputy (GS-14), and an E-7. With a worldwide mission and span of control issues given the number of personnel numbers, we assess a need in the future for 3-5 supervisory O-4s (majors). The program also requires a civilian (GS-13) at our Judge Advocate General's School to formalize continued legal education and training.</p> <p>The organization structure includes a headquarters element, with 24 SVCs and 10 paralegals at 22 installations world-wide reporting directly to the Division Chief. In Summer 2014, the SVC Program will have 29 SVCs and 10 paralegals at 19 locations world-wide.</p>
USN	<p>Costs: The following are the projected costs to support the VLC program: \$5M a year in Manpower costs once the program evens out, \$41,000 in facility costs, \$45,000 per year in supplies, \$66,000 per year in training of VLC and \$300,000 initially for VLC travel.</p> <p>Number of JAGs: There will be 30 judge advocates assigned to the VLCP including the Chief of Staff and ten active component E-5 YNs.</p> <p>Reporting Structure: The VLC program is an independent line of operation separate from the prosecution and the convening authority. VLC will report to Commander, Naval Legal Service Command via their OIC, Deputy Chief of Staff, and Chief of Staff. Establishment of the VLCP necessitated creation of a third echelon III command under CNLSC.</p> <p>Impact on JAGC Structure: The Navy has proposed increasing JAG Corps end strength through the DoD budget process to support establishment of the VLC Program. The JAG Corps is relying initially on reserve support (active duty for special work and definite recall) to meet aggressive deadlines for implementation before transitioning to steady-state VLC manning. 10 Reserve Component YNs will be assigned to the VLCP for 180 days; and 10 Active Component E-5 YNs will support the VLC program full time beginning in April-May 2014 timeframe. Proposed steady-state VLC Program manning consists of 30 Judge advocates (1 06 Chief of Staff, 4 04</p>

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	<p>Senior VLCs, and 25 LT VLCs), 1 senior civilian Deputy Chief of Staff (GS-13/14), and 10 E-5 YNs. The Navy is committed to the VLC mission and has taken active to begin staffing these positions immediately (except the civilian deputy position, which is temporarily filled by an O-5 judge advocate).</p> <p>In general, standing up the VLC program required growing the JAGC by 30 judge advocate billets to meet VLC mission requirements while not adversely impacting the provision of legal services in any of our other mission areas. This is in addition to JAGC growth previously programmed for FY14-17 in response to the findings of the "506 Panel" (Panel appointed by SECDEF IAW Congressional mandate in 2010 NDAA (Section 506) to review judge advocate requirements). The 30 additional billets will be funded beginning in FY14 and 15, but it will take several years to grow the JAGC through increased retention and accession quotas, which will allow us to fully transition from a reserve-active component mix to all active component VLCs. The aggressive implementation timeline for the VLC program required the JAGC to detail officers outside the normal detailing cycle, sometimes transferring judge advocates out of their current positions on relatively short notice and before their normally scheduled rotations. All VLCs are volunteers, but in some cases, their early transfer out of their position and into a VLC slot resulted in a gap in their former position. The tremendous support from our reserve component has helped to mitigate this challenge.</p>
USMC	<p>The VLCO requires, and was approved for, \$150,000 for its operations and maintenance budget for FY 14. Approximately \$100,000 is required to train and certify all VLCs and supporting personnel, while \$40,000 will be utilized for case-related travel and required site visits. Approximately \$10,000 will be used for office management. Additionally, there will be costs associated with VLC travel for courts-martial that will fall upon convening authorities.</p> <p>VLCO personnel are under the operational control and professional supervision of the OIC, VLCO for the delivery of victims' legal counsel services at their respective locations. Much like the Marine Corps Defense Services Organization, the VLCO supervisory and reporting chain is autonomous from, and independent of, convening authorities, OICs, and staff judge advocates.</p> <p>The short term impact on the judge advocate community is significant. In order to fill the RVLC and VLC billets by 1 November 2013, the Marine Corps had to move experienced individuals out of their existing duties, without immediate back fills.</p> <p>The Marine Corps will re-code nine judge advocate billets, and provide an uncompensated in-year increase of judge advocate structure by one colonel (O-6/4402) and five majors (1 O-4/4402 and 4 O-4/4409s).</p> <p>Further, each VLCO office will require a civilian paralegal to support the assigned VLC. Civilian paralegals will provide continuity and a skill set outside those maintained by our enlisted legal services support specialists. At present, the VLCO has submitted a civilian position description (PD) for a GS-11 Paralegal Specialist for</p>

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	<p>the OIC, VLCO, and a civilian PD for a GS-9 Paralegal Specialists for each RVLC. These PDs will be presented before the Civilian Uncompensated Review Board (CURB) for approval.</p> <p>Additionally, the Marine Corps has announced an opening for a reservist judge advocate to assist the OIC, VLCO.</p>
USCG	See answer to 4.a.

4e. Any legal services which are being eliminated or curtailed in order to resource the victim attorney program;

USA	<p>As noted above, TJAG authorized SJAs to restrict services to Retirees and their family members if the SCV caseload results in an inability to maintain the normal level of legal assistance services. The SVC caseload will vary from installation to installation, as will the legal assistance workload. It is anticipated that some installations are going to have to reduce additional legal assistance services to meet the demands of the SVC program. The U.S. Army will be gathering workload data from the SVC program throughout the year. The U.S. Army will also be measuring the impact on the legal assistance program. Staff Judge Advocates are directed to mitigate the loss of services to retirees and their families, when feasible, by having Reserve Component judge advocates service retiree clients and their families on weekends and have special designated days for retirees and their families to come into the SJA office.</p> <p>This program will not succeed unless the U.S. Army dedicates the resources to field and fund the requirements necessary for the SVC program. Zealously representing a client, in any proceeding, takes time, study, and guidance from the counsel's technical chain. Providing SVC services will require the JAG Corps to adjust its Officer Basic Course, Graduate Course, Advance Course, and short courses at The Judge Advocate Generals Legal Center and School.</p>
USAF	(AF) Installation-level legal offices may curtail or eliminate some legal assistance services to resource the victim attorney program.
USN	No legal services are being eliminated or curtailed in order to resource the VLCP.
USMC	<p>The Commandant of the Marine Corps has directed that there can be no reduction in the ability to try or defend complex cases, and no reduction in the speed of such complex cases as a result of the establishment of the Marine Corps VLCO. In the short term, non-trial legal services have been curtailed due to the shifting of personnel for the 1 November 2013 initial operating capability requirement. However, the Marine Corps has not reduced its ability to try or defend complex cases or the speed with which such cases go to trial. One reservist O-4 judge advocate with litigation experience has recently been given orders to MCB Quantico to augment the gap caused by the movement of personnel.</p>
USCG	The Coast Guard does not anticipate eliminating or significantly reducing any legal resources or services as a result of establishing its Special Victim's Counsel capability.

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4f. The screening and selection process, rank, experience level, training requirements, and whether these positions be filled by active duty, Reserve Component JAGs, or civilian attorneys;

USA	Staff Judge Advocates will select those judge advocates who will serve as an SVC. Special Victim Counsel will be selected based on their military justice experience, sound judgment, and their maturity to represent the victims of sexual assault. The SVCs will be Active Army judge advocates for the Active Army cases. The U.S. Army is also working to stand up SVC programs to support the Army National Guard and the U.S. Army Reserve. Based on the courts-martial practice aspect of the SVC mission, TJAG determined that SVCs will not be civilian attorneys.
USAF	(AF) In order to serve as an SVC, a JAG must be an active duty member certified as trial counsel under Article 27(b), UCMJ, which requires graduation from the Judge Advocate Staff Officer Course, serving proficiently as trial counsel in courts-martial, and being recommended for certification by their Staff Judge Advocate (SJA) and a military judge. All SVCs are hand-selected by TJAG and must successfully complete a TJAG-approved SVC course. It is anticipated that JAGs will serve in an SVC assignment for 18-24 months. The experience level of SVCs is slightly less, but comparable to, the experience level of JAGs entering Area Defense Counsel (ADC) positions, both in terms of number of assignments, time in the JAG Corps, and number of courts-martial tried as JAGs. Both require the level of maturity and experience necessary to be able to independently manage an office, represent clients, and zealously advocate to commanders and convening authorities, with supervision and oversight that is geographically separated.
USN	All VLC were screened. Criteria for selection was based on desire to be VLC, experience level, professional maturity, people skills and all had to be professionally recommended. All VLC have prior court-room experience (on at least one side - most have been both DC & TC), the majority have practices legal assistance and the more senior folks have SJA experience. Interviews were conducted and the Judge Advocate General personally approved every candidate. VLC rank levels range from Lieutenants (O-3) to Commanders (O-5), plus a Captain (O-6) as Chief of Staff. Initial training of 20 Navy VLC was provided by the Air Force. One Navy VLC attended the Army course. The Navy is creating its own VLC training course modeled after the Air Force. We hope to provide Navy VLC as instructors at the Air Force training and for Navy specific breakouts. After completion of training, all VLC were certified as Victims' Legal Counsel by the Judge Advocate General. Eighteen active component judge advocates are assigned to the VLCP. Eleven reservists are assigned as Navy VLC on ADSW orders for at least one year. There are no civilian attorneys performing VLC duties within the Navy structure.
USMC	The OIC, VLCO will review each nominee. The OIC, VLCO shall be an experienced active duty Marine judge advocate serving in or selected to the grade of colonel (O-6). The Deputy OIC, VLCO shall be an active duty Marine judge advocate with military justice experience serving in or selected to the grade of major (O-4). RVLC are active duty Marine judge advocates serving in or selected to the grade of major (O-4), with expertise in military justice matters, to include experience in at least one contested complex case, and with the Necessary Military Occupational Specialty

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	<p>(NMOS) of 4409 (Master of Criminal Law). VLC and AVLC are active duty Marine judge advocates, serving in or selected to the grade of captain (O-3), with the NMOS of 4409. VLCs must have at least six months of military justice experience, unless waived by the OIC, VLCO.</p> <p>Support personnel are currently enlisted legal services support specialists. The VLCO is in the process of getting approval to hire 9 civilian paralegals.</p> <p>All VLC are required to attend training approved by the SJA to CMC. To date, all VLC have attended the Air Force Special Victims' Counsel Course at Maxwell AFB, Montgomery, AL. Additionally, the VLCO has sent representatives to observe the Army's special victims' counsel course in Charlottesville, VA.</p>
USCG	<p>All Coast Guard Special Victim's Counsel are active duty judge advocates certified under Article 27(b) of the Uniform Code of Military Justice to serve as counsel courts-martial. Service as SVCs is a collateral duty. All SVCs receive specialized training as Coast Guard Victim Advocates and are certified as such. Coast Guard SVCs have attended a variety of specialized training programs provided by our sister services. Currently, all SVCs are LTs (03) or LCDRs (04). The Director of the OSVC is currently a CAPT (06) who reports to the Deputy Judge Advocate General of the Coast Guard (SES}. The Coast Guard is exploring the feasibility and utility of providing SVC services through reserve component judge advocates in addition to active duty judge advocates. Final Operational Capability (FOC) for the Special Victim's will include full-time SVCs.</p>

4g. How victim attorneys will resolve ethical concerns or cases of first impression;

USA	<p>Special Victim Counsel will work through their supervisory and technical chain of supervision to resolve ethical concerns and/or questions of first impression. This will include their Chiefs of Legal Assistance, DSJAs, and SJAs. As necessary, or in cases in which the Chief of Legal Assistance, DSJA and/or SJA are conflicted, the SVC will consult with their technical chains, the SVC PM.</p>
USAF	<p>(AF) SVCs can raise ethical concerns or cases of first impression to either the Chief, Special Victims' Counsel Division, or the Deputy Chief, Special Victims' Counsel Division. They may also contact their State Bar or the Air Force Professional Responsibility Office for guidance.</p>
USN	<p>VLC will raise & discuss any ethical concerns with their supervising OICs. If necessary, they will seek further guidance up the chain of command and will consult with the Professional Responsibility POC at OJAG Code 13.</p>
USMC	<p>While VLC will follow the guidance provided by rules, regulations, statutes and case law (to include JAGINST 5803.1D, and State Bar rules), they will also seek advice and counseling through their supervisory chain – the VLCO.</p>
USCG	<p>The Coast Guard has an established legal Professional Responsibility Program through which counsel can resolve potential ethical concerns. The Special Victim's Counsel Working Group that supports the Office of Special Victim's Counsel (OSVC) includes a representative of the Office of Legal Policy and Program Development that</p>

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	oversees the Professional Responsibility Program, and is a resource for OSVC in addressing potential ethical issues. Avoiding conflicts of interests or other ethical or professional responsibility concerns for SVCs is a priority of the OSVC and that has been communicated to SVCs in regular all-hands conference calls.
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4h. Information regarding any civilian programs or organizations consulted or researched to develop the separate Services' programs;

USA	The Office of The Judge Advocate General, Criminal Law Division, assigned a judge advocate as the U.S. Army representative to the McKeon Study group of the Joint Services Committee (DOD). In that capacity, the judge advocate visited with the directors of a number of state victim service programs and consulted telephonically with a number of others. This information was used as the SVC program was being developed. None of these civilian programs offered the scope of services of the magnitude directed by the Secretary of Defense. These state programs had the luxury of developing such programs under a single Code of Professional Responsibility. The Army SVC program is complicated by the fact that our SVCs will operate under the Army Rules of Professional Responsibility for Lawyers as well as their own state licensing rules governing Professional Responsibility. However, we believe we have put the proper safeguards in place.
USAF	(AF) The Air Force has consulted with, and received training from the following individuals and organizations: 1. Ms. Meg Garvin, Executive Director of the National Crime Victim Law Institute (NCVLI). 2. Ms. Jessica Mindlin, National Director of Training and Technical Assistance from the Victim Rights Law Center (VRLC). 3. Dr. Rebecca Campbell, Professor of Psychology at Michigan State University. 4. Mr. Russell Butler, Executive Director of the Maryland Crime Victims' Resource Center (MCVRC). 5. Representatives from Protect Our Defenders (POD) and Service Women's Action Network (SWAN).
USN	None known.
USMC	The OIC, VLCO has been coordinating with the Marine Corps and Navy representatives from the Sexual Assault Subcommittee that falls under the Joint Services Committee on Military Justice, referred to as the JSC-SAS. The JSC-SAS travelled to various civilian jurisdictions to make comparisons between the State and Federal victims' counsel services programs and identify best practices. Additionally, the OIC, VLCO met with the Director of the DOJ Office for Victims of Crime, Ms. Joye E. Frost.
USCG	The Coast Guard consulted with the sister services (and relied heavily upon the experience of the Air Force in establishing the first SVC program) in developing its program. To develop policies and procedures that govern the delivery of SVC services by Coast Guard judge advocates, the Coast Guard reviewed and considered applicable ethical and practice standards of the ABA, its Legal Professional Responsibility Program and Legal Rules of Professional Conduct, and those established by the bars

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	in the several states in which Coast Guard attorneys are licensed.
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4i. Whether DoD and the Services will work to standardize training and services and how this will be managed, and

DOD	Not answered
USA	There is no formal process at this early stage for all of the services to standardize training and services; however, all the services have attended each other's training and have collaborated about delivering services to victims of sexual assaults. As a result there has been a great deal of exchange of training ideas.
USAF	(AF) DoD has directed the Services to share best practices. This includes sharing curriculums from SVC training courses hosted by the various services. In addition to conducting our own training course, the Air Force hosted a joint- service training course October 15-18, 2013 to train over 60 victims counsel from the Navy, Marine Corps, and Air National Guard to assist them with meeting the requirement to reach Initial Operating Capability by Nov 1, 2013. The Air Force expects to continue to offer and provide joint-service SVC training on an annual basis.
USN	The Navy has consulted closely with the Air Force and the Marine Corps on the stand up of the VLCP and is interested in working with the Air Force and other military services to standardize training and VLC services. A period of at least six months post-January 2014 is needed in order to evaluate the VLC Program and determine what is working well, what needs improvement, and to determine if the current Air Force and Army training meets the needs of the practitioners.
USMC	<u>Standardized Services:</u> Consistent with the direction of the Secretary of Defense, the Marine Corps has established a VLCO that best meets the needs of the Marine Corps. The services offered by the VLCO are similar to those offered by the other Services, but the Marine Corps has not limited victims' legal counsel services to victims of sexual assault, but instead has extended these services to all eligible crime victims. <u>Standardized Training:</u> Marine Corps VLCs have all attended the Air Force's Special Victims' Counsel Course and the completion of this course is necessary for certification as a Marine Corps VLC.
USCG	The Coast Guard looks forward to cooperating with its sister services in developing appropriate training and guidance for Special Victim's Counsel as the services implement and develop this new capability.

4j. Copies of the most recent curriculum for each Service's victim attorneys.

USA	A copy of the recent curriculum will be delivered to the RSP on disk.
USAF	(AF) See attached Tabs 3 & 4.
USN	The Navy has no specific curriculum as of this date but we are developing a VLC course to be presented in January of 2014 for newly reported VLC. The curriculum will closely mirror the Air Force's curriculum.
USMC	Marine Corps VLC attorneys attend training conduct by the Air Force.

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USCG	The Coast Guard does not have an independent SVC training program. Coast Guard SVCs attend Coast Guard Victim Advocate training and other military justice, criminal investigation and SVC-related training offered by our sister services.

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REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

DAJA-ZA

1 November 2013

MEMORANDUM FOR Judge Advocate Legal Services Personnel

SUBJECT: Office of The Judge Advocate General Policy Memorandum # 14-01, Special Victim Counsel

1. This policy addresses Judge Advocates (JAs) assigned as Special Victim Counsel (SVCs) and is effective immediately.
2. Background. The Secretary of Defense has directed that each service stand-up a special victim advocacy program to provide advice and representation to victims of sexual assault throughout the military justice process. The Secretary specifically directed that initial operating capability (IOC) be established not later than 1 November 2013 and that full operating capability (FOC) be established not later than 1 January 2014.
3. Implementation. SVCs are part of the Army-wide effort to ensure that sexual assault victims are provided responsive and timely support throughout the investigation and judicial proceedings. In support of this Army priority, Staff Judge Advocates (SJAs) are authorized to limit legal assistance services for Retirees and their Family Members. However, each SJA will implement a mitigation strategy for the curtailment of retiree services, such as retiree weekends.
4. Mission. SVCs have the professional duty to provide advice to their clients and to represent their clients throughout the military justice process. The SVC's primary duty is to zealously represent the best interests of their clients as required by the attorney-client relationship even if their client's interests do not align with those of other interested parties, to include the government of the United States. The SVC also helps build and sustain victim resiliency. An SVC should make every effort to establish and maintain an effective, complementary and professional working relationship with all other attorneys associated with a given case, and with other parties involved, including but not limited to investigators, victim advocates, victim witness liaisons, trial counsel, trial defense attorneys, special victim prosecutors and those professionals working to meet the physical, spiritual, and emotional needs of the client.
5. Appointment of SVCs and Length of Assignments. SJAs will appoint JAs to serve as SVCs, who will be part of the Office of the Staff Judge Advocate (OSJA) Legal Assistance Office. While SVCs do not have to be selected from currently serving Legal Assistance Attorneys, SVCs will function as part of the OSJA Legal Assistance Office when performing SVC duties. They should have trial or defense counsel experience. Regardless of experience, the SVCs must have maturity and good judgment to handle this important duty. SVCs should serve no less than one year and no more than two years in the position.

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DAJA-ZA

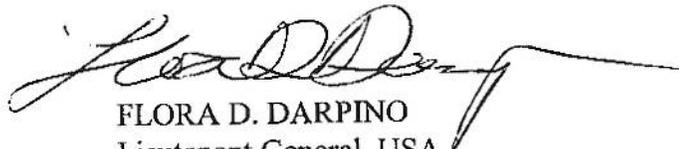
SUBJECT: Office of The Judge Advocate General Policy Memorandum # 14-01, Special
Victim Counsel

6. Training. Training is essential to honing the expertise of SVCs. The SVC Program Manager (PM), in coordination with The Judge Advocate General's Legal Center and School, the Criminal Law Division and the Legal Assistance Policy Division, will determine training requirements for SVCs and develop and administer a training program for SVCs. Completion of the SVC course is mandatory unless an exception is approved by the SVC PM. Given the nature and timing of certain training events, individuals may attend SVC training courses prior to their actual assignment as an SVC.

7. Supervision. An SVC's professional duty is to their client. SJAs must ensure a proper balance of mentorship and guidance for their SVCs, including supervision by the OSJA Chief of Legal Assistance. SJAs must recognize that SVCs have an ethical obligation to advocate for their clients even when it is not in the best interest of the government. The SJA, through the Chief of Legal Assistance, shall provide day-to-day supervision of the SVC and ensure the SVC is provided the necessary material and resource support to carry out the SVC mission. The OSJA will facilitate SVCs' requests for official travel for cases within their jurisdiction.

8. Relationship with the SVC PM. The SVC PM is responsible for monitoring the overall execution of the SVC program. Chiefs of Legal Assistance and SJAs remain the primary day-to-day supervisory chain for SVCs. However, due to the nature of the SVC function, there will be some cases in which the interests of the SJA and the command are not in concert with the victim's. In those situations, the SVC's technical adviser and supervisory JA for professional responsibility per AR 27-26 is the SVC PM. Our goal is the SVC program should be effective, transparent, avoid conflicts of interest with other legal assistance clients and complement the way our Corps already delivers legal services.

Army Strong!



FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General



TJAG Sends

A Message from The Judge Advocate General



SPECIAL VICTIM ADVOCATE PROGRAM

Today, I am pleased to announce the guidelines of the United States Army Special Victim Advocate Program (SVAP). The SVAP, created at the direction of the Secretary of Defense, exists to provide legal advice and representation to victims of sexual assault throughout the military justice process. The SVAP's initial operational capability (IOC) for offering services will be 1 November 2013.

Special Victim Advocates (SVAs) will be drawn from the Legal Assistance Division of the Offices of the Staff Judge Advocate. At this initial stage, forty five active duty Judge Advocates will be appointed Corps-wide as SVAs by their respective Staff Judge Advocates (SJAs). Attached is a spreadsheet of where the SVAs will be located for IOC. For larger installations, SVAs will be on-site and the number of SVAs might even be two while for some of the smaller installations, the SVA will receive support from another installation. SJAs should appoint Judge Advocates who have defense or trial counsel experience and ensure completion of training prior to assumption of duties. Regardless of experience, the SVAs must have the maturity and judgment to assume these responsibilities.

Implementation of this program will add to the workload of the Legal Assistance Divisions and individual offices might find it taxing to continue providing the same level of outstanding legal assistance service that our Army community has come to expect. With this in mind, two mitigation measures have been taken. First, the Army's leadership has directed the mobilization of twenty Reserve Component Judge Advocates to provide legal assistance services at those offices where our active component legal assistance Judge Advocates will be impacted the most. The attached spreadsheet outlines the offices where the mobilized Judge Advocates will work. Second, SJAs have the authority to restrict services to Retirees and their Families. Before executing this restriction, however, you should implement mitigation measures to offset the loss of services. For example, consider weekend appointments for Retirees using local Reserve Component Judge Advocates or expanding services during Retiree Appreciation Days. Additional impacts on Legal Assistance may be inevitable but explore creative ways to keep these impacts to a minimum.

I have selected Colonel James "Jay" McKee to be the program manager for the SVAP; SJAs are to keep him informed of the challenges faced and the solution sets generated. COL McKee will provide the technical supervision over the SVAs throughout our Corps, while the Chiefs of the Legal Assistance Offices will have day-to-day supervisory responsibilities related to the on-going legal assistance duties and SVAP duties. COL McKee reports directly to the Assistant Judge Advocate General for Military Law and Operations. He will manage the program

CONTINUED

SPECIAL VICTIM ADVOCATE PROGRAM

Continued

in coordination with Personnel, Plans and Training Office (PP&TO), Criminal Law Division, Legal Assistance Policy Division, and the Legal Center and School (LCS). The goal will be to ensure that the program meets the intent of the Secretary of Defense, addresses the needs of sexual assault victims, and complements our practice of law. Policies, handbooks and other required documents on the SVAP will be published before IOC.

Training our future SVAs is of the highest priority, and we will dedicate the resources necessary to provide SJAs with an effective long-term SVA training model. We have developed specific curriculum that will be offered at a special SVA course in October to meet the IOC deadline. Additionally an online version of the course materials will be available shortly after 1 November 2013. Regardless of the method, SVAs must complete training before assuming their duties. The LCS will then continue planning for full integration across the Corps' education and training curriculum by 1 January 2014, the full operating capability date of the SVAP, in order to accomplish both long term development and sustainment of our SVA capability. Future SVAs will be selected by PP&TO for their knowledge, skill, and experience in both legal assistance and military justice. As we move forward with this unprecedented program, the SVAP reflects a dedication by the Army to the victims of sexual assault, while always ensuring that all Soldiers receive a fair trial.

Army Strong!



FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

CMD	# of SVAs	# of RC JAs for LA Duties	Supporting Installation
Afghanastan	2		
Hood	2	2	
Korea	2	2	
Stewart/Hunter	2	2	
Bliss	2	2	
Bragg	2	2	
Campbell	2	1	
7th JMTC	2	1	
Fort Sam	2	1	
Lewis	2	1	
Hawaii	2	1	
MDW (all 3)	2	1	
Carson	1	1	
Riley	1	1	
Leonard Wood	1	1	
Drum	1	1	
Kuwait	1		
Jackson	1		
21st TSC	1		
Lee	1		
Sill	1		
Benning	1		
Alaska	1		
Vicenza	1		
Irwin	1		
Knox	1		
Gordon	1		
West Point	1		
Polk	1		
Eustis	1		
Huachuca	1		
Wiesbaden	1		
Rucker	1		
Tampa			Fort Stewart
Monterey			Fort Irwin
Eglin			Fort Rucker
Japan			Korea
Leavenworth			Fort Riley
McCoy			Fort Knox
Dix			West Point
Hamilton			West Point
Okinawa			Korea
Redstone			Fort Benning
Totals	45	20	



DEPARTMENT OF THE AIR FORCE
THE JUDGE ADVOCATE GENERAL'S SCHOOL

MAY 16 2013

MEMORANDUM FOR SPECIAL VICTIMS' COUNSEL COURSE (SVCC) 13-B ATTENDEES

FROM: The Judge Advocate General's School

SUBJECT: SVCC 13-B Narrative Schedule, 20-24 May 2013

This schedule is designed to assist you in preparing for each hour of instruction. All lectures will be conducted at The Judge Advocate General's School (JAG School), building 694, Kuhfeld Auditorium (room 105) unless otherwise indicated. Seminar rooms will be assigned upon your arrival, and all seminars will be held in these rooms unless otherwise indicated. Classes will start promptly at the times indicated. Students must be seated and prepared for each period. Any absences must be reported immediately to the course director or the front office at 334-953-2802.

If you have not already done so, prior to the beginning of the course, please familiarize yourselves with: Article 120 UCMJ, (M.C.M. 2012), M.R.E. 412, M.R.E. 513, M.R.E. 514, the Special Victims' Counsel Charter, and the Special Victims' Counsel Rules of Practice and Procedure. This will ensure that all students are better prepared to discuss the relevant topics and ask informed questions.

Monday, 20 May 2013

- 0730-0800 **WELCOME REMARKS AND INTRODUCTION**
Colonel Kenneth Theurer, Commandant, JAG School; Maj Christopher Goewert, Course Director, Instructor, Military Justice Division, JAG School
- 0800-0850 **LECTURE – SPECIAL VICTIMS' COUNSEL (SVC) INTRODUCTION AND OVERVIEW**
Instructor: Lt Col Dawn Hankins, Chief Special Victims' Counsel Program, AFLOA/JAJM, Joint Base Andrews, MD
Student Evaluators: 1-5
- 0850-0900 **BREAK**
- 0900-0950 **LECTURE – FUNDAMENTAL CONCEPTS OF BEING A VICTIMS' ATTORNEY**
Instructor: Ms. Meg Garvin, Executive Director & Clinical Professor of Law, National Crime Victim Law Institute, Lewis and Clark Law School, Portland, OR
Student Evaluators: 6-10
- 0950-1000 **BREAK**

30000

- 1000-1050 **LECTURE – REPRESENTING AND ADVOCATING FOR VICTIMS OF SEXUAL OFFENSES**
Instructor: Ms. Meg Garvin
Student Evaluators: 11-15
- 1050-1100 **BREAK**
- 1100-1150 **LECTURE – VICTIMS’ RIGHTS UNDER APPLICABLE FEDERAL LAW**
Instructor: Ms. Meg Garvin
Student Evaluators: 16-20
- 1150-1300 **LUNCH**
- 1300-1350 **LECTURE – UNDERSTANDING THE PSYCHOLOGICAL CONDITIONS OF VICTIMS OF SEXUAL ASSAULT FROM A LEGAL PRACTITIONER’S PERSPECTIVE**
Instructor: Ms. Meg Garvin
Student Evaluators: 21-25
- 1350-1400 **BREAK**
- 1400-1450 **LECTURE – SVC WAY AHEAD**
Instructor: Capt Allison Devito, AFLOA/JAJM, Joint Base Andrews, MD
Student Evaluators: 26-30
- 1450-1500 **BREAK**
- 1500-1700 **GUIDED DISCUSSION – LESSONS LEARNED IN THE FIELD**
Instructor: Maj Christopher Goewert
Student Evaluators: 31-35

Bus to depart JAG School @ 1745 for Icebreaker

- 1800-2000 **ICEBREAKER (OPTIONAL)**
IRISH BRED PUB

Bus to depart @ 2000 for JAG School

Tuesday, 21 May 2013

- 0730-0920 **LECTURE – COGNITIVE VICTIM INTERVIEWS & COOPERATION WITH LAW ENFORCEMENT**
Instructor: Mr. Mark Walker, AFOSI, Investigations Operations Consultant
2nd Field Investigations Squadron, Joint Base Andrews, MD
Student Evaluators: 36-40
- 0920-0930 **BREAK**

- 0930-1120 **LECTURE – CIVIL LEGAL ASSISTANCE FOR VICTIMS, CURRENT PRACTICE**
Instructor: Ms. Jessica Mindlin, National Director of Training & Technical Assistance, Victim Rights Law Center, Portland, OR
Student Evaluators: 41-45
- 1120-1230 **LUNCH**
- 1230-1320 **LECTURE – STC PERSPECTIVE AND COORDINATION**
Instructor: Maj Jennifer Holmes, Senior Trial Counsel, Special Victims Unit, AFLOA/JAJG, Joint Base Andrews, MD
- (PARALEGAL BREAKOUT SESSION)**
LECTURE - SVC DETAILING AND PROGRAM DATA ENTRY
Instructor: TSgt Charles Zaldivar, NCOIC, Community Legal Services Division, Joint Base Andrews, MD
Location: Compter Lab
- 1320-1520 **ROUNDTABLE DISCUSSION – AFTER THE TRIAL: THE LIVES, EXPERIENCES AND LEGAL QUANDRIES FACED BY VICTIMS OF SEXUAL ASSUALT**
Guest Speakers: Mr. Greg Jacob, Policy Director, Service Women’s Action Network; Ms. Miranda Petersen, Program Director, Protect Our Defenders; Ms. Jessica Mindlin; and Ms. Meg Garvin
Student Evaluators: 1-5
- 1520-1530 **BREAK**
- 1530-1620 **LECTURE – SVC RULES OF PRACTICE AND PROCEDUE**
Instructor: Capt Allison Devito
Student Evaluators: 6-10
- 1620-1630 **BREAK**
- 1630-1700 **LECTURE – SVC PERSONNEL ASSIGNMENTS**
Instructor: Maj Gary Osborne, Government Appellate Counsel, Joint Base Andrews, Washington, MD
Student Evaluators: 11-15

Wednesday, 22 May 2013

- 0730-0820 **LECTURE – MILITARY LEGAL ASSISTANCE FOR VICTIMS**
Instructor: Colonel Marlesa Scott, Chief, Community Legal Services Division, AFLOA/JACA, Joint Base Andrews, MD
Student Evaluators: 16-20

- 0820-0830 **BREAK**
- 0830-0920 **LECTURE – ROLE OF THE SPECIAL VICTIMS’ COUNSEL**
 Speaker: Lieutenant General Richard C. Harding, The Judge Advocate General
 Student Evaluators: 21-25
- 0920-0930 **BREAK**
- 0930-1020 **LECTURE – SVC’S ROLE IN THE COURT-MARTIAL: OVERVIEW**
 Instructors: Colonel Don Christensen, Chief, AFLOA/JAJG, Joint Base Andrews,
 MD; Maj Matthew Talcott, Instructor, Military Justice Division, JAG School
 Student Evaluators: 26-30
- 1020-1030 **BREAK**
- 1030-1130 **LECTURE – SVC’S ROLE IN THE COURT-MARTIAL: MRE 412 & 513**
 Instructors: Colonel Don Christensen; Maj Matthew Talcott
 Student Evaluators: 31-35
- 1130-1140 **BREAK**
- 1140-1220 **LECTURE – SVC’S ROLE IN THE COURT-MARTIAL: THE INTERPLAY
 BETWEEN VICTIMS AND ADVOCATES IN THE COURT ROOM**
 Instructors: Colonel Don Christensen; Maj Matthew Talcott
 Student Evaluators: 36-40
- 1220-1330 **LUNCH**
- 1330-1630 **EXERCISE I - INTERFACING WITH AND ADVISING VICTIM-CLIENTS**
 Instructors: Various AFJAGS, JAJG, JAJM
 Location: Seminar rooms as assigned

Thursday, 23 May 2013

- 0730-0820 **LECTURE –POST-TRIAL PROCESSING FOR THE SPECIAL VICTIMS’
 COUNSEL**
 Instructor: Lt Col Dawn Hankins
 Student Evaluators: 41-45
- 0820-0830 **BREAK**
- 0830-0930 **LECTURE – SVC ETHICS**
 Instructor: Major Andrew Barker, Instructor, Professional Outreach Division, JAG
 School
 Student Evaluators: 1-5

- 0930-0940 **BREAK**
- 0940-1200 **LECTURE – UNDERSTANDING THE MENTAL HEALTH OF A SEXUAL ASSAULT VICTIM: REFERRALS FOR TREATMENT, PTSD, RESILIENCY, AND SUICIDE AWARENESS**
Instructor: Dr. Nate Galbreath; Senior Executive Advisor, Accountability and Assessment, DoD SAPRO, Alexandria, VA
Student Evaluators: 6-10
- 1200-1300 **LUNCH**
- 1300-1450 **MANAGING YOUR OWN OFFICE: ADMINISTRATIVE TECHNIQUES, TRAVEL, PARALEGAL TEAMING, AND PERFORMANCE REPORTS**
Instructors: Maj Robert Wilder, Deputy Chief, Community Legal Services Division, Joint Base Andrews, MD; TSgt Charles Zaldivar
Student Evaluators: 11-15
- 1450-1630 **INDIVIDUAL PREP TIME FOR EXERCISE II**
- Friday, 24 May 2013**
- 0800-1130 **EXERCISE II - COURT MARTIAL ADVOCAY FOR THE SVC**
Instructors: Various AFJAGS, JAJG, JAJM
Location: Seminar rooms as assigned
- 1130-1140 **BREAK**
- 1140-1210 **CONCLUDING REMARKS AND END OF COURSE**


KENNETH M. THEURER, Colonel, USAF
Commandant



DEPARTMENT OF THE AIR FORCE
THE JUDGE ADVOCATE GENERAL'S SCHOOL

AF. O. 4. J.

OCT 10 2013

MEMORANDUM FOR SPECIAL VICTIMS' COUNSEL COURSE (SVCC) 14-A STUDENTS

FROM: The Judge Advocate General's School

SUBJECT: SVCC Narrative Schedule, 15 - 18 October 2013

This schedule is designed to assist you in preparing for each hour of instruction. All lectures will be conducted at The Judge Advocate General's School (JAG School), building 694, room 105, Kuhfeld Auditorium, unless otherwise indicated. Exercise and breakout rooms will be assigned upon your arrival, and all exercises and breakouts will be held in these rooms unless otherwise indicated. Classes will start promptly at the times indicated. Students must be seated and prepared for each period. Any absences must be reported immediately to the course director, MAJ Adam Kersey, or the front office at 334-953-2802.

TUESDAY, 15 OCTOBER 2013

- 0730-0800 **WELCOME REMARKS AND INTRODUCTION**
Instructors: Colonel Kenneth Theurer, Commandant; Major Adam Kersey, Course Director, and Mr. Pete Stultz, Assistant Course Director, The Judge Advocate General's School, Maxwell AFB, AL
- 0800-0850 **LECTURE - AIR FORCE SVC INTRODUCTION & OVERVIEW**
Instructor: Colonel Dawn Hankins, Chief, Special Victims' Counsel Program, Air Force Legal Operations Agency, Joint Base Andrews, MD
Student Evaluators: 1-10
- 0850-0900 **BREAK**
- 0900-1030 **LECTURE - LEGAL ASSISTANCE & HOLISTIC INTAKE INTERVIEWS**
Instructor: Laura Mahr, Victims Rights Law Center, Portland, OR
Student Evaluators: 11-20
- 1030-1040 **BREAK**
- 1040-1130 **LECTURE - APPELLATE UPDATE - *LRM v. Kastenberg***
Instructor: Colonel Kenneth Theurer, Commandant, The Judge Advocate General's School, Maxwell AFB, AL
Student Evaluators: 21-30
- 1130-1230 **LUNCH**
- 1230-1350 **LECTURE - MILITARY RULES OF EVIDENCE**
Instructor: Lieutenant Colonel Brian Thompson, Chief, Senior Trial Counsel - SVU, Air Force Legal Operations Agency, Joint Base Andrews, MD
Student Evaluators: 31-40

10/10/13

300100

- 1350-1400 **BREAK**
- 1400-1450 **GUIDED DISCUSSION – LESSONS FROM THE FIELD**
 Instructor: Major Robert Wilder, Deputy Chief, Special Victims' Counsel Program, Air Force Legal Operations Agency, Joint Base Andrews, MD
 Student Evaluators: 41-50
- 1450-1500 **BREAK**
- 1500-1550 **GUIDED DISCUSSION – VWAP / SARC / OSI / TC INTERACTION**
 Instructor: Capt Allison Devito, Chief, Policy for Victims and Witnesses, Air Force Legal Operations Agency, Joint Base Andrews, MD
 Student Evaluators: 51-60
- 1550-1600 **BREAK**
- 1600-1700 **BREAKOUT SESSIONS – BRANCH SPECIFIC**
 Location: Breakout sessions by branch of service; rooms as assigned

Bus to depart Bldg 682 @ 1745 for Icebreaker
- 1800-2000 **ICEBREAKER AT RICHEY CENTER (OPTIONAL)**

Bus to depart Richey Center @ 2000 for Bldg 682

WEDNESDAY, 16 OCTOBER 2013

- 0730-0850 **LECTURE – BEING A VICTIM'S ATTORNEY I**
 Instructor: Ms. Meg Garvin, Executive Director & Clinical Professor of Law, National Crime Victim Law Institute, Portland, OR
 Student Evaluators: 61-70
- 0850-0900 **BREAK**
- 0900-1020 **LECTURE – BEING A VICTIM'S ATTORNEY II**
 Instructor: Ms. Meg Garvin, Executive Director & Clinical Professor of Law, National Crime Victim Law Institute, Portland, OR
 Student Evaluators: 1-10
- 1020-1030 **BREAK**
- 1030-1150 **PANEL DISCUSSION**
 Facilitator: Mr. Tom Becker, Academic Director, The Judge Advocate General's School, Maxwell AFB, AL
 Panelists: Ms. Jessica Hives, Protect Our Defenders; Mr. Peter Coote, Victims' Rights Advocate; Mr. Russell Butler, Maryland Crime Victims' Resource Center
 Student Evaluators: 11-20

- 1 150-1300 **LUNCH**
- 1 300-1520 **LECTURE – NEUROBIOLOGY OF SEXUAL ASSAULT**
 Instructor: Dr. Rebecca Campbell, Michigan State University, East Lansing, MI
 Student Evaluators: 21-30
- 1 520-1530 **BREAK**
- 1 530-1600 **VTC REMARKS**
 Instructor: Lieutenant General Richard C. Harding, The Judge Advocate General of the Air Force
- 1 600-1630 **BREAKOUT SESSIONS – BRANCH SPECIFIC**
 Location: Breakout sessions by branch of service; rooms as assigned

THURSDAY, 17 OCTOBER 2013

- 0 730-0820 **LECTURE – POST-TRIAL PROCESSING FOR SVCs**
 Instructor: Colonel Dawn Hankins, Chief, Special Victims' Counsel Program, Air Force Legal Operations Agency, Joint Base Andrews, MD
 Student Evaluators: 31-40
- 0 820-0830 **BREAK**
- 0 830-0920 **LECTURE – ETHICS**
 Instructor: Maj Lisa Richard, Chief, Civil Law Division, The Judge Advocate General's School, Maxwell AFB, AL
 Student Evaluators: 41-50
- 0 920-0930 **BREAK**
- 0 930-1200 **LECTURE – MENTAL HEALTH, REFERRALS, RESILIENCY**
 Instructor: Dr. Nate Galbreath, Senior Executive Advisor, DoD Sexual Assault Prevention and Response Office, Alexandria, VA
 Student Evaluators: 51-60
- 1 200-1300 **LUNCH**
- 1 300-1630 **EXERCISE – CLIENT INTAKE AND ADVICE**
 Location: Rooms as assigned

FRIDAY, 18 OCTOBER 2013

- 0 730-0920 **LECTURE – VICTIMOLOGY**
 Instructor: Dr. Jeanne Lambrecht, Air Force Office of Special Investigations, Joint Base Andrews, MD
 Student Evaluators: 61-70

- 0920-0930 **BREAK**
- 0930-1100 **EXERCISE – COURT-MARTIAL ADVOCACY FOR THE SVC**
Location: Rooms as assigned
- 1 130-1230 **LUNCH**
- 1 230-1430 **EXERCISE – COURT-MARTIAL ADVOCACY FOR THE SVC**
Location: Rooms as assigned
- 1 430-1500 **CLOSING REMARKS AND END-OF-COURSE CRITIQUES**
Location: Room 105, Kuhfeld Auditorium
- 1 500-1630 **BREAKOUT SESSIONS – BRANCH SPECIFIC (OPTIONAL)**
Location: Breakout sessions by branch of service; rooms as assigned



KENNETH M. THEURER, Col, USAF
Commandant

SVCC 14A

	Monday 14-Oct	Tuesday 15-Oct	Wednesday 16-Oct	Thursday 17-Oct	Friday 18-Oct	
730		Welcome/Admin Matters	Fundamental Concepts of Being a Victims' Attorney Part I Meg Garvin	Post-Trial Processing For SVCs Col Hankins	Cognitive Biases; Behavioral Aspects of Victims; Understanding Sex Offenders Dr. J. Lambrecht	730
800		Air Force SVC Introduction & Overview Col Hankins	Fundamental Concepts of Being a Victims' Attorney Part II Meg Garvin	Ethics Maj Richard		800
830						830
900		Civil Legal Assistance Laura Mahr	Panel With Invitees: POD / Victim Advocates - Tom Becker , Moderator	Mental Health Issues/Referrals/ PTSD/Resiliency and Suicide Awareness Dr. Nate Galbreath		900
930					930	
1000					Exercise II Court Martial Advocacy for the SVC MAJ Kersey	1000
1030		Appellate Update - L.R.M. Colonel Theurer	Lunch	Lunch	1030	
1100					1100	
1130		Lunch	Lunch	Lunch	1130	
1200					1200	
1230		Military Rules of Evidence Col Don Christensen	The Neurobiology of Trauma / Cognitive Interviewing Dr. Rebecca Campbell	Exercise I Client Intake and Advice MAJ Kersey	1230	
1300					Exercise II (Cont) Court Martial Advocacy for the SVC MAJ Kersey	1300
1330					1330	
1400					End of Course	1400
1430		Lessons from the Field; Guided Discussion Maj Wilder	Remarks Lt Gen Harding	Breakout Session	1430	
1500					1500	
1530		VWAP / SARC / OSI / TC Interaction Capt Devito	Breakout Session	Breakout Session	1530	
1600					1600	
1630		Breakout Session			1630	
1700					1700	
1800		Icebreaker			1800	

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON DC 20330

AFI51-504_AFGM1
24 January 2013

MEMORANDUM FOR DISTRIBUTION C
MAJCOMs/FOAs/DRUs

FROM: AF/JA

SUBJECT: Air Force Guidance Memorandum to AFI 51-504, *Legal Assistance, Notary, and Preventive Law Programs*

RELEASABILITY: There are no releasability restrictions on this publication.

By Order of the Secretary of the Air Force, this AF Guidance Memorandum (AFGM) immediately changes AFI 51-504, *Legal Assistance, Notary, and Preventive Law Programs* (dated 27 October 2003). Compliance with this Memorandum is mandatory. To the extent its directions are inconsistent with other Air Force publications, the information herein prevails, in accordance with AFI 33-360, *Publications and Forms Management*.

In advance of a rewrite of AFI 51-504, the Attachment to this Memorandum is updated to provide new guidance for implementation of the Special Victim's Counsel (SVC) Program that is effective immediately. This publication does not apply to Air Force Reserve Command (AFRC) Units. An asterisk (*) indicates newly revised material.

Ensure all records created as a result of processes prescribed in this Memorandum are maintained in accordance with AF Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule (RDS) located at <https://afirms.amc.af.mil/>.

This Memorandum becomes void after 180 days have elapsed from the date of this Memorandum, or upon incorporation by interim change to, or rewrite of AFI 51-504, whichever is earlier.

RICHARD C. HARDING
Lieutenant General, USAF
The Judge Advocate General

300105

ATTACHMENT
Guidance Changes

The below changes to AFI 51-504, dated 27 October 2003, are effective immediately.

1.2.1. Official matters in which the Air Force has an interest or is involved in the final resolution, unless acting as a SVC.

1.2.2. Criminal law issues under the UCMJ or any local state or federal criminal law, unless acting as a SVC.

1.2.9. Representation of the client in a court-martial or administrative proceeding, unless acting as a SVC.

(Added) 1.3.13. Eligibility for appointment of SVC.

(Added) 1.3.13.1. All Air Force Active Duty, Air Force Reserve, and Air National Guard victims, who are in Title 10 status at the time of the offense, and report they are a victim of a sexual assault under the UCMJ (as defined in the Special Victims' Counsel Rules of Practice and Procedure) or state and federal laws criminalizing sexual assault.

(Added) 1.3.13.2. All adult dependents of Active Duty Air Force members who report that they are a victim of sexual assault under the UCMJ, when an Air Force commander may exercise jurisdiction over the alleged offender. For purposes of eligibility for appointment of SVC, the non-spouse dependents, as defined in AFI 36-3026, Identification Cards for Members of the Uniformed Service, their Eligible Family Members, and Other Eligible Personnel, must be unmarried between the ages of 18 and 20, a full-time student between the ages of 18 and 22, or an incapacitated child over the age of 21.

(Added) 1.3.13.3. All Army, Navy, Marine Corps and Coast Guard Active Duty, Reserve, and National Guard victims, who are in a Title 10 status at the time of the offense and file an unrestricted report that they are the victim of sexual assault under the UCMJ are eligible for SVC when an Air Force commander may exercise jurisdiction over the alleged offender.

(Added) 1.3.13.4. All adult dependents of Active Duty members of other Services who file an unrestricted report that they are the victim of sexual assault under the UCMJ when an Air Force commander may exercise jurisdiction over the alleged offender.

(Added) 1.3.13.5. All remaining categories of adult individuals eligible for legal assistance under paragraph 1.3 who file an unrestricted report that they are the victim of sexual assault under the UCMJ and the Air Force may exercise jurisdiction over the alleged offender.

(Added) 1.3.13.6. All entry-level status Air Force Active Duty, Air Force Reserve, and Air National Guard members who are alleged to have been involved in an unprofessional

relationship, as defined by AETC policy, that involves physical contact of a sexual nature with basic military training or technical training faculty or staff.

(Added) 1.3.13.7. Clients appointed SVC under this provision remain eligible for assistance under this provision even if they would otherwise lose their eligibility for legal assistance under the provisions of paragraphs 1.3.1 through 1.3.11. However, assistance in these circumstances is limited to matters directly related to the alleged sexual assault. Such assistance will terminate when case disposition is complete, when the client releases the SVC, or as otherwise limited in the Representation Letter signed by the client and the SVC at the time representation commenced. For courts-martial, case disposition is considered complete at action or earlier termination of charges.

1.9.2. Except as provided herein, do not keep formal files on legal assistance clients. Return original documents to clients as soon as possible.

(Added) 1.9.2.1. SVC may maintain client files necessary to effect the representation of clients under the SVC Program.

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE INSTRUCTION 51-504

27 OCTOBER 2003

Incorporating Through Change 3, 24 May 2012



Law

**LEGAL ASSISTANCE, NOTARY, AND
PREVENTIVE LAW PROGRAMS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at www.e-publishing.af.mil for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AFLSA/JACA
(Lt Col Timothy Alan Guiden)

Certified by: AFLSA/JAC
(Col Evan L. Haberman)

Pages: 37

Supersedes: AFI 51-504, 1 May 1996.

This instruction implements AFPD 51-5, *Military Legal Affairs*, and DoDD 1350.4, *Legal Assistance Matters*, April 2001. It describes the Air Force legal assistance, notary, and preventive law programs. It implements 10 U.S.C. 1044, which authorizes legal assistance as resources permit; 10 U.S.C. 1044a, which authorizes certain military personnel to act as notaries public and identifies the eligible beneficiaries for military notary services; 10 U.S.C. 1044b, which establishes the legal effect of military powers of attorney without regard to state law, exempting them from any requirement as to form, substance, formality, or recording; 10 U.S.C. 1044c, which establishes the legal effect of military advance medical directives, exempting them from any requirement as to form, substance, formality, or recording; and 10 U.S.C. 1044d, which defines the requirements for preparation of military testamentary instruments and establishes their legal effect, exempting them from any requirement as to form, formality, or recording.

SUMMARY OF CHANGES

This interim change removes the reference to rescinded Department of Defense guidance on providing legal assistance to contractor personnel, incorporates congressional authorization for providing legal assistance to agents of service members who die on active duty or as a result of an injury incurred while on active duty, incorporates Department of Defense guidance regarding legal assistance for family care planning, clarifies the responsibility to provide legal assistance to victims of crime, provides guidance on the use of the Air Force Legal Assistance Website, and removes the minimum enlisted grade requirement for a paralegal to act as a notary.

30010

012005

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Chapter 1

LEGAL ASSISTANCE PROGRAM

1.1. Purpose. Legal offices provide legal assistance in connection with personal civil legal matters to support and sustain command effectiveness and readiness. Under 10 U.S.C. §1044, the ability to offer legal assistance and legal services to the eligible categories of personnel is contingent upon the availability of legal staff resources and expertise. Although legal assistance is not separately funded, it has been provided for members of the armed forces since 1943 and is now perceived as one of the benefits of military service. Therefore, Staff Judge Advocates (SJAs) should make every effort to satisfy legal assistance needs, assigning mobilization- and deployment-related legal assistance the highest priority. Mobilization- and deployment-related legal assistance is not determined by the subject matter of legal assistance provided, but by the relationship between Command readiness and solving the member's specific legal issue(s). For example, although wills and powers of attorney are generally associated with pre-deployment legal assistance, a landlord-tenant issue is also mobilization- and deployment-related if it would have an adverse effect on the member's ability to perform his or her duties if not solved prior to deployment.

1.2. Scope. Legal assistance establishes an attorney-client relationship and consists of Air Force attorneys providing advice on personal, civil legal matters to eligible beneficiaries. For any other legal concern, the Air Force remains the client. On such other matters, do not provide advice to, or enter into an attorney-client relationship with, individuals or entities. Air Force attorneys, acting in an official capacity, may not enter into an attorney-client relationship in the following areas:

- 1.2.1. Official matters in which the Air Force has an interest or is involved in the final resolution.
- 1.2.2. Criminal issues under the *Uniform Code of Military Justice (UCMJ)*, or any local, state or federal criminal law.
- 1.2.3. Standards of ethical conduct issues.
- 1.2.4. Law of Armed Conflict (LOAC) issues.
- 1.2.5. Issues involving personal commercial enterprises (unless such advice is related to the Soldiers' and Sailors' Civil Relief Act [SSCRA]).
- 1.2.6. Legal issues or concerns raised on behalf of third parties, even if the third party is eligible for legal assistance.
- 1.2.7. Drafting or reviewing real estate sale or closing documents, separation agreements or divorce decrees, and inter vivos (living) trusts. This limitation does not preclude a general review to identify potential problems for which the client may require more expert assistance or to protect a client from signing an unconscionable agreement. If the SJA determines that an attorney in the office, whether active duty or reservist, has the expertise to draft or review and edit these documents, then the SJA may authorize that attorney to do so.
- 1.2.8. Private organizations (e.g., spouses clubs and squadron booster clubs) that have been chartered by appropriate authority to function on Air Force installations. Although prohibited

from entering into an attorney-client relationship with private organizations, under the auspices of the Civil Law program Air Force attorneys may provide legal guidance and advice through the base private organizations monitor to ensure private organizations are properly chartered and comply with pertinent statutes and regulations.

1.2.9. Representation of the client in a court or administrative proceeding.

1.3. Eligibility for Legal Assistance. Among the eligible beneficiaries outlined in the subparagraphs immediately following, the highest priority shall be given to Air Force personnel who need mobilization- or deployment-related legal assistance that facilitates Command readiness. Assigning this priority is especially important when the deployment is on short notice. The following categories of personnel are eligible for legal assistance subject to the availability of legal staff resources and expertise.

1.3.1. Members of the armed forces who are on active duty, including reservists, National Guard members, and contract ROTC cadets on federal active duty under Title 10, United States Code.

1.3.1.1. Air Reserve Component members performing Active Guard/Reserve (AGR) tours, including those under 10 USC § 10211, 10 USC § 12310 or 32 USC § 502(f), are eligible for legal assistance.

1.3.2. Members entitled to retired or retainer pay or equivalent pay and former members of reserve components entitled to retired pay under 10 U.S.C. §12731 (formerly 10 U.S.C. §1331). Persons eligible under this provision include members and former members receiving retired pay as a result of retirement due to permanent disability or placement on the temporary disability retired list.

1.3.3. Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.

1.3.4. Members of reserve components not covered in paragraph 1.3.1 and 1.3.2 following release from active duty under a call or order to active duty for more than 30 days issued under mobilization authority (as determined by the Secretary of Defense). Eligibility for such legal assistance shall begin on the date of the release and continue for a period of time equal to twice the length of the period served on active duty under that call or order to active duty. SJAs may require reservists and National Guard members to present a copy of the pertinent orders at the legal office to verify eligibility for legal assistance under this provision.

1.3.5. Dependents of members and former members listed in 1.3.1, 1.3.2, 1.3.3, and 1.3.4, who are entitled to an identification card.

1.3.6. Civilian employees deploying to or in a theater of operations are furnished the opportunity and assistance to prepare and execute wills and any necessary powers of attorney, in accordance with DoDI 1400.32, *DoD Civilian Work Force Contingency and Emergency Planning Guidelines and Procedures*.

1.3.7. Civilian contractor personnel who are deploying to or in a theater of operations, and produce documentation of the contract that requires the government to give the contractor employees legal assistance, may be provided with limited legal assistance for wills and deployment related powers of attorney.

1.3.8. Inactive Reservists or National Guard Members. For members of the reserve components subject to federal mobilization (National Guard, Ready Reserves, contract ROTC cadets) in an inactive status, provide mobilization- and deployment-related legal assistance. Subject areas include wills, advance medical directives, powers of attorney, protections and responsibilities under the Soldiers' and Sailors' Civil Relief Act and Uniformed Services Employment and Reemployment Rights Act, and notary services. This list is not exhaustive. SJAs retain discretion to determine whether the circumstances of a reserve component member warrant the provision of legal assistance to ensure readiness for mobilization and deployment. Provide no other legal assistance to members of the reserve components until the member is on federal active duty under Title 10, United States Code, and for the period of time after release from active duty noted in paragraph 1.3.4. Dependents of reserve component personnel are not authorized legal assistance except during the time the reserve component member is on federal active duty under Title 10, United States Code, or for the period of time after release from active duty noted in paragraph 1.3.1.4.

1.3.9. Civilian employees of the Department of Defense and the military departments assigned outside the United States and its territories and their dependents residing with them.

1.3.10. Foreign military personnel, and their dependents, assigned to the United States either permanently or temporarily under official orders for purposes of combined missions with United States personnel and for training in programs sponsored by the United States. This assistance does not extend to foreign military personnel present in the United States solely to carry out another nation's unilateral mission, such as use of ranges on a United States installation to test the foreign nation's weapons system without the participation of United States personnel in the training.

1.3.10.1. Assistance provided under this section should be limited in scope to matters involving the interpretation or application of United States domestic law only. Such matters involve issues pertinent to a person's relocation and requirement to be present in the United States to carry out official duties. Examples include but are not limited to landlord-tenant, consumer affairs, driver's licenses, customs, tax relief, and similar assistance. Assistance should not be provided for matters implicating the laws of the sending state, such as wills and domestic relations, nor should any legal assistance be provided on matters that would impact the person's status in the United States.

1.3.11. Unique Situations. When it benefits the command, SJAs may authorize legal assistance to persons not specifically identified above as an eligible beneficiary. These situations must involve people who have a present, past and future military obligation relevant to the legal problem. Examples are reservists or National Guard members who have demobilized; Reserve Office Training Corps Cadets who must meet dependent care responsibilities; and next-of-kin of someone killed on active duty.

1.3.12. Provide legal assistance, including tax assistance, on an expedited, prioritized basis to the executor, personal representative, administrator, or legally recognized estate representative for matters relating to the settlement of estates of service members who die on active duty or as a result of an injury or disability that resulted in retirement from active duty. When uncertainty exists about the status of those listed in this paragraph, or when otherwise appropriate, legal assistance shall be provided to the primary next-of-kin to the same degree as noted in this paragraph.

1.4. Legal Services Provided. Legal assistance may be provided for personal civil legal matters subject to the availability of legal staff resources and expertise. The subparagraphs in this section provide guidance and context for personal civil legal matters commonly encountered in the legal assistance program. They are not intended as an exhaustive list of the subject matter on which clients may receive legal assistance.

1.4.1. Wills. Wills distribute the property of the testator/testatrix after death. All Commanding Officers shall urge military personnel to seek legal counsel to assess their need for a will before mobilization, deployment, or similar activities. However, any testamentary instrument, to be legally effective, must be the free and voluntary act of the person making it.

1.4.1.1. The basic will is the primary document attorneys in the Office of the Judge Advocate General (OTJAG) will prepare for legal assistance clients. This document effectively serves the needs of the vast majority of our clients, including the following: statement of residency; payment of final expenses of the estate; specific and residuary bequests with contingent beneficiaries; distributions to minors and appointment of guardians of minors; and appointment of executor/executrix and alternates. Additionally, the basic will contains the simplest of trusts, allowing assets intended for a minor beneficiary to be passed in trust to a trustee named in the will, who generally serves at no cost to the estate or the minor's assets. If the basic wills legal assistance attorneys provide do not contain these simple trust provisions, state probate courts will appoint trustees to act on behalf of minor beneficiaries at a cost to the estate. The will-drafting program employed by legal offices must be able to prepare these simple testamentary trusts. When used properly, the *DL Wills* program will include the required provisions in the will.

1.4.1.2. Every will shall be prepared and executed as a military testamentary instrument. In accordance with 10 U.S.C. 1044d and DoDD 1350.4, *Legal Assistance Matters* (April 2001), a military testamentary instrument shall:

1.4.1.2.1. Be executed by the testator/testatrix (or, if the testator/testatrix is unable to execute the instrument personally, executed in the presence of, by the direction of, and on behalf of the testator/testatrix).

1.4.1.2.2. Be executed in the presence of a military legal assistance counsel as presiding attorney.

1.4.1.2.3. Be executed in the presence of at least two disinterested witnesses (in addition to the presiding attorney), each of whom attests to witnessing the testator's/testatrix's execution of the instrument by signing it.

1.4.1.2.4. Include a statement of preamble in form and content, substantially similar to the following:

"This is a MILITARY TESTAMENTARY INSTRUMENT prepared pursuant to section 1044d of Title 10, United States Code, and executed by a person authorized to receive legal assistance from the Military Services. Federal law exempts this document from any requirement of form, formality, or recording that is provided for testamentary instruments under the laws of a State, the District of Columbia, or a commonwealth, territory, or possession of the United States. Federal law specifies that this document shall receive the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is

presented for probate. It shall remain valid unless and until the testator/testatrix revokes it."

Programs such as *DL Wills* may produce preambles for wills substantially similar to the above. In the event the will preparation program used by the legal office does not include an acceptable preamble, insert a verbatim copy of this preamble at the top of the first-page of each will prepared.

1.4.1.2.5. Include a self-proving affidavit. A self-proving affidavit is a notarized, written declaration signed by each witness and the testator/testatrix that attests to the circumstances under which the will was executed. Include (or have attached to the will), a self-proving affidavit, in form and content, substantially similar to the following:

"We, the testator/testatrix and the witnesses, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that in the presence of a military legal assistance counsel and the witnesses the testator/testatrix signed and executed the instrument as the [testator's/testatrix's] military testamentary instrument and that [he][she] had signed willingly (or willingly directed another to sign for [him][her]), and that [he][she] executed it as [his][her] free and voluntary act for purposes therein expressed. It is further declared that each of the witnesses, in the presence and hearing of the testator/testatrix and a military legal assistance counsel, signed the military testamentary instrument as witness and that to the best of [his][her] knowledge the testator/testatrix was at that time eighteen years of age or older or emancipated, of sound mind, and under no constraint or undue influence."

Programs such as *DL Wills* may produce self-proving affidavits substantially similar to the above. Self-proving affidavits that address all the basic elements of the above affidavit in a different order or that use different wording for some elements are considered substantially similar to the above. If the program used does not produce substantially similar language, use the above language verbatim to prepare the self-proving affidavit for each execution.

1.4.1.3. Will questionnaires or worksheets should be used to record basic information as to domicile, family situation, designation of guardians and personal representatives, the nature and approximate value of assets owned so as to establish federal estate tax thresholds, and the testator's/testatrix's intentions for disposition of property and other assets. The questionnaire should be the starting point for the individual interview with the client. See the AFLSA/JACA website at https://aflsa.jag.af.mil/GROUPS/AIR_FORCE/JAC/jaca/index.html for sample will questionnaires.

1.4.1.4. Due to the potential for conflicts of interest during the representation, legal assistance attorneys should consider using a dual representation letter when providing advice on and drafting wills and related documents for married couples. The letter accomplishes a number of key objectives in the dual representation situation. It informs the married couple of the scope of matters that will be covered in the representation. It also alerts the married couple that information received from either client during the representation of both shall not be confidential between them. Finally, the dual

representation letter advises the married couple that the attorney may withdraw from representation of either client and advise both to obtain individual representation in the event of a conflict of interest between them. If dual representation letters are used, legal offices should retain them in a file dedicated to that purpose for a period of at least 1 year from the date the clients endorse the letter. A sample dual representation letter is at **Attachment 2** to this instruction.

1.4.1.5. Will executions. The signing of the will and self-proving affidavit represents one of the most significant legal events a client will undertake. Conduct the execution ceremony with the dignity appropriate to the significance of these documents to the client and his or her family. To assist offices in this process, **Attachment 3** to this instruction provides a Standard Operating Procedure for use in the execution of wills as military testamentary instruments. The procedure outlines the requirements for the execution ceremony and the questions to be asked of the testator/testatrix and witnesses. Documents signed following the will execution, such as advance medical directives and powers of attorney, will be completed in accordance with their particular requirements.

1.4.1.5.1. Mass will executions involving large numbers of people exceed the presiding attorney's and witness' reasonable capacity to control the proceeding. These mass actions thus render a will susceptible to a challenge and therefore are strongly discouraged. However, separate execution ceremonies for each individual or couple are not required. Multiple persons may execute their wills simultaneously before the presiding attorney and the required two witnesses, provided the group is not so large as to exceed the ability of the attorney and witnesses to engage with the clients to ensure they understand and properly complete the execution procedures and to respond to any questions regarding the execution process. SJAs and their staffs exercise their discretion, governed by reasonableness and maintaining customer service standards and the dignity of the process, in determining the number of document executions to conduct simultaneously. Persons with questions about the content of their wills and related documents should be excused from the room where the execution is taking place to ensure confidentiality.

1.4.1.6. If clients have sophisticated estate planning problems or complex financial situations that exceed the professional capabilities of a legal office, then refer them to other attorneys (paragraph 1.7).

1.4.2. Advance Medical Directives. Advance medical directives include living wills and medical powers of attorney. A living will states a person's desires regarding the termination of life support in the event of a terminal, incurable medical condition. A client uses a medical power of attorney to appoint a trusted person to make medical care decisions in the event of incompetence or inability to communicate decisions or desires. Although drafting programs such as *DL Wills* produce both living wills and medical powers of attorney, the legal assistance attorney remains responsible for reviewing these documents to ensure they effect the client's intent and are consistent with each other or otherwise create confusion about the client's desires.

1.4.2.1. Advance medical directives shall be prepared in accordance with DoDD 1350.4 and must include a statement or preamble, in form or content, substantially similar to the following:

"This is a military advance medical directive prepared pursuant to section 1044c of Title 10, United States Code. It was prepared by an attorney authorized to provide legal assistance for an individual eligible to receive legal assistance under section 1044 of Title 10, United States Code. Federal law exempts this advance medical directive from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the law of a State. Federal law specifies that this advance medical directive shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned."

Programs such as *DL Wills* may produce preambles for military advance medical directives substantially similar to the above. If the program used does not, insert a verbatim copy of this preamble at the top of the first-page of each advance medical directive prepared. Also, check to ensure that preambles of living wills and powers of attorney to make health care decisions cite section 1044c, and not section 1044b of Title 10, United States Code. The latter provision applies not to advance medical directives but to powers of attorney generally.

1.4.3. Powers of Attorney. Section 1044b of Title 10, United States Code, requires recognition of general and special powers of attorney prepared for persons eligible for legal assistance. Although *DL Wills* produces general powers of attorney and *WebLIONS* produces general and special powers of attorney, the legal assistance attorney remains responsible for reviewing the documents produced by these programs to ensure they are accurate and effect the client's intent.

1.4.3.1. Powers of attorney shall be prepared in accordance with DoDD 1350.4, and must include a statement or preamble, in form and content, substantially similar to the following:

"This is a military Power of Attorney prepared pursuant to section 1044b of Title 10, United States Code, 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 by the laws of a State, the District of Columbia, or a commonwealth, territory, 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."

Programs and forms such as *DL Wills*; Air Force *WebLIONS*; AF Form 165, *General Power of Attorney*; and AF Form 831, *Special Power of Attorney* may produce preambles for military general or special powers of attorney substantially similar to the above. If the program used to prepare powers of attorney does not, insert a verbatim copy of the preamble set forth immediately above at the top of the first-page of each power of attorney prepared.

1.4.3.2. The Soldiers' and Sailors' Civil Relief Act (SSCRA) at 50 U.S.C. App. §591 mandates all powers of attorney for military personnel categorized as prisoners of war or missing-in-action are deemed durable for the entire period of such status.

1.4.4. Notary Services. Notary services are authorized by 10 U.S.C. §1044a, and are discussed in [Chapter 2](#).

1.4.5. Dependent Care Issues. All Air Force members with families must have family care arrangements that reasonably cover all situations, both short- and long-term, in accordance with AFI 36-2908, *Family Care Plans*. Legal assistance is provided to assist members in making adequate family care arrangements. Legal assistance attorneys advise and assist clients in the drafting and execution of documents and with other preparations necessary for the effective transfer of care and custody of dependents in the event the family care plan must be executed.

1.4.5.1. Legal assistance attorneys shall, when appropriate, provide a full explanation of the potential consequences of not including the non-custodial biological or adoptive parent in the creation of a family care plan.

1.4.5.2. Legal assistance attorneys shall, when appropriate, discuss with the client the benefits of validating, with an appropriate court, temporary custody arrangements and the return of the child to the member upon the member's return.

1.4.6. Adoption. Legal assistance attorneys research and provide general information on state adoption laws and requirements, coordinate when appropriate with the relevant state adoption agency, and advise on questions derived from adoption documents. Attorneys, paralegals, and civilian notaries provide notarization services to assist members in the completion of adoption documents. Legal assistance attorneys also advise on the DoD's adoption reimbursement program. Under 10 U.S.C. §1052, the DoD may reimburse "qualifying adoption expenses" incurred by a service member in the adoption of a child under 18 years of age. The statute identifies the expenses that qualify for reimbursement and distinguishes those expenses the program does not cover. DoDD 1341.9, *DoD Adoption Reimbursement Policy* (July 1993), implements the statute and addresses qualifying adoptions, qualifying expenses, eligible members, and procedures for requesting reimbursements. Reimbursement is authorized up to \$2,000 per child with a maximum reimbursement to one service member or military couple not exceeding \$5,000 in any calendar year. Expenses either not qualifying for reimbursement under the DoD program or exceeding the program's reimbursement ceiling may be eligible for the adoption expenses tax credit when the member files his or her federal income tax return. Expenses reimbursed under the DoD Adoption Reimbursement program do not qualify for the adoption expenses tax credit and are not to be considered in its calculation.

1.4.7. Financial Responsibility. Air Force members, retirees, and their dependents may receive advice and assistance on personal financial responsibilities under AFI 36-2906, *Personal Financial Responsibility*, such as adequate financial support to family members and responding to allegations of paternity. Additionally, legal offices provide assistance on issues of financial responsibility under federal and state laws, including involuntary allotments/garnishments to satisfy civil debts and the Uniformed Services Former Spouses' Protection Act (see 10 U.S.C. §1408).

1.4.8. Domestic Relations. Subject to the limitations stated in paragraph 1.2.7 with respect to separation agreements and divorce decrees, legal assistance attorneys research applicable state laws and provide advice on marriage, dissolution of marriage or divorce, child support, child custody, property distribution, and related family law matters.

1.4.9. Soldiers' and Sailors' Civil Relief Act (SSCRA). The SSCRA, 50 U.S.C. App. §§501–593, codifies Congressional recognition of the need to protect persons in military service by

suspending the enforcement of certain civil obligations. For protection under most SSCRA provisions, service members must demonstrate: 1) a financial obligation initiated prior to entering active federal service and that service materially affects the service member's ability to meet the obligation; or 2) active federal service materially affects the service member's ability to participate and preserve rights in civil judicial proceedings, mortgage foreclosures, or lease evictions. Some categories of protection include: maximum interest rates of 6% (excluding student loans); stays of judicial proceedings and reopening default judgments; limitations on the enforcement of mortgage foreclosures, installment contracts (excluding automobile leases unless otherwise provided for in the lease--legal assistance attorneys should use §590 of the SSCRA to support a member's effort to terminate an automobile lease entered prior to active duty where military service materially affects the member's ability to continue payments or otherwise honor the terms of the lease), rents, and liens; continuation of commercial life insurance policies; and reinstatement of commercial health insurance policies upon release from active duty. The SSCRA at 50 U.S.C. App. §591 mandates all powers of attorney for military personnel categorized as prisoners of war or missing-in-action are deemed durable for the entire period of such status. Army Publication 260, *Soldiers' and Sailors' Civil Relief Act Guide*, provides detailed guidance on SSCRA issues.

1.4.9.1. Legal assistance attorneys and paralegals may not file requests for stays of proceedings under the SSCRA with a civil court. Nor may legal assistance attorneys and paralegals send letters under their own signatures to a court requesting a stay of civil proceedings. These types of civil filings are outside the scope of the legal assistance program and may, if improperly handled in SSCRA cases, subject the member to the jurisdiction of the court or otherwise adversely affect the member's rights and options in the case. Legal assistance attorneys may draft or assist in drafting correspondence for the client's or relevant Commander's signature requesting or supporting a request for stay of civil proceedings.

1.4.10. Veterans' Reemployment Rights. Sections 4301 through 4333, Title 38, United States Code, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) and comparable state statutes afford eligible active and reserve component members the right to return to civilian jobs when they are released from active duty. Legal assistance attorneys advise service members on USERRA eligibility, their obligations to provide appropriate notice to their employers, and their reemployment rights and benefit entitlements under USERRA.

1.4.10.1. Legal assistance attorneys should not contact service members' employers concerning relief under USERRA. This action could cause the service member to forfeit assistance from the Department of Labor's Veterans' Employment and Training Service (VETS), the federal agency responsible for enforcement of USERRA. Instead, legal assistance attorneys should refer service members experiencing employment problems or concerns deriving from their military service to the Ombudsmen Services in the National Committee for Employer Support of the Guard and Reserve (ESGR), a DoD entity, and the VETS for pursuit of relief under USERRA. Legal assistance attorneys may assist service members in preparing DOL Form VETS-1010, *Eligibility Data Form: Veterans' Reemployment Rights Program*, to open a file with VETS. Access information on ESGR assistance at <http://www.esgr.org/> and the VETS at <http://www.dol.gov/vets/welcome.html>.

1.4.11. Casualty Affairs. Legal offices assist Casualty Assistance Representatives in providing casualty assistance to the primary next of kin of military members and retirees, in accordance with AFI 36-2002, *Casualty Services*. Casualty Assistance Representatives are responsible for counseling family members and other beneficiaries regarding rights, helping to file applications for benefits and privileges, and resolving problems and complaints. Legal assistance attorneys may provide dependents only preliminary advice on probate and settlement of estates, court appearances, preparation of inheritance tax returns, civil employment, and business matters. Since direct assistance to resolve these matters falls outside the scope of the legal assistance program, it may be necessary to refer dependents to civilian attorneys (see paragraph 1.7).

1.4.12. Landlord-Tenant. Legal assistance practitioners review lease agreements prior to signing and propose changes to best protect the service member's interest as either tenant or landlord, especially with respect to military clauses allowing for early termination on a tenant's receipt of permanent change of station orders or reentry of a military landlord on receipt of orders to return to the property's location. Of note, ownership and renting of property as a commercial enterprise exceeds the scope of the legal assistance program, as per paragraph 1.2.5 of this instruction. Legal assistance practitioners review the particular facts and circumstances of each military landlord's situation in making this determination. Clients may also receive advice and assistance in resolving landlord/tenant disputes. Areas of particular concern include security deposits, pre- and post-lease inspections, lease terms, condition of premises, and early termination of leases.

1.4.13. Consumer Affairs. Legal assistance attorneys provide counseling on a wide range of consumer issues such as bankruptcy, consumer fraud, identity theft, retail purchases, and vehicle leases. An exceptional tool in assisting clients in this area is the Military Sentinel web site, a joint operation by the DoD and Federal Trade Commission (FTC). This site allows service members and their families to file consumer fraud and identity theft complaints online directly with the FTC. Military Sentinel also provides easy access to a wealth of consumer education and fraud prevention material. Access the web site at <http://www.consumer.gov/military/>. In addition, the FTC's main web site provides consumer protection educational materials and information on FTC and state consumer protection actions. Access the site at <http://www.ftc.gov/>.

1.4.14. Taxes.

1.4.14.1. Under the legal assistance program, Air Force attorneys provide advice and assistance on legal matters pertaining to federal, state, and local tax problems. Air Force attorneys also provide assistance filing current and prior year individual income tax returns throughout the year. Examples of this type of legal assistance include responding to letters from the IRS or state tax authorities, advising on responding to audits, and assisting in non-income tax matters, like real estate taxes or personal property taxes. Bases report this type of legal assistance in WebLIONS (see paragraph 1.9 of this instruction).

1.4.14.2. In addition to the service provided under paragraph 1.4.14.1, Air Force tax assistance programs (which remain separate and distinct from the legal assistance program) involve JA staff, detailed service members, and base volunteers preparing and filing federal and state income tax returns for those eligible to receive this assistance.

SJAs will supervise and manage these programs at their bases, exercising discretion concerning the scope of assistance provided, eligible beneficiaries, and sources of support for training and electronic filing. All Air Force bases will operate individual income tax assistance programs, to include electronic filing services.

1.4.14.2.1. Air Force tax assistance programs may take advantage of the Internal Revenue Service (IRS) Volunteer Income Tax Assistance (VITA) and electronic filing programs, or other viable sources of support, to effect training of tax assistance volunteers and provision of electronic filing services at their bases. Other sources include commercially available training programs and electronic filing software.

1.4.14.2.2. Eligible beneficiaries include active duty service members and their dependents and retirees and their dependents. Additionally, SJAs may authorize preparation and electronic filing of tax returns for federal civilian employees, to the extent permitted by the IRS Volunteer Income Tax Assistance (VITA) program. In making this determination, SJAs must consider whether the resources available to the installation tax program are sufficient to support the increased demands such an extension of support would entail. When they seek tax assistance, federal civilian employees must adhere to applicable rules concerning use and accounting of their time.

1.4.14.3. Bases file statistics for their tax assistance programs in the Tax Program Reporting System (TPRS) at https://aflsa.jag.af.mil/training/jaguar/tax/tax_home.php. Do not use WebLIONS either to input client information or tax program workload.

1.4.15. Issues that The Judge Advocate General (TJAG), Major Command (MAJCOM) SJAs, Numbered Air Force (NAF) SJAs, Commanders, or the base SJAs deem connected with personal civil legal affairs.

1.4.16. Victims of Crime. Provide legal assistance to victims of crimes, including sexual assault, consistent with the availability of resources, the expertise within the legal office as currently organized and staffed, and the SJA's ability to manage conflicts of interest. If resources at the legal office do not permit providing legal assistance to a victim of crime, the SJA shall inform the next judge advocate in the functional chain of command.

1.5. Supervisory Responsibilities.

1.5.1. The Judge Advocate General (TJAG):

1.5.1.1. Establishes and manages the Air Force Legal Assistance and Preventive Law Programs.

1.5.1.2. Communicates with the American Bar Association (ABA) and other associations TJAG deems necessary to further the legal assistance and preventive law programs.

1.5.1.3. Delegates authority to operate these programs to the Legal Assistance and Preventive Law Division, Air Force Legal Services Agency (AFLSA/JACA).

1.5.2. AFLSA/JACA:

1.5.2.1. Monitors the Air Force Legal Assistance and Preventive Law Programs.

1.5.2.2. Carries out the overall administration of the Air Force Legal Assistance and Preventive Law Programs.

1.5.2.3. Gives advice on legal assistance, notary, and preventive law matters that affect Air Force personnel worldwide.

1.5.2.4. Monitors the Web-based Legal Information Online System (WeBLIONS) outlined in paragraph 1.9, the *DL Wills* program, and the Tax Program Reporting System (TPRS).

1.5.3. MAJCOM, Field Operating Agency (FOA), and Direct Reporting Unit (DRU) SJAs:

1.5.3.1. Supervise functional program staffs within their Commands.

1.5.3.2. Ensure compliance with this instruction.

1.5.3.3. May add requirements for mobilization- and deployment-related legal assistance (paragraphs 1.1 and 1.3) and may impose limits on non-mobilization- and deployment-related legal assistance (AFPD 51-5 subparagraph 12.2).

1.5.4. NAF SJAs: May add requirements for mobilization- or deployment-related legal assistance to ensure mission readiness.

1.5.5. Wing/Base SJAs:

1.5.5.1. Manage the personnel providing legal assistance and the operation of the legal assistance program at their offices consistent with this instruction.

1.5.5.2. Brief the office staff, including reservists, on the purposes of legal assistance, the base program, and this instruction. Conduct this briefing as frequently as necessary to assure the quality of the legal assistance program but at least once annually.

1.5.5.3. Communicate with local bar organizations, legal aid offices, and appropriate federal and state agencies.

1.5.5.4. Publicize the office's limits on non-mobilization- and deployment-related legal assistance.

1.5.5.5. Manage legal services volunteers (paragraph 1.8).

1.5.6. AFLSA/JAS (Legal Information Services). AFLSA/JAS provides hardware and software support for WeBLIONS.

1.5.7. AF/JAZ (Strategic Plans and Policy). AF/JAZ provides software support for the Tax Program Reporting System (TPRS).

1.6. Ethical Responsibilities and Rules. SJAs administer the legal assistance program in strict compliance with Air Force ethical responsibilities and rules such as TJAG Policy Memoranda TJS-2, *Air Force Rules of Professional Conduct and Standards for Civility in Professional Conduct*; TJS-5, *TJAGD Professional Responsibility Program*; and ARC-1, *Rules and Standards for Professional Conduct for Air Reserve Component Judge Advocates*. Of note, in the event of conflicts or differences between the applicable Air Force rules of professional responsibility and the equivalent state rules, the Air Force provisions will control (TJS-2). TJAG's Professional Responsibility Administrator (AFLSA/PR) serves as the dedicated focal point for professional

responsibility advice and counsel. Access Professional Responsibility Program information at <https://aflsa.jag.af.mil/cgi-bin/genwebhtml.pl?jagmail=profresp>.

1.6.1. Only attorneys give legal advice. Paralegals and clerical staff members shall not provide any legal advice to a client, or render any other services to a client that constitute the practice of law unless under the direct supervision of an Air Force legal assistance attorney.

1.6.1.1. Paralegals and clerical staff members may question prospective clients to determine the subject matter of their concerns and whether it is within the scope of the legal assistance program. They may also prepare and maintain legal documents under the direct supervision of an attorney and perform such acts as notarizations and the preparation of routine powers of attorney using approved legal office forms.

1.6.1.2. A paralegal may conduct an initial client interview, preliminary to an attorney-client meeting. During this interview, the paralegal should ascertain the general nature and pertinent facts of the client's legal problem or concern. Because of the likelihood privileged information will be discussed, this interview should occur in a confidential setting. The paralegal may provide the client with handouts or references providing basic information about laws, regulations, rules, policies and procedures that may be relevant to the client's situation.

1.6.2. Information received from a client during legal assistance, attorney work-product, and documents relating to the client are confidential. Release them only with the client's express permission, pursuant to a court order, or as otherwise permitted by the *Air Force Rules of Professional Conduct* and the *Air Force Standards for Civility in Professional Conduct* and other Air Force rules pertaining to ethical conduct and professional responsibility. Such release should only be accomplished after contacting AFLSA/JACA through the appropriate supervisory chain.

1.6.3. Judge advocates and civilian attorneys who perform legal assistance must have private offices.

1.6.4. When contacting third parties, legal assistance attorneys must avoid creating the impression that they represent the Air Force's interests in resolving the client's concerns or that the Air Force has an interest in the outcome of the matter. When writing letters on a client's behalf, do not use Air Force letterhead. Include a statement in the letter making it clear the Air Force does not represent the client in resolving the matter.

1.6.5. Legal assistance attorneys may not interfere with an existing attorney-client relationship. When a member is already represented by counsel, the legal assistance attorney ordinarily should refer the member to his or her attorney. In some cases, however, the legal assistance attorney can play a valuable supporting role for the member, such as in the identification of military-unique considerations or the interpretation and discussion of military-specific statutes, regulations, and instructions. In this situation, the legal assistance attorney may consult with the member represented by counsel provided the attorney communicates to the legal assistance attorney the desire for this support. Otherwise, advising a client already represented by an attorney, providing a "second opinion," is not permitted.

1.7. Referrals. The nature of a client's legal problem may exceed the competence of the initial attorney consulted or the scope of the Air Force legal assistance program. In such cases, the legal assistance attorney should refer the client to, as appropriate, another Air Force attorney, another

Armed Forces legal assistance office, or civilian lawyer referral services. Follow these guidelines when making referrals:

1.7.1. For civilian criminal matters, refer military members to the appropriate military defense counsel and civilians to the local civilian criminal defense bar.

1.7.2. For matters with the potential to involve the prospective client in adverse action under the UCMJ or adverse administrative action, refer the person to the appropriate military defense counsel. As the client provided the information to the legal assistance attorney in an attorney-client relationship, the legal assistance attorney may not disclose information concerning past criminal acts or other acts of misconduct to investigators or other attorneys in the legal office who may work on a case involving this person.

1.7.3. For a prospective client seeking assistance in filing a complaint under Article 138, UCMJ, refer the person to the appropriate military defense counsel or the Office of the Inspector General.

1.7.4. For military members who are or may be the subject of court-martial charges or other disciplinary action, the appropriate military defense counsel shall coordinate any need for legal assistance with the appropriate SJA, even if the matter would ordinarily fall within the scope of legal assistance.

1.7.5. For matters in which the person has already retained a civilian attorney, refer to that civilian attorney. Serving as a source of a "second opinion" for a client already represented by an attorney is not appropriate. However, as noted in paragraph 1.6.5 of this instruction, in some cases the legal assistance attorney can play a valuable supporting role for the member represented by a civilian attorney, such as in the identification of military-unique considerations or the interpretation and discussion of military-specific statutes, regulations, and instructions. Where the civilian attorney communicates to the legal assistance attorney the desire for this support, the legal assistance attorney may consult with the client.

1.7.6. In foreign areas, with the consent of consular officials and after consultation with the national bar, if appropriate, prepare a list of attorneys in accordance with the applicable status of forces agreement or implementing instruction. Refer persons who may face charges before a foreign court to the military legal advisor (see AFI 51-703, *Foreign Criminal Jurisdiction*).

1.7.7. Referral Guidelines. It is essential that each office establish referral guidelines that are free from favoritism or other impropriety. When referring persons to other attorneys, use the following guidelines:

1.7.7.1. Referrals should be made to the source best able to assist the client in the resolution of the particular problem or concern at the earliest time. For matters exceeding the particular legal assistance attorney's expertise, there is no need to exhaust military referrals, such as another legal assistance attorney, either active duty or reservist, or legal assistance attorneys in another military legal office, before referring a client to civilian bar referral services. The goal is to facilitate the client's consulting with an attorney competent to provide the required assistance. Options include another attorney on the legal office staff whether civilian or military, active or reserve; another military legal office, regardless of service; and the civilian bar.

1.7.7.2. Where the client's situation requires specialized expertise beyond the scope of the military legal assistance programs, refer to bar referral services operated by the American Bar Association (ABA) or state or local bar associations. If an organized bar or lawyer referral service does not exist in a base's area, refer the client to a local listing of attorneys who have expressed interest in serving military clients.

1.7.7.3. Make referrals based on the knowledge of or experience with the particular military attorney, military legal assistance office, civilian bar referral service, or, in the case of locations lacking a referral service, the local legal community.

1.7.7.4. Ensure the client understands that the decision to consult with or be represented by another legal assistance attorney, or to consult with and retain the services of a civilian attorney recommended through a bar referral service, is solely that of the client. The client is free to consult with and retain any lawyer.

1.7.7.5. Make clear to the client that referral to bar referral services operated by the ABA or state or local bar associations, or to a list of local attorneys maintained by the legal office in locations not covered by a referral service, does not constitute a federal or Air Force endorsement of any of the individual attorneys participating in these services.

1.7.8. Referral Services.

1.7.8.1. The American Bar Association (ABA) and many state and local bar associations operate bar referral services. Legal assistance attorneys should familiarize themselves with the services available through these bar associations. Contact with representatives of the bar associations is encouraged to determine how the lists are compiled and maintained and what standards apply for an attorney's inclusion on the lists. Providing information of this sort to clients enhances their ability to make informed decisions about use of the referral service. Prior contact will also yield information on any special programs the bar association may operate to assist military legal assistance attorneys and military clients and ensures the bar association is willing to accept referrals of military clients.

1.7.8.1.1. *Operation Enduring LAMP* is one example of a bar referral service. In 2001, the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP) launched *Operation Enduring LAMP*, a project to help organize and educate civilian attorneys who wish to provide *pro bono* legal assistance to military personnel who are mobilized for military service and their family members who will be left behind. Most state bar associations participate in *Operation Enduring LAMP*; however, each state's program differs. Therefore, SJAs are encouraged to contact the base's state bar association regarding the registration and referral of participating *Operation Enduring LAMP* attorneys. Access information on this program at <http://www.abanet.org/legalservices/helpservists/home.html>.

1.7.8.1.2. The ABA and state and local bar associations may maintain listings of attorneys who have volunteered to provide advice and guidance to military legal assistance attorneys. For example, *Operation Stand-By* is a project of the ABA Family Law Section's Military Committee through which attorneys agree to take calls, e-mail or other correspondence from JAG officers and answer inquiries about family law issues in their state. Access information on *Operation Stand-By* and a list,

by state, of the participating attorneys at <http://www.abanet.org/family/military/opstandby.doc>.

1.7.8.1.3. State and local bar associations may maintain lists of attorneys who have expressed interest in providing military clients with either *pro bono* service or service at reasonable fees.

1.8. Legal Services Volunteers. SJAs may accept the services of a licensed attorney, paralegal, or other legal professional to provide legal assistance under 10 U.S.C. §1044 and in accordance with 10 U.S.C. §1588(a)(5); DoDI 1100.21, *Volunteer Services in the Department of Defense*; and TJS-8, *Use of Legal Services Volunteers*. DoDI 1100.21, TJS-8 and the AFLSA/JACA web site provide detailed guidance on the process of accepting voluntary legal services and the scope and limitations of voluntary legal services. General guidance consistent with DoDI 1100.21 follows.

1.8.1. Volunteer services agreement and volunteer confidentiality agreement. All volunteers shall read and sign the appropriate part of DD Form 2793, *Volunteer Agreement for Appropriated Activities or Nonappropriated Fund Instrumentalities*. Also, legal services volunteers must be briefed on, understand, and comply with the same confidentiality requirements applicable to all members of the legal office staff, such as TJAG Policy Memorandums TJS-2, *Air Force Rules of Professional Conduct and Standards for Civility in Professional Conduct* and TJS-3, *Air Force Standards for Criminal Justice*. All legal services volunteers shall read and sign the *Legal Services Volunteer Confidentiality Agreement* attached to TJAG Policy Memorandum TJS-8. Acceptance of the volunteer services and confidentiality agreements shall be acknowledged before an individual is allowed to provide volunteer services. Copies of the signed agreements should be given to the volunteer prior to commencing volunteer services.

1.8.2. When required, volunteers must be licensed, privileged, appropriately credentialed or otherwise qualified under applicable laws, regulations, or policy to provide the voluntary services involved. Prior to acceptance as a volunteer, attorneys must provide a letter of good standing from each state Bar of which they are a member.

1.8.3. Supervision and scope of legal assistance. Legal services volunteers, even if licensed attorneys, may not be permitted to provide direct, unsupervised advice to Commanders or other agency clients on matters affecting Air Force interests, or to legal assistance clients. Also, legal services volunteers cannot perform the functions of a judge advocate or other inherently governmental services, such as representing clients in an area defense counsel office. They can, however, perform paralegal-type functions or provide other legal services, including advice and assistance to legal assistance clients, if acting under the direction, supervision, and control of an Air Force military or civilian attorney. Supervisory authority with respect to volunteers will be through designation of authorized duties, training, counseling, assessment of the quality of service provided, and determinations regarding continuation of acceptance of voluntary services. The degree of supervision of volunteers will be comparable to that provided with respect to paid employees providing similar services. Examples of permissible uses include researching, drafting legal opinions for review and signature by an Air Force attorney, and helping with legal assistance matters.

1.8.4. Legal services volunteers are not employees of the United States or any instrumentality thereof, except for certain purposes relating to compensation of injuries

occurring during the performance of approved volunteer services, tort claims, the Privacy Act, criminal conflicts of interest, and defense of suits arising out of legal malpractice.

1.8.5. Expenses. The Air Force may not compensate legal services volunteers. However, legal services volunteers may use dedicated legal office or desk space, equipment, supplies, computers, and telephones as needed to accomplish assigned duties. Expenses directly connected to assigned duties that are incurred off base, such as long distance telephone calls, may be reimbursed as incidental expenses. Submit Standard Form 1164, *Claim for Reimbursement for Expenditures on Official Business*, to the servicing finance office for reimbursement of incidental expenses. Installations may accept voluntary services from host-nation or third-country citizens so long as the installation determines that acceptance of voluntary services from such persons will not subject the United States to potential liability or unauthorized expenses. This includes payment of employment benefits for a volunteer due to host-nation labor or voluntary service laws, U.S.-host-nation treaties, Status of Forces Agreements, or other arrangements.

1.9. Records/Reports. Effective 1 Jan 03, offices must record legal assistance visits and workload in the Web-based Legal Information Online System (WebLIONS). As a web-based program, WebLIONS eliminates the requirement for base legal offices and higher headquarters to prepare and compile the annual report of legal assistance. Statistical data of each office will be available to that office and its higher headquarters through WebLIONS on demand. Offices are not permitted to employ alternative automated data management and workload tracking systems for legal assistance. (RCS: JA(A)7501) This report is designated emergency status code C-2. Continue reporting during emergency conditions, normal precedence. Access WebLIONS at <https://lions.jag.af.mil>.

1.9.1. Offices should retain AF Forms 1175, *Legal Assistance Record*, for temporary use in the event of interruption of WebLIONS access or service. On these occasions, information recorded on the cards must be entered into WebLIONS when service resumes.

1.9.2. Do not keep formal files on legal assistance clients. Return original documents to clients as soon as possible.

1.10. Personal Legal Readiness Briefings. SJAs support readiness at their installations by ensuring personnel tasked for deployment at their bases are personally contacted and briefed on preparing their personal and family legal affairs for deployment. Subject areas include, but are not necessarily limited to, wills; SGLI designations; general and special powers of attorney; medical planning, including advance medical directives (living wills and medical or health care powers of attorneys), and designation of anatomical gifts; guardians or in loco parentis powers of attorney to ensure care of minor children; landlord-tenant matters; income exclusions and/or tax return filing extensions applicable to potential deployment locations; property and financial affairs management; protections under the Soldiers' and Sailors' Civil Relief Act (SSCRA); protections under the Uniformed Services Employment and Reemployment Rights Act (USERRA) for reserve personnel deploying; and ensuring important documents are maintained in safe, secure, and reasonably accessible locations.

1.10.1. According to requirements described in AFPD 51-5, attachment 2, offices must report the percentage of personnel tasked for deployment who are personally contacted and briefed on their personal legal needs or who receive mobilization- and deployment-related legal assistance every 15 months. This period aligns with the standard Aerospace

Expeditionary Force (AEF) cycle. Base legal offices report this information by letter, through the MAJCOM, to be received by AFLSA/JACA upon entering their AEF window for deployment.

1.11. Software Licenses. *DL Wills* software is currently used to prepare documents such as wills, advance medical directives, and powers of attorney, and is licensed and copyrighted by a non-governmental corporate entity. Use of the software is governed by a licensing agreement that requires a separate license for each computer the program is installed upon. The AFLSA/JACA web site provides strict guidance on license acquisitions, controls and restrictions. Base SJAs and LOMs should ensure their offices have licenses for each computer on which *DL Wills* software is installed.

1.12. Communications. Legal assistance practitioners may communicate directly with other legal assistance officers or paralegals. When necessary, seek guidance from your higher headquarters legal offices before contacting AFLSA/JACA.

1.13. Air Force Legal Assistance Website. Every legal office shall incorporate the Air Force Legal Assistance Website (LAWS) into its legal assistance program. The LAWS provides a valuable preventive law education tool through its "Legal Assistance Topics" section. The LAWS enhances the provision of legal assistance by allowing clients to complete online worksheets for wills, healthcare documents and powers of attorney. Finally, the LAWS collects online feedback that allows us to identify areas of strength and weakness in our legal assistance program and to make adjustments as needed.

1.13.1. The Judge Advocate General established the Legal Assistance Website Honor Roll to recognize legal offices that excel at integrating the document production and feedback features of the LAWS into their legal assistance program. The Honor Roll recognizes both feedback and efficiency honorees.

1.13.1.1. A legal office must meet two requirements to be recognized for excellence in garnering feedback as a "Feedback Honoree." First, the average customer satisfaction rating on website surveys for the preceding month must be 4.0 or higher. Second, the office must receive website surveys for 10 percent or more of the office visits in the previous month. The office visits are tracked in WebLIONS, and can be viewed on the annual report.

1.13.1.2. "Efficiency Honorees" are those offices that use the website to produce 20 percent or more of their special powers of attorney, general powers of attorney, advanced medical directives and wills. The document numbers are tracked in WebLIONS, and can be viewed on the annual report. It is important that if the office utilizes a LAWS will worksheet to produce more than one document it select the appropriate indicators in WebLIONS.

1.13.2. The LAWS enhances legal assistance by increasing the efficiency of the process of obtaining legal assistance documents. The system is designed so that a client can consider the necessary decisions, and obtain the necessary information, for their legal documents from the comfort of their home. Legal offices can utilize the client's "Legal Worksheets" function of the LAWS in their legal offices in order to educate clients about the advantages of the LAWS. Legal offices shall not force clients to utilize the LAWS prior to receiving legal

assistance, and shall not institute procedures that decrease efficiency for the client in order to obtain recognition on the Honor Roll.

1.13.3. Feedback should be personally submitted by the client directly into the LAWS, and shall not be input by members of the legal office.

1.14. Legal Assistance Training Requirements. The below requirements will ensure legal assistance attorneys possess the requisite training for excellent legal assistance representation, and all judge advocates maintain currency in this core practice area.

1.14.1. Annual Refresher Webcast. Each January, The Air Force Judge Advocate General's School broadcasts a webcast with updates and changes to the law impacting the provision of legal assistance. Viewing the webcast is mandatory for all active duty and Air Reserve Component (ARC) judge advocates and for any civilian attorneys whose core document or position description references legal assistance. Those unable to view the webcast live must watch the recorded version by 15 April of the same year.

1.14.2. Advanced Core Training (ACT). Starting in 2012, four ACT modules will be released on CAPSIL Learning Management System (CAPSIL): Estate Planning, SCRA, Consumer Law, and Family Law. Certain judge advocates and civilian attorneys will be required, as follows, to complete the training.

1.14.2.1. Active duty judge advocates assigned to an office that provides legal assistance must complete all four ACT modules within 120 days of assignment.

1.14.2.2. ARC judge advocates assigned or attached to an office that provides legal assistance, as well as judge advocates assigned at Air National Guard state headquarters offices, must complete all four ACT modules within one year of assignment or attachment.

1.14.2.3. Any civilian attorney whose core document or position description references legal assistance must complete all four ACT modules within 120 days of employment in the position.

1.14.2.4. During the initial release of the ACT modules in 2012, the required timelines in **paragraphs 1.14.2.1 through 1.14.2.3** apply from the date of module release. The ACT modules are a one-time requirement that may be completed during any period of military service or employment with The Judge Advocate General's Corps. For example, a civilian attorney who completed the ACT modules while previously serving as a judge advocate would not have to complete them again.

1.14.3. Military Continuing Legal Education (MCLE) in Legal Assistance. MCLE is legal assistance training provided, sponsored, or co-sponsored by the judge advocate component of a military Service. Legal assistance in-residence courses, annual refreshers, webcasts, CAPSIL training modules, SJA approved office-wide training, sessions at Keystone and Annual Survey of the Law, and ABA LAMP CLE are examples of MCLE. Training not affiliated with the military, such as estate planning training offered by a state bar, would not qualify as MCLE.

1.14.3.1. All active duty judge advocates, as well as any civilian attorney whose core document or position description references legal assistance, must certify completion of four hours of MCLE in legal assistance each year.

1.14.3.2. All ARC judge advocates must certify completion of four hours of MCLE in legal assistance every other year.

1.14.3.3. MCLE certification will be accomplished through PR CERT, an automated program used to annually certify certain professional responsibility requirements. Each year the certification period is publicized in advance by AF/JAA-PR.

1.14.3.4. Training completed via CAPSIL will be tracked automatically.

Chapter 2

NOTARIAL ACTS AND OATHS

2.1. Notarial Acts.

2.1.1. Federal Authority. Section 1044a of Title 10, United States Code, grants the specific categories of persons listed in paragraphs 2.1.3 and 2.1.7 of this instruction the general powers of a notary public and of a consul of the United States. This authority derives from the federal statute and is distinct from the notary authority created by each state's laws. Notarial acts performed under 10 U.S.C. §1044a are legally binding throughout the world for federal and non-federal purposes.

2.1.2. Role of Notary. A notary acts as an official, unbiased witness to the identity and signature of the person who comes before the notary. A notary has the authority to administer oaths and affirmations. Every notary act affects the legal rights of others. SJAs will make sure notaries do not abuse their authority.

2.1.3. Persons with Notary Authority. Under the authority of 10 U.S.C. §1044a, the following persons have the general powers of a notary public and of a consul of the United States for notary acts executed for eligible legal assistance beneficiaries:

2.1.3.1. All judge advocates, including judge advocates of the Air Force Reserve whether or not in a duty status.

2.1.3.2. Civilian attorneys, licensed to practice law in the United States, employed by the Air Force and serving as legal assistance attorneys.

2.1.3.3. All adjutants, assistant adjutants, and personnel adjutants, including reserve members on active duty or performing inactive duty training.

2.1.3.4. Enlisted paralegals on active duty or performing inactive duty training (see paragraph 2.1.6).

2.1.3.5. Active duty Air Force personnel who satisfy **all three** of the following criteria:

2.1.3.5.1. A commissioned officer or senior non-commissioned officer (holding the rank of Master Sergeant or higher);

2.1.3.5.2. Stationed at a geographically separated unit (GSU) or remote location where no judge advocate or paralegal notary is also assigned; and,

2.1.3.5.3. Appointed in writing, by the unit's servicing general court-martial (GCM) convening authority SJA to exercise notary authority under 10 U.S.C. 1044a and this instruction.

2.1.3.6. At locations outside the United States, civilian Air Force employees appointed by the SJA servicing the base to serve as notaries under the authority of 10 U.S.C. §1044a(b)(5).

2.1.4. Individuals Eligible To Use Military Notary Services. In accordance with 10 U.S.C. §1044a, the following persons may receive notary service:

2.1.4.1. All members of the United States Armed Forces.

2.1.4.2. All other individuals eligible for legal assistance under this instruction.

2.1.4.3. All individuals serving with, employed by, or accompanying the armed forces outside the United States and outside Puerto Rico, Guam, and the Virgin Islands.

2.1.4.4. All individuals subject to the UCMJ outside the United States.

2.1.4.5. Where a document requires signatures of multiple persons, notarize only the signatures of those persons eligible for military notary services per the above four classifications.

2.1.5. Civilian Employees as State Notaries (other than civilian legal assistance attorneys). Staff Judge Advocates may designate civilian employees to serve as notaries as part of their official duties. The notarial authority created by 10 U.S.C. Section 1044a does not cover this type of designation. Therefore, any designated civilian employee must qualify as a notary under the laws of the state where he or she will perform notarial duties.

2.1.5.1. Designations of employees as notaries must be in writing and state that reimbursement for expenses is authorized. Title 5 U.S.C. Section 5945 authorizes reimbursement of commission expenses. These expenses may not exceed the actual cost of any fees, bonds, seals, perforating devices, and any other expenses actually incurred. Make reimbursements in accordance with local procedures.

2.1.5.2. Where an installation has multiple SJAs, each SJA may make this designation for his or her respective Command or agency.

2.1.5.3. As the notaries designated under this provision are reimbursed for commission expenses, they may only provide notary services for the eligible beneficiaries specified in paragraph 2.1.4 above.

2.1.6. Paralegals as Notaries. Staff Judge Advocates will not allow paralegals to perform notary duties until they have received proper training. This limitation means that only those paralegals who have been trained to perform notary acts as specified by the Career Field Education and Training Plan (CFETP) will act as notaries.

2.1.7. Non-JA Notaries at Geographically Separated Units (GSU). GCM SJAs are responsible for identifying those units where a non-JA notary should be appointed. Staff Judge Advocates are advised to appoint only the number of non-JA notaries necessary to avoid undue hardship to members at the GSU or remote site. All notary appointments must be in writing. The GCM SJA will maintain a copy of the written appointment letter for at least two years beyond the end of the notary's assignment. The GCM SJA may revoke the non-JA notary's authority at any time, with or without cause.

2.1.7.1. The base legal office that supports the GSU or remote site will provide all support to non-JA notaries. This support will include, at a minimum, training and supervision. The base legal office is responsible for notifying the GCM SJA when the non-JA notary is reassigned from the unit, an event that terminates the notary's authority.

2.1.7.2. Non-JA notaries are bound by the same rules set out for attorney, paralegal and civilian notaries under this instruction. In addition, non-JA notaries must comply with the following rules:

2.1.7.2.1. The notary shall not exercise notary authority until the servicing base level SJA has determined that the notary has been properly trained.

2.1.7.2.2. The notary may not provide legal advice. The notary may not assist another in preparing or executing legal documents, including wills, deeds, contracts, leases, affidavits, separation agreements and powers of attorney, except for completing the notary jurat on such documents.

2.1.7.2.3. The notary may only exercise notary authority while performing official duties at the duty site. The notary may not perform notary duties while in a TDY or leave status.

2.1.7.2.4. The notary's authority automatically terminates when the notary is re-assigned from the GSU or remote unit. The notary will deliver, or ensure delivery of, his or her personal notary log to the servicing base SJA. The notary seal or stamp will be retained at the duty location at which the notary worked for use by the notary appointed to succeed the departing notary. In the event a new notary is not appointed, the seal or stamp will be returned to the servicing base SJA.

2.1.8. Authenticity and Seals. When signing documents in their official capacity, notaries specify the date and location, list their title and office, and use a raised seal or inked stamp citing 10 U.S.C. §1044a (for military notaries) or state authority (for civilian employee notaries designated pursuant to paragraph 2.1.5 of this instruction).

2.1.8.1. Installations should employ a raised seal or inked stamp citing the authority of 10 U.S.C. §1044a and including the identifiers "U.S. Air Force" and "Judge Advocate." Experience with the Authentication Division of the Department of State demonstrates these identifiers are essential to acceptance of military notarizations on documents being presented to foreign governments. The issue arises most frequently in connection with international adoptions by military families. Use of the identifiers will ensure documents with military notarizations are accepted as authentic.

2.1.9. Notary Guidelines.

2.1.9.1. Before performing a notary act, verify the identity of each person whose signature you will notarize.

2.1.9.2. Do not accept any signature as genuine on the word of a third person. **The person whose act is the subject of the notary act must personally appear and sign the document before the notary.**

2.1.9.3. Administer oaths or affirmations for any sworn document. The person being sworn must appear before the notary.

2.1.9.4. Notaries should familiarize themselves with state law requirements for acknowledgement of documents. Questions or concerns should be resolved by research of the appropriate state statutes or consultation with the entity requiring the document be notarized.

2.1.9.5. Do not notarize incomplete documents. A client's assurance to add missing information subsequent to the notarization is not adequate and must not be honored. Documents must include all required information at the time of signing and notarization. Please note some documents are completed in stages, requiring the addition of

information and signatures subsequent to the signatures for which notarization is sought. In such cases, ensure the document is complete to the stage in the process at which the client is seeking notary services.

2.1.9.6. Consistent with paragraph **2.1.4.5** of this instruction, notarize only the signatures of persons eligible for military notary service. The military notary program does not extend to other signators on a document not eligible for military notary service under paragraph **2.1.4** of this instruction.

2.1.9.7. Certification of a document as a true and accurate copy of the original document is not a notarial act. Such a certification requires verification of the authenticity of the document represented by the client to be the original. Only the entity that created the document or maintains the original document or electronic record as part of its official responsibilities can make this verification. Therefore, notaries and other members of the legal office staff may not certify documents as true and accurate copies of original documents which are neither created by the office nor maintained by the office as part of its official responsibilities.

2.1.9.7.1. Notaries may notarize the certification of authenticity and signature of the document custodian from the office responsible for maintaining the original document or electronic record. This act establishes the authenticity of the certification of the document or record as a true and accurate copy of the original version maintained by the responsible office. Additionally, if sufficient to meet the client's needs, the notary may notarize the signed statement of the client that a document is a true and accurate copy of the original record he or she has received and maintained. For example, clients often request legal assistance practitioners to notarize copies of a DD Form 214 or NGB Form 22 as true and accurate reproductions of the original documents. Legal office notaries may not make this certification. Specific agencies can certify a copy of a DD Form 214 as a true and accurate reproduction of the original. JACA has published guidance to the field through The Judge Advocate General's Online News Service. As another example, although a notary may not certify copies of a service member's medical records to be true and accurate, the notary may notarize the statement and signature of the medical records custodian certifying the copies to be true and accurate.

2.1.9.8. Maintain a notary log. All legal assistance notaries, both military and civilian, shall maintain a personal log of notary acts performed. The log must include the signer's name and signature, the type of document, date, and location. Military notaries take their notary logs with them when they make a PCS move, except non-JA military notaries who provide the logs to the servicing base SJA consistent with paragraph **2.1.7.2.4** of this instruction. On separation or retirement, military notaries leave the notary log at their last duty station. Civilian employee notaries must follow the relevant state law regarding disposition of notary logs. If state law is silent, civilian employee notaries moving to a new position or location in federal civil service take their notary logs with them. Retiring civilian employee notaries and those leaving government will leave their notary logs at their last office of employment.

2.1.9.9. Security of Notary Equipment. Notaries must maintain vigilance to prevent misuse, loss, or theft of notary seals, stamps, and log books. Persons not authorized to

serve as notaries under this instruction shall not use or maintain notary equipment. When not in use, secure notary seals, stamps, and log books in a desk drawer or file cabinet. Each notary shall ensure his or her notary equipment is similarly secured at the end of each duty day.

2.2. Oaths and Affirmations. The United States Code authorizes military members to administer oaths and affirmations. SJAs will ensure that their staffs are familiar with the following:

2.2.1. Title 10 U.S.C. Section 936(a), which grants specific people the authority to administer oaths and affirmations for military administration, including military justice.

2.2.2. Title 10 U.S.C. Section 936(b), which authorizes specific people to administer oaths and affirmations when necessary to perform their duties.

2.2.3. Title 10 U.S.C. Sections 502 and 1031, which authorize United States Armed Forces commissioned officers to administer oaths of enlistment (section 502) and oaths of enlistment or appointment in the armed forces (section 1031).

2.3. Notary Restrictions.

2.3.1. Compensation. Under 10 U.S.C. §1044a(c), no fee may be paid to or received by any person for the performance of a notarial act authorized under the legal assistance program.

Chapter 3

PREVENTIVE LAW PROGRAM

3.1. Purpose. No legal assistance program can succeed without a vigorous preventive law program. Educating Commanders, members, and their families on legal issues prevents legal problems and reduces the time and resources needed to resolve legal problems. Preventing legal problems enhances Command effectiveness and readiness, especially during periods of mobilization and deployment of personnel. Effective preventive law activities require full communication and cooperation among Air Force legal office staff members, Commanders, and base personnel, both uniformed and civilians.

3.2. Scope. Every base will have an active preventive law program. The SJA implements the program for his or her installation or organization. All attorneys have a responsibility to integrate preventive efforts into legal assistance consultations and presentations to base audiences on legal programs.

3.2.1. Preventive law programs focus on education and recommend preventive measures in legal areas where the Air Force has a direct interest in the outcome as well as those likely to impact base readiness and morale. At a minimum, include the following subject areas:

3.2.1.1. Mobilization and Deployment Preparation. Educate members on their personal legal needs to ensure readiness for mobilization and deployment. Examples include preparing their personal and family legal affairs for the demands of and dislocations caused by mobilization and deployment, training on their rights under the SSCRA and the USERRA, and disseminating information through all effective media on other matters pertaining to legal readiness.

3.2.1.1.1. Stress to Commanders the importance of making predeployment planning a priority within their units. For example, in accordance with DoDD 1350.4, *Legal Assistance Matters*, all Commanding Officers shall urge military personnel to seek legal counsel regarding wills, living wills, advance medical directives, and powers of attorney well before mobilization, deployment, or similar activities. Although not specifically cited in DoDD 1350.4, First Sergeants hold a similar responsibility. Ultimately, the decision to prepare and execute any of these documents must remain the free and voluntary act of the member. However, Commanders and First Sergeants play a vital role in highlighting and emphasizing the importance of seeking legal assistance as part of readiness preparations.

3.2.1.2. Commander/First Sergeant Awareness. Educate Commanders, First Sergeants, and staff agency chiefs on the full range of legal services provided by the legal office (not just legal assistance matters); the advantages to the Command or organization of timely use of these legal services; and all legal matters affecting the installation, including, as examples, fraud, waste and abuse, standards of conduct, environmental issues, contract issues, military justice issues, and claims matters. Communicate with Commanders, First Sergeants, and staff agencies on the status of legal services. Advise unit Commanders and First Sergeants of the legal office's availability to present informational briefings concerning the scope of the legal assistance program and preventive law measures at

Commanders' and First Sergeants' seminars, Commanders' Calls, staff meetings, base committee meetings, and newcomers' orientations.

3.2.1.3. Promote service member awareness of the importance of recognizing legal issues and seeking timely legal advice. Promote service member awareness of the importance of considering the legal consequences of their actions prior to signing legal documents such as purchase agreements, contracts, leases, and separation agreements. Ignoring legal issues or concerns and signing documents without advice on their terms and significance leads to legal problems later.

3.2.1.4. Identify common legal problems encountered by service members and family members. With its capability to provide statistical reports on demand, WebLIONS is an excellent resource for developing this information. Develop materials providing information and guidance aimed at preventing or minimizing service member and family member exposure to these potential legal problems.

3.2.1.5. Maintain vigilance to identify novel legal concerns, such as new consumer scams. Promptly develop and disseminate educational materials to help the base community make informed decisions and avoid potential legal problems.

3.2.1.6. Encourage the following base-wide activities:

3.2.1.6.1. Submission of articles for base newspapers, daily bulletin boards, and military legal publications on current legal assistance issues.

3.2.1.6.2. Distribution of handouts or pamphlets on preventive law measures at legal offices or other appropriate offices, such as the Family Support Center and squadron orderly rooms.

3.2.1.6.3. Development and maintenance of legal office web sites that provide office operating hours and contact information and that provide or link to current preventive law materials.

3.2.1.6.4. Presentation of preventive law lectures and seminars.

3.2.1.7. Law Day is observed each year on the first day of May to draw attention to the principles of justice and the practice of law, by an annual Proclamation of the President of the United States in accordance with Public Law 87-20 of April 7, 1961, as amended. Each year, in advance of 1 May, TJAG announces a Law Day theme. Staff Judge Advocates and preventive law officers join thousands of national organizations, businesses and schools and participate in innovative Law Day activities such as a high school mock trial, a middle school art and essay contest, or a community question and answer panel discussion.

3.2.1.8. Encourage legal office attorneys to participate in state or local bar associations to gain information on support programs available through these associations to benefit military clients and preventive law efforts and to educate civilian attorneys on the military in general and military legal programs in particular.

3.2.1.9. Seek support from bar associations to provide no-fee or reduced-fee legal services for service members and family members, particularly those with low incomes.

3.2.1.10. Encourage participation by local attorneys and state and local bar associations in programs sponsored by the ABA's Standing Committee on Legal Assistance for Military Personnel (LAMP), such as *Operation Enduring LAMP*, and the Military Committee of the ABA's Family Law Section, such as *Operation Stand-By*.

3.2.1.11. Tax Assistance. The Internal Revenue Service operates the Volunteer Income Tax Assistance (VITA) Program. If approved by base Commanders, establish an active, aggressive, well-publicized tax assistance program as outlined in **1.4.14.2**.

3.3. Program Management. See AFPD 51-5, Section C, for a full description of responsibilities in the program.

3.3.1. MAJCOM SJAs supervise the programs within their Commands.

3.3.2. To manage the base-level preventive law program, base SJAs appoint a Chief of Preventive Law or preventive law officer, charged with developing and implementing educational initiatives as a primary duty. In performing these duties, the appointed leader should review preventive law materials disseminated by AFLSA/JACA, which are maintained on its web site (see paragraph **3.5.1** of this instruction). Also, he or she should communicate with other military legal offices, particularly those in the same state, higher headquarters legal offices, and appropriate federal, state, and local agencies, such as bar referral services and consumer protection agencies.

3.4. Communication. All judge advocates may communicate directly with each other and with relevant organizations and persons about preventive law matters.

3.5. Preventive Law Resources.

3.5.1. AFLOA/AFJAGS' web site provides information on legal assistance subject areas covered under the legal assistance program, field guidance, and preventive law updates. Access the site at: <https://aflsa.jag.af.mil/AF/lvnx/afjags/>.

3.5.2. WebFLITE. AFLSA/JAS's WebFLITE includes a "Web Links" page that provides access to a wide-range of Air Force and legal assistance internet and intranet web sites. WebFLITE also provides helpful links to other agencies, statutes and regulations, and specific legal assistance subject areas. Access these links at: <https://aflsa.jag.af.mil/flite/links.php>.

3.6. Forms Prescribed.

3.6.1. AF Form 165, **General Power of Attorney.**

3.6.2. AF Form 831, **Special Power of Attorney.**

3.6.3. AF Form 1175, **Legal Assistance Record.**

3.7. Forms Adopted.

3.7.1. DOL Form VETS-1010, **Eligibility Data Form: Veterans' Reemployment Rights.**

3.7.2. DD Form 2793, **Volunteer Agreement for Appropriated Activities or Nonappropriated Fund Instrumentalities.**

3.7.3. SF 1164, **Claim for Reimbursement for Expenditures on Official Business.**

RICHARD C. HARDING
Lieutenant General, USAF
The Judge Advocate General

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

- 5 U.S.C. 5945, *Notary Public Commission Expenses*
- 10 U.S.C. 502, *Enlistment Oath: Who May Administer*
- 10 U.S.C. 936, *Art. 136. Authority to Administer Oaths and to Act as Notary*
- 10 U.S.C. 938, *Art. 138. Complaints of Wrongs*
- 10 U.S.C. 1031, *Administration of Oath*
- 10 U.S.C. 1044, *Legal Assistance*
- 10 U.S.C. 1052, *Reimbursement of Adoption Expenses*
- 10 U.S.C. 1408, *Payment of Retired or Retainer Pay in Compliance with Court Orders*
- 10 U.S.C. 1588, *Authority to Accept Certain Voluntary Service*
- 10 U.S.C. 12731, *Age and Service Requirements*
- 38 U.S.C. 4301-4333, *Employment and Reemployment Rights of Members of the Uniformed Services*
- 50 U.S.C. App. 501-593, *Soldiers' and Sailors' Civil Relief Act*
- AFI 36-2906, *Personal Financial Responsibility*
- AFI 36-2908, *Family Care Plans*
- AFPD 51-5, *Military Legal Affairs*
- ARC-1, *Rules of Professional Conduct for Air Reserve Component Judge Advocates*
- Army Pub. 260, *Soldiers' and Sailors' Civil Relief Act Guide*
- DoDI 1100.21, *Voluntary Services in the Department of Defense*
- DoDD 1341.9, *DoD Adoption Reimbursement Policy (Jul 93)*
- DoDD 1350.4, *Legal Assistance Matters (Apr 01)*
- DoDI 1400.32, *DoD Civilian Workforce Contingency and Emergency Planning Guidelines and Procedures*
- DoDI 3020.37, *Continuation of Essential DoD Contract Services During Crises*
- P.L. 87-20, *Law Day, 7 April 1961*
- TJS-2, *Air Force Rules of Professional Conduct and Standards for Civility in Professional Conduct*
- TJS-3, *Air Force Standards for Criminal Justice*
- TJS-8, *Legal Services Volunteer Confidentiality Agreement*

Attachment 2**DUAL REPRESENTATION AUTHORIZATION**

Legal assistance attorneys may use the following form to inform clients of the parameters of, and to secure their consent to, dual representation. Each client should independently read and sign a letter to confirm that each wishes to be dually represented by a single attorney.

Dear Client:

You and your spouse have indicated that you wish to meet with an attorney together to discuss and execute both of your wills and related documents. There exists the potential for conflicts of interest to arise between spouses concerning the division and distribution of their property. For this reason, each may retain separate, independent counsel at the outset to avoid the possibility that advice given to one of you is influenced by the representation of the other. Where both spouses express the desire to be represented by a single attorney, it is the practice of this office to raise the potential for conflicts of interest with you and require your independent consent prior to proceeding with dual representation. Your signature below will confirm the following:

1. You and your spouse have requested the same legal assistance attorney represent each of you in advising on and preparing your wills and related documents.
2. You recognize that you and your spouse's wills and related documents need not be uniform. They may be entirely unique from each other in content. Each of you will review your documents prior to execution to ensure they reflect your individual wishes.
3. The scope of this representation will include the following:
 - Analysis of the assets owned by each of you at the time of your marriage, including consideration of the fair market value of such property and the manner in which the title was then held;
 - Analysis of all property now owned by each of you, including consideration of its fair market value, the manner in which title to such property is now held, and a categorization of such property as separate, marital, community, or quasi-community property;
 - Discussion concerning the manner in which you wish to dispose of any property you may have the power to dispose of at the time of your death; and
 - Preparation of the documents necessary to accomplish the desired disposition of your property.
4. You are aware that during the course of the representation, disagreements may arise between you and your spouse regarding ownership and disposition of property.

5. Difference of opinion regarding the disposition of property does not, in and of itself, prevent an attorney from representing both husband and wife. However, during the course of the representation, conflicts of interest between you and your spouse may arise that might preclude me from further representing either of you.

6. If a conflict of interest does occur, and it is of such a nature that I believe it impossible for me to ethically perform services for either of you, I will immediately cease all representation of both of you in this matter and advise that you both obtain independent counsel.

7. You agree that there will be complete and free disclosure of all information I receive from either of you within the course of representing you and your spouse. You further agree that such information shall not be confidential between you and your spouse regardless of whether I obtain such information when you and your spouse are both present or when only one of you is present. This disclosure authorization includes any conferences that may have taken place before the date of this letter.

Very Respectfully,

SIGNATURE BLOCK

Legal Assistance Attorney

I, (print your name) _____, have read and understand the foregoing letter and consent to being represented by _____, our legal assistance attorney, together with my spouse, _____, in the creation of our individual testamentary instruments. I likewise consent to the free disclosure and exchange between my spouse and I of information received by said attorney within the scope of his/her representation of us in the same.

Signed the ___ day of _____, 20XX

Client

Attachment 3**STANDARD OPERATING PROCEDURE FOR EXECUTING WILLS**

The following procedure, or one covering substantially the same points, is recommended as a standard for the execution of wills. This procedure meets the requirements for execution of military testamentary instruments, the standard for the execution of wills in the United States Air Force.

A. Present for the execution should be the following:

(1) the testator/testatrix

(2) two witnesses, who must be persons who have no interest, vested or contingent, in the property disposed of by the will or in the testator's/testatrix's estate in the event of intestacy. An attorney presiding over the execution ceremony may NOT act as a witness. Under 10 USC §1044d(c)(3), the two witnesses must be "in addition to the presiding attorney."

(3) the presiding attorney - 10 USC §1044d requires a military testamentary instrument to be "executed in the presence of a military legal assistance counsel acting as presiding attorney."

(4) notary - as the notary will notarize the signatures of the witnesses, the notary cannot serve as one of the witnesses.

a. Execution of the document as a military testamentary instrument does not require use of a military notary acting under 10 USC §1044a.

b. The statute does not preclude the presiding attorney from notarizing the will and other documents. Taking that approach would require notarization under the authority of 10 USC §1044a, with use of the appropriate captions in the documents. However, if questions are raised later concerning how the will was executed, this approach risks a significant problem. If an attorney served as notary, particularly a JAG, he or she will likely have PCSed or maybe even left the Air Force by the time questions come up. The witnesses will likely fall into similar situations. They will be difficult to find at best. Even when found, because they may have executed the will years ago, they will rely on distant memories of how the process was accomplished. In contrast, because civilian notaries often work in the same office for years they are most familiar with a particular office's will execution practices and are best placed to respond to questions concerning the execution of the documents.

B. If the will consists of more than 1 page, the pages should be fastened together securely. The will should specify the exact number of pages of which it consists (e.g., number each page at the bottom "1 of 3," "2 of 3," "3 of 3"). This page numbering does not include the self-proving affidavit, unless it has been incorporated as part of the will. The self-proving affidavit should, however, be fastened to the will.

C. The testator/testatrix should read the will and the self-proving affidavit in their entirety and the legal assistance attorney should ensure understanding of all terms prior to the execution.

D. The presiding attorney and/or notary should ask for and examine the identification cards of the testator/testatrix and witnesses.

E. The attorney or notary presiding at the execution ceremony should ask the testator/testatrix the questions from the section below entitled "Will Execution Requisites."

F. Assuming appropriate responses to the questions, the testator/testatrix then initials and dates in the margin at the bottom of each page of the will except the page including the testator's/testatrix's signature at the end of the will. This step assures identification and prevents subsequent addition and substitution of pages. The testator/testatrix also signs in the appropriate space at the end of the will. The witnesses should be seated or standing in a position to observe the signing and/or initialing.

G. The attorney or notary presiding at the execution ceremony asks the witnesses the listed questions from the section below entitled "Will Execution Requisites."

H. Each witness should read and then declare that the attestation clause is a true and correct statement.

I. Each witness then initials and dates in the margins in the same area as the testator/testatrix (again, this step assures identification and prevents subsequent addition and substitution of pages) **and** signs in the appropriate places at the end of the will. The witnesses also read and sign the self-proving affidavit. The witnesses' printed or typed name and rank (if military) and printed or typed duty address should be included under or next to their signatures.

WILL EXECUTION REQUISITES

The presiding attorney or notary asks each Testator/Testatrix the following questions. The witnesses must be assured the Testator/Testatrix understands the questions and responds to them consistent with the intent to execute the document as his/her last will and testament.

For executions involving multiple clients, substitute the phrase "each of you" for "you" in each question and request the clients to answer aloud and make the appropriate nod for affirmative or negative.

- (1) Do you (state full name of testator/testatrix) declare in the presence of (state the names of the witnesses) that this document is your will?
- (2) Are you at least 18 years of age?
- (3) Do you consider yourself to be of sound mind?
- (4) Have you read the will in its entirety and do you fully understand its terms?
- (5) Do you have any additions or corrections you desire made to the will?

(6) Does the will as drafted represent your intentions as to how you wish your property to be distributed in the event of your death?

(7) Have you prepared and are you executing this document voluntarily?

(8) Do you feel you have been under any sort of duress, coercion, or undue influence as you discussed and provided information for the preparation of the will or now as you get ready to sign the will?

(9) Do you publish and declare this document to be your last will and testament?

(10) Do you desire that we (state the names of the witnesses) witness your signature and execution of this will?

Questions to the witnesses:

(1) Does the testator/testatrix appear to be at least 18 years of age?

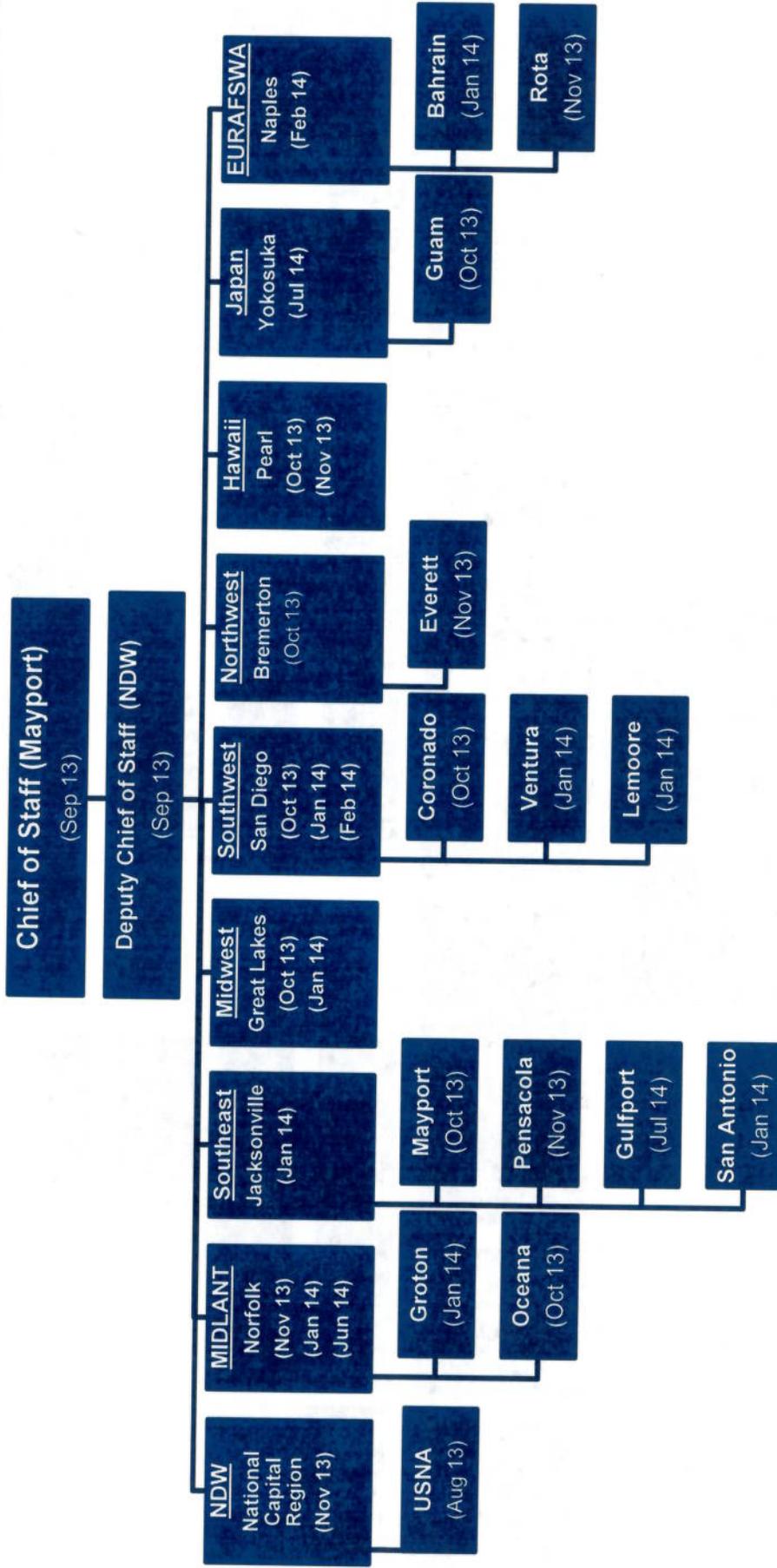
(2) Does the testator/testatrix appear to be of sound mind?

(3) Does he/she appear to understand the nature of his/her actions?

(4) Does he/she appear to be acting under duress or coercion?

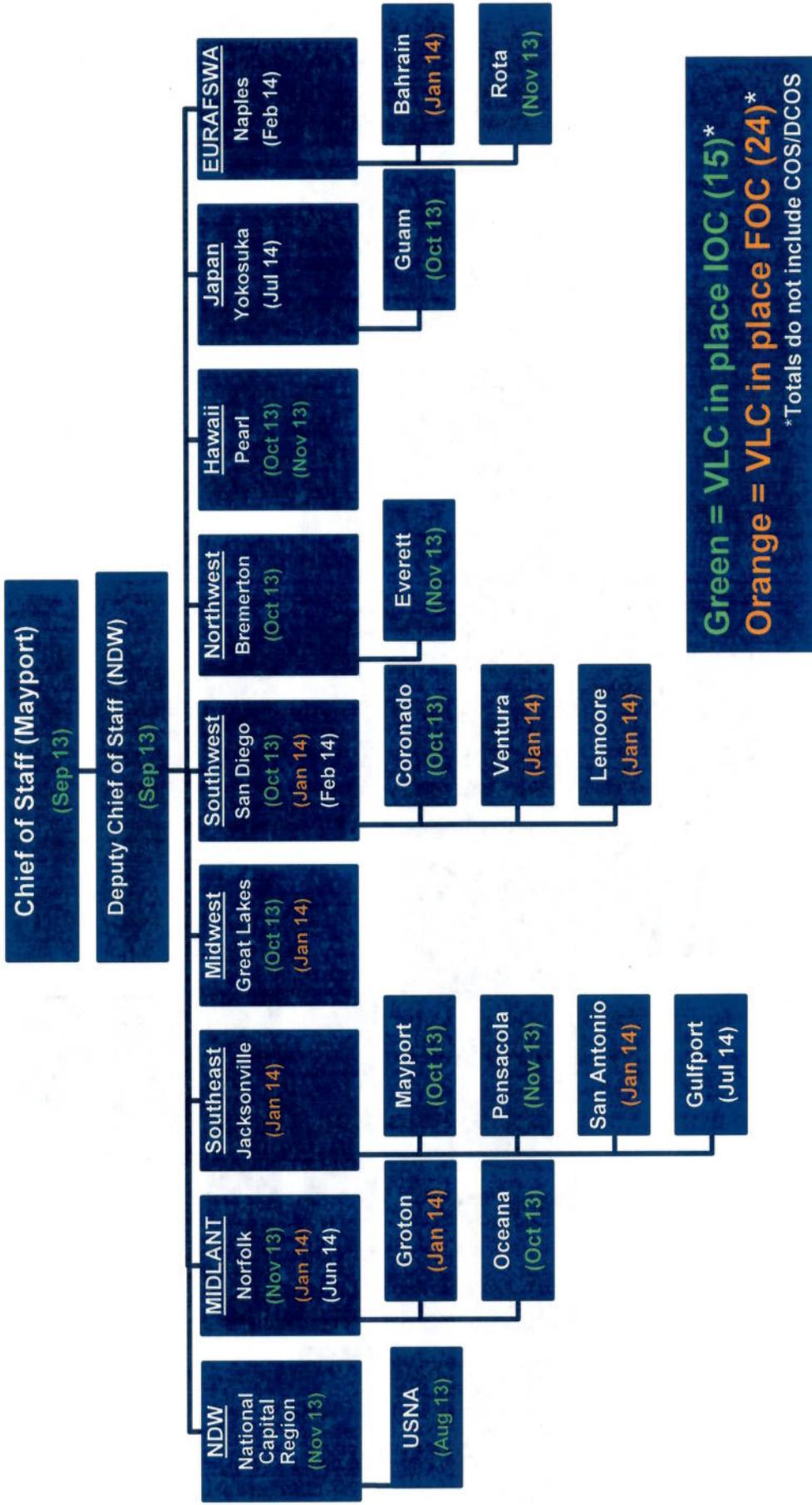


VLC Locations/Report Dates





VLC Locations/Report Dates



Green = VLC in place IOC (15)*
Orange = VLC in place FOC (24)*
 *Totals do not include COS/DCOS

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