

ANNEX D:

PERSONAL AND FAMILY LEGAL ASSISTANCE



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SUBJ: PERSONAL AND FAMILY LEGAL ASSISTANCE ANNEX

1. Purpose. To provide an overview of the practice of legal assistance as part of the Marine Corps Legal Services Strategic Action Plan, 2010-2015.

2. Background

a. Personal and Family Legal Assistance Practice. Personal and family law as a practice area addresses those legal issues that directly affect Marines, Sailors, and their families. Issues frequently seen in personal and family law include domestic relations, estate planning, consumer law, military rights and benefits advice, immigration advice and assistance, and notary services. The art of practicing personal and family law is quickly recognizing the legal issue and resolving that issue so the Marine can focus on mission accomplishment.

b. Legal Assistance Branch (JAL). JAL supports the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) in his mission to provide legal advice to the Commandant and Headquarters, U.S. Marine Corps (HQMC) Staff agencies on legal assistance and tax matters. JAL represents the SJA to CMC as a member of the advisory committee to the Legal Assistance for Military Personnel (LAMP) Committee of the American Bar Association (ABA). JAL represents the SJA to CMC as a member of the Armed Forces Tax Council. JAL assists the SJA to CMC in his role as the HQMC point of contact for Corps-wide legal assistance offices and tax centers to ensure consistency in the practice and the policies that are applied.

3. Discussion

a. History of Personal and Family Legal Assistance

(1) War Department Circular Number 74 established the beginnings of the provision of personal and family legal advice and assistance for military personnel. In March 1943 the War Department and ABA joined together to sponsor a plan to "make adequate legal advice and assistance available throughout the Military Establishment to military personnel in the conduct of their personal affairs." Circular 74 established legal assistance offices throughout the Army so personnel could obtain "gratuitous services from civilian volunteers and military counsel."

(2) In 1984, Congress passed 10 U.S.C. § 1044 authorizing the Service Secretaries to provide legal assistance to qualified personnel in connection with their "personal civil legal affairs." For Navy and Marine Corps Legal Assistance offices, this authority is promulgated through JAGINST 5800.7E, Manual of the Judge Advocate General (JAGMAN) and JAGINST 5801.2A, Navy-Marine Corps Legal Assistance Program. These documents direct that competent legal assistance attorneys be made available to provide the following services: deployment briefings and assistance; family law/domestic relations; consumer law; estate planning counseling and advice; military rights and benefits advice; powers of attorney counseling, advice, and drafting; notary services; and service member

immigration and naturalization counseling and advice. Legal Assistance offices are also authorized to provide, as practicable, various additional services not specifically prohibited.

b. Training, Education, and Resources

(1) All Marine judge advocates attend the Naval Justice School's (NJS) Basic Lawyer Course (BLC) after completing the Basic Officers Course at The Basic School. NJS provides baseline training for all Marine judge advocates that meets the requirements to perform duties as a legal assistance attorney. Currently, the Navy JAG is responsible for NJS and the certification process for all Marine judge advocates as legal assistance attorneys.

(2) Follow on training for legal assistance practitioners is readily available through military legal schools and regional symposia, as well as civilian continuing legal education (CLE) courses.

(3) Assistance on various legal assistance topics is also available through the LAMP Committee of the ABA. The LAMP Committee's mission is to foster the continued growth of the military legal assistance programs; promote the delivery of legal services to military personnel and their family members in their personal legal affairs; and maintain close liaison with the military services to enhance the scope, quality and delivery of free legal services to eligible clients. The LAMP Committee provides multiple continuing legal education seminars each year on relevant legal assistance topics. Additionally, the LAMP Committee assists in the publication of numerous documents on legal assistance topics.

(4) Local bar associations and attorneys provide much needed practical assistance to legal assistance attorneys. Former judge advocates from all the Services and other attorneys in the local community often volunteer to educate or answer questions from military legal assistance attorneys.

c. Recent JAL Initiatives

(1) Support of Marine Corps Wounded, Ill, and Injured (WII) through the Disability Evaluation System (DES). To meet requirements set forth in the Fiscal Year 2008 National Defense Authorization Act, the Under Secretary of Defense (Personnel and Readiness) issued a Directive Type Memorandum (DTM) directing the military services to provide wounded, ill, and injured servicemembers, who are referred to a medical board, the opportunity to consult with and obtain the assistance of legal counsel during the pendency of DES proceedings. In response to this mandate, the Marine Corps mobilized four reserve judge advocate billets to provide these services in FY 2009. To meet a growing need for judge advocate assistance in the DES, JAD is working with Wounded Warrior Regiment (WWR) to obtain authorization for civilian attorneys to ensure that wounded, ill, and injured Marines have access to DES counsel. In addition, JAD also requested active duty permanent structure billets through the Capability Assessment Review. If both initiatives are approved, the Marine Corps will have strategically placed DES attorneys, providing assistance for the approximately 2400 Marines processed through the DES each year.

(2) Support of Marine Exceptional Family Member Program (EFMP). In 2009, JAL spearheaded the hiring of two civilian EFMP attorneys working in legal assistance offices on

the east and west coast. These attorneys provide legal advice on all aspects of state and federal educational law, including the Individuals with Disabilities Education Act (IDEA), and related disability laws and regulations benefitting family members with special needs.

(3) Homeowners Assistance Program (HAP). In 2009 Congress expanded the HAP through the American Recovery and Reinvestment Act (ARRA) to authorize benefits to servicemembers executing permanent change of station orders who are facing financial hardship due to the mortgage crisis. JAL was instrumental in drafting and providing input on the implementing regulations for this program. Legal Assistance offices Marine Corps-wide have the capability to advise and assist personnel on HAP and HAP related issues.

(4) ABA Military Pro Bono Project. In late 2008, the ABA introduced its Military Pro Bono Project and began working with JAL to implement the program throughout the Marine Corps. The program provides placement of qualified legal assistance cases through an electronic database maintained by the ABA. Once a case is entered into the system, the ABA works to place the case with a qualified pro-bono attorney. The pro-bono attorneys are volunteers who generally specialize in the applicable area of law and provide additional services not available through legal assistance offices. The program has already obtained civilian representation for scores of Marines and Sailors.

(5) Civilian Legal Assistance Attorneys. Given the highly specialized nature of legal assistance and the frequency of military personnel rotations, many Marine Corps legal assistance offices employ civilian attorneys to provide resident knowledge, experienced supervision, and continuity in order to ensure quality legal assistance services are provided to Marines, Sailors, and their families.

d. Vision and Strategic Goals. As the demand for legal assistance increases, it is critical to further improve the ability of legal assistance attorneys to provide quality advice and to standardize the way personal and family legal assistance is provided. Increased training on applicable state laws is essential to improve the quality of services provided at each installation. In addition to increased training, there is also a need to standardize certain legal assistance practices. Accordingly, JAL is working to standardize conflict screening in all legal assistance offices. The standardized system will also mandate inspections ensuring conflicts of interest checks are being conducted properly.

4. Conclusion. Commanders have demonstrated a strong desire for comprehensive legal assistance for their Marines and Sailors. With more than 45 percent of Marines married and ever-changing laws and regulations increasingly affecting Marines' lives and financial interests, an investment in personal and family legal assistance is essential for mission accomplishment. Ensuring that Marines know their personal interests and families are taken care of allows Marines to concentrate on the mission at hand and assists in successful completion of that mission.