



COMDTINST 5801.4F
17 FEB 2017

COMMANDANT INSTRUCTION 5801.4F

Subj: LEGAL ASSISTANCE PROGRAM

1. PURPOSE. This Instruction prescribes regulations, policies and guidance for the management and direction of the Coast Guard Legal Assistance Program established under the Judge Advocate General's authority and 10 U.S.C. § 1044. The provisions in this Instruction apply to all personnel providing or receiving Coast Guard legal assistance.
2. ACTION. The Judge Advocate General (JAG) manages and supervises the Coast Guard Legal Assistance Program through Commandant Member Advocacy and Legal Assistance (CG-LMA) which provides technical supervision and support to Command Directors of Legal Assistance. Area commanders, mission support commands, district commanders and commanding officers of headquarters units support the program by promoting awareness about legal assistance services, facilitating access to legal assistance, and supporting regular visits to units remote from a legal assistance office, and requesting support from Commandant (CG-LMA) when local resources are inadequate to meet a particular need. Internet release is authorized.
3. DIRECTIVES AFFECTED. Legal Assistance Program, COMDTINST 5801.4E is cancelled.
4. DISCUSSION. The Legal Assistance Program is critical to personnel readiness. The Coast Guard recognizes the importance of providing legal support for our personnel in connection with their personal civil legal affairs. Prompt legal support can relieve stress and uncertainty and improve readiness, morale, and efficiency. The Coast Guard's policy is to provide legal assistance to eligible personnel to the fullest extent possible under the law.
5. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.

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6. MAJOR CHANGES. This Instruction updates office designations and organizational structure. It updates and expands eligibility to reflect changes in 10 U.S.C. § 1044 and expands services provided, particularly regarding Special Victim's Counsel and the Physical Disability Evaluation System. It emphasizes compliance with CGJAG Standard Operating Procedure 17B and expands Professional Responsibility definitions.
7. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.
 - a. The development of this Instruction and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, and are categorically excluded (CE) under USCG CE #33 from further environmental analysis, in accordance with Section 2.B.2 and Figure 2-1 of the National Environmental Policy Act Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1 (series).
 - b. This Instruction will not have any of the following: significant cumulative impacts on human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this Instruction must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates.
8. DISTRIBUTION. No paper distribution will be made of this Instruction. An electronic version will be located on the following Commandant (CG-612) web site: Internet, <http://www.uscg.mil/directives> and CG Portal, <https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx>.
9. RECORDS MANAGEMENT CONSIDERATIONS. This Instruction has been evaluated for potential records management impacts. The development of this Instruction has been thoroughly reviewed during the directive clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal records Act, 44 U.S.C. § 3101 et seq., National Archives Records Administration (NARA) requirements the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.
10. ELIGIBILITY FOR LEGAL ASSISTANCE.
 - a. Subject to the availability of legal staff resources, legal assistance may be provided pursuant to 10 U.S.C. § 1044 to:
 - (1) Members of the armed forces who are on active duty (including reservists on active duty or scheduled for deployment).
 - (2) Members and former members entitled to retired or retainer pay or equivalent pay.
 - (3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay, and officers of the commissioned corps of the National

Oceanic and Atmospheric Administration (NOAA) only when assigned to and performing duties with the Coast Guard.

- (4) Members of the reserve components not covered by Paragraphs 10.a.(1), or (2) of this Instruction following release from active duty under a call or order to active duty for more than 30 days under a mobilization authority (as determined by the Secretary concerned). Eligibility for such legal assistance will begin on the date of the release from active duty 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.
- (5) Dependents of members and former members described in Paragraphs 10.a.(1), (2), (3), and (4) of this Instruction.
- (6) Survivors of a deceased member or former member described in Paragraphs 10.a.(1), (2), (3), and (4) of this Instruction who were dependents of the member or former member at the time of the death of the member or former member who would be eligible for legal assistance if the member or former member were alive. Additionally, executors, personal representatives, administrators or legally recognized estate representatives for matters related to the settlement of estates of members who die on active duty.
- (7) Unremarried former spouses of members and former members described in Paragraphs 10.a.(1), (2), and (3) provided the parties were married for at least 20 years (date of marriage to date of divorce decree or annulment), the service member performed at least 20 years of service creditable for retirement pay, and there is at least a 20 year overlap of marriage and the military service.
- (8) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available. Determination of eligibility will be made by the Chief of Legal Assistance, as described in Paragraph 14.a. infra.
- (9) Other persons authorized by the Judge Advocate General.

- b. Services cannot be provided under 10 U.S.C. § 1044 to civilian employees, except as discussed in Paragraph 10.a.(8), or to members of the Coast Guard Auxiliary whether or not acting under official orders. Civil notary services may be provided.
- c. The Coast Guard Work Life program's Employee Assistance Program (EAP) includes a legal services component. This consultation and referral service is not part of the Legal Assistance Program and may result in legal fees. Details are available from local EAP Coordinators or at <https://www.uscg.mil/worklife/>.

11. **PRIORITY FOR LEGAL ASSISTANCE.** Coast Guard military personnel who need legal assistance due to the nature of their assigned duties have the highest priority for services. Examples include predeployment assistance to regular and reserve personnel, especially when the deployment is unanticipated, and estate planning, power of attorney and advance medical directive preparation for personnel involved in significant travel or hazardous duty. The next highest priority is personnel who are least able to obtain legal services from the civilian bar (for example junior enlisted

personnel with limited financial means and junior officers). Eligible members of other branches of the armed forces and their dependents must be provided legal assistance on an equal basis with Coast Guard members and their dependents, unless Coast Guard members need predeployment legal services. Command Directors of Legal Assistance as defined in Paragraph 14.b. manage services within these guidelines to ensure the readiness of Coast Guard personnel. They may limit some services based on demand and resources. Command Directors may limit service to members of the other branches of the armed forces to those they would receive had they gone to a legal assistance provider within their branch.

12. LEGAL ASSISTANCE SERVICES PROVIDED. Legal assistance includes consultation, advice and assistance on personal civil legal matters, principally in the areas listed below. When the quality of advice would be impaired by workload or the legal assistance attorney's lack of expertise in a particular area, the legal assistance attorney must refer the client to another armed forces legal assistance office, lawyer referral service or civilian attorney in accordance with this Instruction.

a. Wills and Estate Planning. Provide basic estate planning services, including drafting of wills and testamentary trusts and giving advice regarding Servicemember Group Life Insurance (SGLI) or other life insurance policies. Advanced estate planning, such as arranging a client's affairs to minimize taxation of his or her estate or drafting a special needs trust, will be offered normally only by legal assistance attorneys who possess the special competency to do so, subject to the conditions in Paragraph 13.d. Estate plans may not be executed until an attorney interviews the client and reviews all documents. The attorney who prepares or reviews the documents must insert his or her name as the drafter somewhere in the documents. Federal law provides for the recognition of testamentary instruments by any state or jurisdiction without regard to specific legal requirements as to form, formality or recording imposed by that state or jurisdiction when the instrument is prepared pursuant to 10 U.S.C. § 1044d and executed by a person authorized to receive legal assistance. A military testamentary instrument must:

- (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).
- (2) Be executed in the presence of a legal assistance attorney acting as presiding attorney.
- (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/testatrix execution of the instrument by signing it.
- (4) Include a statement or preamble that complies with 10 U.S.C. § 1044d in form and content. The DL Software Package, which is explained in more depth in Paragraph 22 of this Instruction, contains the required language.
- (5) Include, or have attached to it, a self-proving affidavit that complies with 10 U.S.C. § 1044d in form and content.
- (6) Nothing in this Instruction requires the use of the Military Testamentary Instruments. Legal assistance attorneys may use the MTI authority or comply with state formalities as appropriate within their professional discretion.

- b. Advance Medical Directives (AMD) or “Living Wills”. Legal assistance attorneys may prepare AMDs when requested by a client. AMDs may be prepared using existing state law provisions or as a Military Advance Medical Directive as defined by 10 U.S.C. § 1044c. Section 1044c requires states to recognize AMDs that are prepared by legal assistance attorney for eligible persons to the same extent as an AMD “prepared and executed in accordance with the laws of the state concerned.” In order for a legal assistance client to take advantage of a MAMD, the directive must contain the standard preamble contained in the DL Software Package.
- c. Powers of Attorney. Special and general powers of attorney may be prepared and notarized. 10 U.S.C. § 1044b provides special status for powers of attorney executed by legal assistance clients and notarized under 10 U.S.C. § 1044a. Military powers of attorney are exempt from state law requirements as to form, substance, formality, or recording and are entitled to the same legal effect as a power of attorney prepared and executed in accordance with local requirements.
- d. Servicemembers Civil Relief Act (SCRA) and Uniformed Services Employment and Reemployment Rights Act (USERRA). Clients may be counseled concerning the provisions of the SCRA and USERRA. Related correspondence and documents may be prepared. When appropriate, an attorney will refer clients to the Department of Labor, Department of Justice, or other appropriate agency for enforcement of rights. With approval from a Command Director of Legal Assistance, a legal assistance attorney is authorized to serve as a Special Assistant U.S. Attorney in enforcing the provisions of the SCRA and the USERRA.
- e. Domestic Relations. Legal assistance may be provided in marriage, annulment, legal separation, divorce, financial nonsupport, child custody and visitation, and paternity cases to the extent qualified legal assistance resources are available. Representation of both parties in domestic relations cases by attorneys from the same legal office is prohibited.
- f. Landlord-Tenant. Attorneys may provide advice and counseling on lease agreements, particularly military clauses, and discuss rights and responsibilities under local laws and the SCRA. They may contact landlords on behalf of eligible tenants to negotiate settlements. Additionally, eligible landlords renting out their primary residence may be provided service, including review of leases. As the Legal Assistance Program does not extend to business matters, service will not be provided regarding properties held primarily for investment purposes.
- g. Consumer Affairs. Legal assistance attorneys may provide counseling on a wide variety of issues, including retail purchases, identity theft and other fraud, motor vehicle purchase or repair, bankruptcy, consumer credit, debt collection, indebtedness, involuntary allotments and consumer protections provided by federal, state or local law. They may contact and negotiate with creditors to resolve disputes. When appropriate, attorneys will refer clients to the Consumer Financial Protection Bureau or other relevant agencies.
- h. Real Property. Assistance in this area may include advice and review of sale or purchase contracts and rights and remedies on other property issues affecting homeowners.
- i. Civil Suits. General advice may be given in civil suit matters. Cases requiring in-court representation will normally be referred to private civilian counsel (except for those cases suitable for the Extended Legal Assistance Program as discussed in Paragraph 15). Advice on

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small claims court procedures may be given and assistance may be provided in preparing documents and correspondence, subject to relevant state ethics rules.

- j. Taxes. General advice and assistance may be given in the area of federal, state and local taxes, particularly regarding SCRA issues.
- k. Civil Rights Matters. Legal assistance attorneys may provide advice regarding applicable federal, state and local laws involving complaints of discrimination in the civilian community. Legal assistance may not be provided for complaints of discrimination internal to the Coast Guard or Federal Government.
- l. Adoptions and Name Changes. Advice and document preparation regarding adoption and change of name may be given. Government reimbursement procedures may be explained.
- m. Minor Criminal Matters. Legal assistance attorneys may provide advice in the case of minor criminal matters such as traffic infractions. Command Directors of Legal Assistance may further define the types of minor criminal matters for which advice will be provided. Assistance in these matters may include activities such as correspondence, preparation of documents and advice for pro se representation. In providing this advice, care should be taken to avoid any possibility of conflict with potential UCMJ matters. No representation will be provided for any Federal criminal proceeding (including any military criminal justice matter under the UCMJ and cases before a Federal Magistrate's Court).
- n. Notaries. Notarizations of documents may be provided in accordance with the policies outlined in Paragraph 14.d. of this Instruction.
- o. Decedent and Casualty Affairs. Legal assistance attorneys should develop working relationships with local Casualty Assistance Calls Officers (CACOs) and casualty affairs staffs and provide legal assistance to the primary next of kin.
- p. Torts. Assistance may be provided in matters dealing with personal injury and other torts when, in the judgment of the Command Director of Legal Assistance, it is necessary for personnel readiness. Assistance normally should not be provided for those cases in which the likelihood of monetary damages would facilitate the availability of civilian representation.
- q. Victims of Sexual Assault. Legal assistance attorneys may be asked to provide advice to individuals whom have been victims of sexual assault. Although Legal assistance attorneys should provides typical legal assistance services, they should not provide advice on issues directly related to the assault and should refer clients to Special Victim's Counsel (SVC). Legal assistance attorneys should maintain close connections with SVCs in their geographical area of responsibility (AOR) and consult with them regarding any legal assistance problems their clients may have. SVC may also seek legal assistance attorney support in resolving legal assistance issues involving victims.
- r. Administrative Process. Legal assistance attorneys may provide basic advice regarding the Physical Disability Evaluation System (PDES) or appeals to the Board for Correction of Military Records (BCMR) and the Personnel Records Review Board (PRRB). Attorneys should refer all

but the most basic disability questions to PDES attorneys assigned to Commandant (CG-LMA). Representation before the BCMR and the PRRB is not authorized.

- s. **Military Benefits.** Legal assistance attorneys will be familiar with all benefits afforded to service members and their dependents, including survivor benefits.
- t. **Other Services.** Assistance may be provided on issues that Command Directors determine are connected to personal civil legal affairs.

13. **LIMITATIONS ON LEGAL ASSISTANCE SERVICES.** Requests for legal assistance must be screened prior to scheduling an appointment with a legal assistance attorney. Screening identifies potential conflicts in representation, avoids inadvertent formation of inappropriate attorney-client relationships, and expedites referrals in accordance with Paragraph 18.c. when legal assistance cannot be provided. Legal assistance may not be provided in the following areas:

- a. **Military Justice, Civil Rights, and Investigations.** Legal assistance attorneys will not represent, advise or assist anyone facing discipline under the military justice system; who desires to initiate a Civil Rights complaint for discrimination arising within the Coast Guard or Federal government; or who is a party, witness or subject of a criminal or administrative investigation of the Coast Guard or other government agencies, such as DHS, National Transportation Safety Board, and the Department of Defense, unless otherwise authorized to do so. No attorney-client relationship is established by referrals to agencies that can assist. Initial contact not amounting to an establishment of an attorney-client relationship does not prevent an attorney from advising the command on the same or similar matter.
- b. **Private Income Producing Matters.** These include but are not limited to issues pertaining to the establishment, management, and taxation of small business organizations (e.g., partnerships and small, closely-held corporations, etc.). The lease or sale of a principal residence is not considered a private income-producing matter for purposes of this Instruction.
- c. **Claims.** Legal assistance providers may not advise or assist in the prosecution of any tort, military, personnel, TRICARE/CHAMPUS or other monetary claim against the United States, or the defense of any monetary claim by the United States against an individual. Legal assistance providers may inform an interested person about the statute of limitations, how to obtain claim forms or where to file them, and direct the claimant/potential claimant to the appropriate claims office or provide a referral to civilian counsel.
- d. **Complex Estate Planning.** Clients requiring estate planning assistance involving large (above the personal exemption for the Federal Estate Tax) or complex estates or other special considerations should be advised to seek expert civilian assistance, unless the attorney has developed sufficient expertise to effectively draft the necessary documents, and providing assistance will not be at the cost of providing adequate assistance to other clients. Estate plans that direct the transfer of businesses, farms, mining rights or other complex transactions should generally be referred to outside counsel. The same is true of Special Needs Trusts, unless the Command Director of Legal Assistance determines an attorney has sufficient competence to prepare them.

- e. In-Court Representation. Legal assistance providers may not provide in-court representation of members except as permitted under the Expanded Legal Assistance Program discussed in Paragraph 15 of this Instruction.

14. ORGANIZATION AND RESPONSIBILITIES.

- a. Coast Guard Chief of Legal Assistance. The Chief of Legal Assistance serves under the supervision of the Chief of Legal Assistance and Member Advocacy (CG-LMA) and is responsible for the overall management of the Legal Assistance Program. The Chief of Legal Assistance furnishes information about current developments in the law and delivery of services, directs procedures and programs to be implemented by legal assistance attorneys, serves as liaison with the American Bar Association and other civilian bar associations on matters relating to legal assistance to military personnel, represents the Coast Guard as a member of the Joint Service Committee on Legal Assistance, and acts as Command Director of Legal Assistance for the Coast Guard Headquarters legal assistance office, which provides legal services to eligible clients in the Washington, DC region. Commandant (CG-LMA) will coordinate surge support in cooperation with Legal Service Command when commands require legal assistance exceeding local resources, such as imminent departure of cutter forces, other significant deployments, or post-disaster support.
- b. Command Director of Legal Assistance. The Staff Judge Advocates of the following organizations are designated as Command Directors of Legal Assistance and have the responsibility for the delivery of legal assistance services within their respective commands and local geographic areas of responsibility: Districts, the Coast Guard Academy, Training Center Yorktown, Training Center Cape May, and Training Center Petaluma. Command Directors of Legal Assistance will:
 - (1) Provide legal assistance to local clients. Full-time legal assistance attorneys should also support outlying units by “circuit riding”, meaning regularly scheduling routine legal assistance visits and training at remote commands. District offices should assist other commands within their AOR.
 - (2) Adjust services based on workload, resources and expertise.
 - (3) Appoint qualified personnel to provide and supervise legal assistance. Command Directors may appoint out-of-specialty judge advocates and auxiliary attorneys to provide legal assistance. Command Directors must require all junior judge advocates to meet the client representation benchmarks of CGJAG Standard Operating Procedure 17B.
 - (4) Ensure that each attorney, paralegal, legal technician and administrative support staff who provides, or assists in providing, legal assistance is designated in writing, understands that services are provided under the supervision of the Command Director, and is adequately trained to perform these duties.
 - (5) Liaison with local bar organizations and legal aid services and other armed forces legal assistance offices in the AOR.

- (6) Maintain individual client or matter records within the Law Manager software package, or subsequent program, as outlined in Enclosure (1) and in accordance with the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). These records must contain timely inputted data regarding the case type, sub-type, quantity, and result, of all services provided. Legal Assistance files are included under the system of records notice DHS/CG 015, Legal Assistance for Privacy Act purposes.

c. Legal Assistance Attorneys.

- (1) Definition. A Coast Guard legal assistance attorney is any attorney authorized in writing by a Command Director of Legal Assistance to provide legal assistance services. These include active duty or reserve judge advocates or other officers admitted to a State bar, civilian attorneys employed by the Coast Guard, reservists (officer or enlisted) or qualified members of the Coast Guard Auxiliary who are licensed attorneys. Legal assistance attorneys are not required to be a judge advocate or certified under Article 27(b) of the UCMJ.
- (2) Designation and Qualification. Each legal assistance attorney must be a member in good standing of the bar of a Federal court or the highest court of a state, territory or the District of Columbia. The Judge Advocate General, the Chief of Legal Assistance and Member Advocacy, the Chief of Legal Assistance and a Command Director of Legal Assistance may designate any qualified person to perform legal assistance duties.
- (3) Duties and Responsibilities. Legal assistance attorneys may develop attorney-client relationships and must represent clients zealously within the bounds of professional ethics. Legal assistance attorneys, acting within the scope of their authority, perform an official Coast Guard duty, but, as attorneys for their individual clients, do not speak for the United States or for the Coast Guard. A legal assistance attorney will inform anyone with whom the attorney communicates on behalf of a client that the attorney acts on behalf of the client and not as a representative of either the Coast Guard or U.S. Government. Legal assistance attorneys are authorized to sign correspondence on Coast Guard letterhead using the title "Legal Assistance Attorney." Attorney-client relationships must be carefully guarded, and communications and files should be treated as legally privileged and administratively confidential by attorneys and support personnel. Legal assistance attorneys, acting in conformity with applicable rules of professional responsibility, may refuse to accept a client, refuse to establish an attorney-client relationship or terminate any such relationship at any time while performing legal assistance duties. Upon request, attorneys taking such action must provide a brief explanation to the responsible Command Director.

d. Legal Assistance Notaries.

- (1) Pursuant to 10 U.S.C. § 1044a, the following individuals, including reservists, have the general powers of notary public (including the similar authority overseas of a consul of the United States) in the performance of all notarial services:
 - (a) All judge advocates.

- (b) All civilian attorneys employed by the Coast Guard serving as legal assistance attorneys.
 - (c) Chief Warrant Officers and Petty Officers assigned to a Coast Guard legal office or staff, serving under the immediate supervision of a legal assistance attorney. “Immediate supervision” means under the direct guidance or management of another. Immediate supervision does not require a supervisor to be present at all times when the individual being supervised is performing assigned duties, nor does it require a performance rating relationship. However, the supervisor and the person supervised must perform duty in the same general location.
 - (d) Commissioned Officers and Petty Officers when designated in writing by the responsible Command Director of Legal Assistance, acting under the training and supervision of a legal assistance attorney. Notarial authority for this section is limited to documents prepared or reviewed by a legal assistance attorney.
- (2) Individuals listed in Subparagraph 14.d.(1), of this Instruction may provide notarial services for the following:
- (a) All members of any of the United States armed forces.
 - (b) All other individuals eligible for legal assistance under the provisions of 10 U.S.C. §1044a and this Instruction.
 - (c) All individuals serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
 - (d) All other individuals subject to the UCMJ outside the United States.
- (3) Records. All Legal Assistance Notaries must maintain a personal log of notarial acts including the name of the client, nature of the document and date of notarization and annotation that the client provided his or her military identification card.
- (4) Seals. The Command Director of Legal Assistance must provide to each Legal Assistance Notary within their area of responsibility, seals or stamps necessary in the performance of their duties that at a minimum recite 10 U.S.C. § 1044a as the authority under which the Legal Assistance Notary acts.
- e. Civil Notaries. Many legal offices have staff members qualified and commissioned as notaries within their local jurisdictions. The services provided must be within the limits of the commission under the rules and regulations for the jurisdiction. No fees may be charged for these services.

15. EXPANDED LEGAL ASSISTANCE PROGRAM (ELAP). Command Directors of Legal Assistance may authorize expanded legal services to clients who cannot reasonably afford legal fees without undue financial hardship. Subject to state bar requirements and local court rules, expanded legal services may include representation before federal, state, and local courts and administrative

agencies in minor civil and criminal matters (those not involving possible incarceration in excess of one year), except when the United States is an adverse party. With the approval of the Command Director, legal assistance attorneys may associate themselves with other attorneys to facilitate representation by civilian counsel from other jurisdictions. Command Directors of Legal Assistance determine eligibility requirements and may utilize the guidelines of the Legal Services Corporation found in 45 C.F.R. § 1611.1, *et seq.* The availability of pro bono or discounted legal service may be considered before authorizing representation. Command Directors must report all cases of expanded legal services to the Chief of Legal Assistance.

16. **PREVENTIVE LAW.** Preventive law is an important part of the Legal Assistance Program.
 - a. **Preventive Law Objectives and Actions.** Objectives of an active preventive law program are improving readiness and performance, encouraging persons to anticipate potential legal problems and seek professional counsel, and ensuring clients and commanding officers know where and how to obtain legal assistance. A typical active program includes briefings, seminars and discussions; circuit riding; publications and newsletters; and promotion of military legal assistance websites, like the Joint Legal Services website, and other self-help resources. Legal assistance attorneys serving at training centers must inform cadets and recruits in writing of their rights and benefits afforded to them under the Servicemembers Civil Relief Act and Uniformed Services Employment and Reemployment Rights Act.
 - b. **Legal Readiness.** A best practice is collaboration between commanding officers and the legal assistance provider to add legal assistance readiness checks to “check-in” procedures, covering wills, powers of attorney, military clauses, etc. Command Directors of Legal Assistance will provide legal readiness checklists, information and legal assistance visits, as well as encouraging the use of the “Personal Readiness Checklist” located on the Coast Guard Legal Assistance website. In the event that a large unit is standing up or deploying and requires more resources than can be provided locally, the Command Director of Legal Assistance will contact Commandant (CG-LMA) and Legal Service Command, with sufficient lead time to request additional support. Commanding Officers will provide personnel with duty time to seek legal assistance.
17. **VOLUNTARY SERVICES.** 10 U.S.C. § 1588 authorizes the acceptance of voluntary services in support of legal assistance programs. Servicing civilian personnel offices may identify intern and other volunteer programs that can support legal assistance volunteers. Attorneys who are members of the Coast Guard Auxiliary may be designated as legal assistance attorneys and placed under orders to provide legal assistance services to eligible beneficiaries (see 14 U.S.C. § 822).
18. **PROFESSIONAL RESPONSIBILITY.** Legal assistance attorneys exercise independent professional judgment on behalf of clients within the scope of the legal assistance program as defined by this directive as well as Coast Guard Legal Professional Responsibility Program, COMDTINST M5800.1 (series) and other policies promulgated by the Judge Advocate General. Each attorney is professionally responsible for personal work product and that of any paralegal, legal technician, administrative or clerical personnel to whom legal assistance functions are delegated. Attorneys who perceive conflicts between Coast Guard and other rules of professional conduct should request advice and guidance from their immediate supervisors and their Command Directors of Legal Assistance or Commandant Legal Policy and Program Development (CG-LPD).

- a. **Electronic Advice.** The use of electronic media of all types has created opportunities to provide legal assistance to individuals remote from the legal assistance office. Special care must be taken to safeguard client confidentiality when using email, fax, video teleconferencing and other forms of electronic media, including transmission of documents that include personally identifiable information outside the Coast Guard Data Network. Use of electronic media will comply with Coast Guard cyber security policies.
- b. **Conflicts.** Each legal assistance office must have a system to identify potential conflicts of interest among clients. Individual legal assistance attorneys will not knowingly undertake to represent a client whose interest in a matter conflicts with that of a preexisting legal assistance client in that office. When a conflict exists, the excluded party should be referred to another Coast Guard or DoD legal assistance office, each of which is considered to be an independent entity, or to an independent duty judge advocate, reservist legal assistance attorney or other viable alternative. When no legal assistance provider is available, conflicted individuals should be told how to retain civilian counsel.
 - (1) **Conflict Checking.** Conflict checks are normally performed before accepting a client and establishing an attorney-client relationship. A non-attorney staff member normally accomplishes these during the “intake” process. The electronic CGJAG case matter management timekeeping system, known as Law Manager, or any subsequent system designated by the Judge Advocate General, will be used as the primary means of performing conflict checking. More information regarding Law Manager can be found in Enclosure (1) of this Instruction. There may be times when normal conflict checking is not possible (e.g., emergency situations, technical difficulties, etc.). In such times the Command Director of Legal Assistance must make a determination as to procedures to be followed and what services, if any, may be provided.
 - (2) **Sole Practitioners.** Training Centers Yorktown, Cape May, and Petaluma pose unique problems because Staff Judge Advocates also serve as command legal assistance attorneys. They must not provide legal assistance services to anyone under investigation of potential UCMJ violations or who has current UCMJ charges pending. Any doubt whether there is an on-going military justice issue must be resolved by declining representation.
- c. **Referrals.** When referrals are necessary, consider pro bono referrals first. The American Bar Association (ABA) manages a military pro bono project nationally and local law firms may be willing to assist. All Command Directors are encouraged to register and use this ABA program and reach out to local firms and the bar. When pro bono services are not available, the attorney may provide contact information for bar association referral services, the names of at least two local attorneys who have provided competent service for reasonable fees to clients in the past, or refer the client to the legal consultation service provided by the Coast Guard Employee Assistance Program (see Paragraph 10.c. above). Referrals must not be made solely to retired, reserve or auxiliary Coast Guard members, and the appearance of favoritism must be avoided. Command Directors of Legal Assistance are encouraged to maintain a referral log for measurement, evaluation, and feedback on the nature of cases and issues that are referred out.

- d. **Non-Attorney Staff.** Command Directors of Legal Assistance and legal assistance attorneys will be guided by Rule 5.3 of the Coast Guard Legal Rules of Professional Conduct (CGLRPC) and the Guidelines for the Utilization of Legal Assistants and Paralegals, contained in Enclosures (1) and (5) of Coast Guard Legal Professional Responsibility Program, COMDTINST M5800.1 (series) in supervising non-attorney assistants who are directly or indirectly involved in supporting legal assistance.
 - e. **Standards of Conduct.** Legal assistance personnel should be alert to and consult ethics counselors about the standards of conduct, particularly with respect to gifts from clients (see 5 C.F.R. Part 2635).
 - f. **Prohibition Against Compensation for Legal Assistance Services.** Legal assistance is a free service. Nobody providing or supporting legal assistance may accept or receive any outside compensation in any form, directly or indirectly for any legal assistance service.
 - g. **Represented Parties.** Legal assistance attorneys may not interfere with an existing attorney-client relationship. When a member is represented by counsel on a specific matter, the legal assistance attorney should ordinarily refer the member to his or her attorney. Providing a second professional opinion to a represented party is not appropriate. In the event the legal assistance attorney has expertise on military-unique considerations that most civilian attorneys lack, the legal assistance attorney may consult with the member with the express consent of retained counsel.
 - h. **Termination of Representation.** In the event a client no longer meets the requirements for eligibility, representation of that client will be terminated promptly but in a manner that minimizes adverse effects to the client's interest. Command Directors have authority to allow attorneys to continue representation for a limited time to avoid negative results for a client.
19. **LEGAL ASSISTANCE AWARDS AND RECOGNITION.** Commands should consider submitting to the Coast Guard Chief of Legal Assistance nominations of offices and individuals for the annual American Bar Association Standing Committee on Legal Assistance for Military Personnel (ABA LAMP) Award which recognizes exceptional achievement or exceptional service to armed forces legal assistance or the Judge Advocate General's Spirit of Excellence Award. Command Directors of Legal Assistance should also use local military and civilian awards to recognize achievement. Coast Guard Public Service Awards can recognize members of the general public for their support to legal assistance.
20. **RELATIONS WITH OTHER ORGANIZATIONS.** Legal assistance attorneys should establish and maintain contact with legal assistance offices of other armed forces, Coast Guard reservist attorneys, local bar associations, consumer protection associations and legal referral offices. If another service fails to provide legal assistance to Coast Guard personnel inappropriately, the Command Director should notify the Chief of Legal Assistance.
21. **DATA COLLECTION.** Command Directors and legal assistance attorneys will ensure timely and accurate case tracking in Law Manager (or any successor program) of all legal assistance matters pursuant to Enclosure (1). Digital case tracking is essential for conflict checking and reports to entities such as the Joint Services Legal Assistance Committee and the ABA Standing Committee on

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Legal Assistance. Legal assistance data will normally be collected via Law Manager twice a year in conjunction with the Judge Advocate General's annual and mid-year reports.

22. **TECHNOLOGY TOOLS.** Technology is an integral part of the practice of law and its effective use will enhance our practice. Specific technology applications are provided by the legal program to aid in the delivery of effective services.
- a. **DL Software.** The standard will-writing software currently used by all armed forces legal assistance programs is the DL Software Package. The DL Software application provides automated will, power of attorney, advance medical directive, separation agreement and trust agreement preparation. Use is strongly encouraged but not required. Send recommendations for changes to the software via email to the Chief of Legal Assistance. The DL Software Package requires a license for each workstation/computer. Legal offices requiring additional licenses should contact Commandant (CG-LPD).
 - b. **SharePoint.** SharePoint is CGJAG's primary legal documents archiving, storage, and retrieval system. SharePoint affords legal assistance offices and attorneys the capability to store and share information across the legal assistance subject area and provides a secure collaboration tool for legal assistance attorneys and a means potentially to share materials with clients. The SharePoint Legal Assistance Collection will be organized by legal assistance subjects and will be used to store useful information. Contributions by legal assistance attorneys are encouraged.
 - c. **FLITE.** Access to the U.S. Air Force managed FLITE legal information database is available to all Coast Guard legal assistance attorneys and support staff. FLITE may be accessed via the Air Force JAG website at <https://aflsa.jag.af.mil>.
 - d. **JAGCNET.** The U.S. Army JAGCNET legal information system represents a wealth of information and material of value to legal assistance attorneys and provides the means to access the entire Army legal assistance community. A password is required, which all Coast Guard attorneys may obtain from the Army via the JAGCNET website at <https://www.jagcnet.army.mil>.
 - e. **The Joint Services Legal Assistance website.** This site provides a means to locate legal assistance office from all services, is at: <http://legalassistance.law.af.mil/content/locator.php>.
 - f. **New Tools.** Recommendations for new technology tools and changes to the way existing tools are used should be made to the Coast Guard Chief of Legal Assistance (CG-LMA-L) and Chief Information Officer (CIO) Office, (CG-6) for consideration.
23. **PROCEDURES.** No paper distribution will be made of this Instruction. An electronic version will be located on the following Commandant (CG-612) web sites: Internet, <http://www.uscg.mil/directives> and CG Portal, <https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx>.
24. **TRAINING.** Commandants (CG-LPD) and (CG-LMA) will provide and fund training opportunities for legal assistance attorneys and paralegals. Opportunities are posted to the CG Portal at: <https://cg.portal.uscg.mil/units/cg094/cglpd/CG-94%20Training%20Portal/SitePages/Home.aspx> and otherwise publicized.

25. FORMS/REPORTS. None.

26. REQUEST FOR CHANGES. The Point of Contact for the submission of recommended changes is the Office of Member Advocacy and Legal Assistance (CG-LMA-L).

STEVEN J. ANDERSEN /s/
Rear Admiral, U.S. Coast Guard
Judge Advocate General

Encl: (1) POLICY & GUIDANCE FOR THE USE OF LAW MANAGER IN THE LEGAL
ASSISTANCE PRACTICE AREA

POLICY & GUIDANCE FOR THE USE OF LAW MANAGER IN THE LEGAL ASSISTANCE PRACTICE AREA

1. **Law Manager.** Command Directors of Legal Assistance and legal assistance attorneys are required to use law manager to track all legal assistance matters. Law Manager is a commercial off-the-shelf (COTS) computer application designed for legal case and matter management tailored for use by the Coast Guard legal program. It employs a web-based interface to provide individual attorneys and office managers a flexible tool for managing case-related information, while at the same time gathering essential program data.
2. **Case/Matter Management.** Law Manager provides tools to assist attorneys, support staff and supervisors. These tools include the capability to open and describe cases and matters in terms of various pre-determined Practice Areas and types of legal work performed. A scheduler is available to track deadlines and events, and a contact manager provides a record of persons related to cases, which also provides the conflict checking capability. There is also notes and narrative capability, as well as the ability to link other documents and files to Law Manager cases and matters. Offices can track case-load by unit. In addition to containing a full text search capability, pre-defined reports can be generated. Ad Hoc reporting is available to provide additional information sorted by any of the data items entered in the system.
3. **Definitions.**
 - a. **Legal Assistance Case.** A “case” for tracking legal assistance matters is defined as: *A distinct legal matter handled for an eligible recipient of legal assistance services (a client).* A single eligible recipient may be involved in several cases involving several distinct legal matters. A “matter” is generally used to describe projects or tasks that do not involve individual representation. For the purposes of Law Manager use, no distinction between case and matter is required.
 - (1) For example, a member who received legal assistance advice on a landlord/tenant matter, had a will/living will prepared, and was assisted on a debt matter has been involved in 3 cases.
 - (2) Similarly, a client who is seen by a legal assistance attorney many times regarding the same matter is 1 case. The added resource used for these “high maintenance” cases can be reflected in timekeeping.
 - b. **Practice Area.** Practice Areas are the general areas of law in which Coast Guard attorneys work. *Legal Assistance* is one Practice Area.
 - c. **Practice Area Type.** Describes the legal assistance services provided. Types are the same for all legal assistance offices and can only be changed by the System Administrator at Commandant (CG-LPD). Legal Assistance “types” are listed below. Recommendations for changes to the legal assistance types should be made to the Coast Guard Director of Legal Assistance.
 - (1) Sub-Type. Can be used to further define a type.

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(2) The current legal assistance practice area types and sub-types are:

CASE TYPE	SUB-TYPE
Consumer:	Bankruptcy
Consumer:	Claims
Consumer	Contracts
Consumer:	Contracts & Scam problems
Consumer	Credit Problems
Consumer	Credit Reporting Problems
Consumer	Debt Collection Problems
Consumer	Identity Theft
Consumer:	Insurance
Consumer	Military Unique Issues
Consumer:	Motor Vehicles
Consumer:	Warranty/Defective Product Problems
Estate Planning:	Advanced Medical Directive/DPOA
Estate Planning:	Financial Planning
Estate Planning:	MOU/MOA Review
Estate Planning:	Probate
Estate Planning:	SGLI/Life Insurance/Death Beneficiaries
Estate Planning:	Wills
Family Law:	Adoption
Family Law	Change of Name
Family Law:	Custody/Visitation
Family Law:	Change of Name
Family Law:	Divorce/Separation
Family Law:	Guardianship
Family Law	Paternity
Family Law	Support
Immigration:	Citizenship
Immigration:	Green Cards/Visas
Landlord-Tenant:	Security Deposit
Landlord-Tenant:	Lease
Landlord-Tenant:	Implied Warranty of Habitability/utilities
Landlord-Tenant:	Termination of Leases
Notarizations:	
Powers of Attorney:	GPOA
Powers of Attorney:	SPOA
Program Management:	Articles
Program Management:	Classes/Briefings
Program Management:	Office Management
Program Management:	Unit Visits
Program Management:	Web support
Protecting Individual Rights:	Domicile
Protecting Individual Rights:	Lautenberg Act
Protecting Individual Rights:	Military Benefits
Protecting Individual Rights:	Minor Traffic Offenses
Protecting Individual Rights:	Other Minor Offenses

Protecting Individual Rights:	Residency
Protecting Individual Rights:	SCRA
Protecting Individual Rights:	USERRA
Real Property:	Foreclosure – Homeowner
Real Property:	Foreclosure – Renter
Real Property:	Other Real Estate
Real Property:	Purchase
Real Property:	To Buyer
Real Property:	To Landlord on Lease(or lease problem)
Real Property:	To Seller
Real Property:	To Tenant on lease(or lease problem)
Torts::	All Other Torts
Torts	Motor Vehicle Accidents
Taxes:	Property Tax
Taxes:	Income Tax

d. **Matter Owner.** The attorney to which the case or matter is assigned.

e. **Matter Player.** A person who has a role in a case or matter.

4. **Requirements.**

a. For every legal assistance case, the following minimum information is required.

Client Name: Name of the client; not the Coast Guard unit or organization (except for preventive law matters).

Matter Name: Specific name of the case; local offices may develop their own naming policies and conventions.

Practice Area: Legal Assistance

Type: The specific type of legal assistance being provided; selected from drop-down list.

Owner: In the Matter Notebook; this must be the legal assistance attorney assigned to the case.

Player: (located on the player tab) At a minimum, the attorney handling the matter will be listed here with a role of Attorney designating the roles of related people; including the responsible legal assistance attorney is a key to complete conflict checking.

Time: Enter time spent on a case as required by supervisor; minimum increment is 15 minutes (.25); Commandant (CG-LMA) requirement for time collection is accuracy within 1 hour. Time spent on each case should be updated at least weekly, preferably more frequently.

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Task: (on time entry tab) The task drop down field option LA100 will be used to track documents. This should include the drafting, execution, notarization and other tasks associated with document creation. Each task will have a separate entry from the LA100 drop down menu. At a minimum each case will contain a task associated with the documents created and/or information in which you provided support. For example, a will can encompass an AMD, a draft, a will, and a general power of attorney. By using the task field, all of these may be tracked in the same matter while still keeping an accurate count of actual work done.

The data points listed below are required in the Entity:

Prefix: The Prefix is the rank of the member. If the client is a dependant, this will be the rank of his or her sponsor.

Entity Type: The status, *member* or *dependent*, of the client.

Service: Client or sponsor's armed force affiliation (enter the armed force (Army, Navy, Air Force, Coast Guard, Marines, or PHS) of the sponsor (for dependent clients; do not use "none").

Sponsor: Client or sponsor's military status (active, reserve, etc.).

Unit: The current unit to which the member/sponsor is assigned. If the information is incorrect for the entity change the information to the correct unit.

EID: Enter the person's Employee Identification number. This will help ensure that duplicates are not being added to the database. This number would also be entered for the dependents of the member.

Related Entities: If entering a member and dependent into the entity notebook, the relationship between them must be entered in the *Related Entities* tab.

b. Other information such as address, phone, notes, documents, etc. may be added as desired and required for accurate conflict checking and case management.

5. **Conflict Checking.** Law Manager provides robust conflict checking using either the entity or matter notebooks. By performing a search on any name, Law Manager will identify matches with other entities already entered into the database, but only if the requirements above have been followed. Using more specific identifiers can provide more detailed results.

In addition, if the relationship of clients to matters and cases is established, the legal assistance attorney can easily review the nature of the matters any particular entity is involved with to establish whether or not a conflict exists. Someone must examine the information presented by Law Manager to determine if a conflict does in fact exist. Further, Law Manager will only display the information

inputted to it. To make conflict checking work, people (entities) need to be entered and their roles in cases defined.

- a. **Entity Notebook:** The function used to accomplish conflict screening. The general procedures are as follows:
 - (1) Law Manager should be running on the desktop (this should be the normal practice by Legal Techs and other support staff who do client intake).
 - (2) If not already open, select and open the *Entity Notebook*; this will bring up the main entity detail screen and the *Explorer* tab.
 - (3) Enter the name of any potential conflict, be it spouse, landlord, lessee, etc., in the name fields; select *Find* (the binoculars in the toolbar).
 - (4) The results will be displayed by indicating if the potential client is already in the database (the entity main screen will return filled out). Anyone already in the database and related to the potential client will be indicated in the *Explorer* tab below.
 - (5) By using the *Explorer* tab, relationships can be examined for possible conflicts. Matters can also be examined to see if the particular person, or anyone he or she is related to, has been seen in the legal office and for what matters they were seen.
 - (6) The Military Justice notebook must also be searched to determine if any potential clients or their potentially conflicted persons are a party to any military justice case belonging to the attorney or office.
 - (7) Law Manager 6.3 now has a Global Search that can be accessed from the LM Pro toolbar. Enter the individual's last or complete name and the desktop will display entities with that name and associated matters.

6. Reports and Queries.

- a. **Queries.** Queries are searches of the database. They permit the user to specify the way in which LM displays information on their computer. This can greatly streamline the process of data entry. Users can store multiple queries for different purposes. For example, a legal assistance paralegal may use one query to view all cases and the documents related to them and another to speed timekeeping. A legal assistance manager may have a query that shows all the cases, listed by attorney (i.e., "owner") for the office and another query set up for just their cases. The effective use of saved queries can greatly reduce the time spent looking for information and entering data.
- b. **Reports.** Law Manager information that can be formatted in a desired way and outputted, either by printing or exporting to another format (text, PDF, etc.). A set of standard reports for legal assistance has been created by the Coast Guard Director of Legal Assistance with the help of the Office of Legal Policy and Program Development (CG-LPD). Requests for assistance in creating custom reports should be directed to Commandant (CG-LPD) IT. The Law Manager reporting tool is somewhat limited in the types of reports it can produce. The System Administrator may produce more detailed reporting information from the database, which may be available upon request to the Director of Legal Assistance. Standard legal assistance report formats may be found in SharePoint.

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7. **Feedback.** Feedback and suggestions for improvement are desired. Furthermore, others will benefit from Law Manager successes and use. Please share your tips, hints, queries, reports, etc. Problems, suggestions, etc., should be forwarded to the System Administrator in Commandant (CG-LPD) via e-mail.

8. **Data Calls.** Because of the centralized structure of the Law Manager database, no field data calls are required. The Coast Guard Director of Legal Assistance is able to directly access practice area information based on the required data entries described above. No personal information regarding any clients or cases will be used for headquarters practice area reporting.