



COMDTINST 5801.4E
OCTOBER 26 2005

COMMANDANT INSTRUCTION 5801.4E

Subj: LEGAL ASSISTANCE PROGRAM

Ref: (a) Title 10, United States Code, Section 1044
(b) Legal Assistance Matters, Department of Defense Directive 1350.4 (series)
(c) Memorandum of Agreement establishing the Joint-Service Committee on Legal Assistance, 25 April 1995

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 Title 10 U.S. Code, Section 1044. The provisions in this Instruction apply to all personnel providing or receiving Coast Guard legal assistance.
2. **ACTION.** The Judge Advocate General (JAG) of the Coast Guard has the authority and responsibility for the overall management and supervision of the Coast Guard Legal Assistance Program. Area commanders, maintenance and logistics commands, district commanders and commanding officers of headquarters units shall ensure that the intent of this program to provide access to legal assistance is accomplished; that a program is implemented to provide and support regular visits to units remote from a legal assistance office; and that personnel are informed about how, when, where, and from whom legal assistance may be obtained. When justified to meet extraordinary requirements, such as the imminent departure of a cutter, assignment of additional temporary legal assistance personnel may be requested from Commandant (G-L-6), Legal and Defense Services. Internet release authorized.
3. **DIRECTIVES AFFECTED.** Legal Assistance Program, COMDTINST 5801.4D is canceled. References (b) and (c) are maintained within the DocuShare library.
4. **DISCUSSION.** Legal Assistance is a program critical to the personnel readiness of our people. The Coast Guard traditionally has recognized the importance of providing legal support for our personnel

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in connection with their personal civil legal affairs. Providing such legal support enhances readiness for our personnel, helping to relieve the stress and uncertainty associated with their duties and thus improving both morale and efficiency. Prompt assistance with other personal legal difficulties has a beneficial effect, so the Commandant's policy is to provide legal assistance to eligible personnel to the fullest extent possible under the law.

5. **ELIGIBILITY FOR LEGAL ASSISTANCE.**

- a. Subject to the availability of legal staff resources, legal assistance may be provided 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.
 - (4) Dependents of members and former members described in paragraphs 5(b)(1), (2), and (3) above.
 - (5) Other persons authorized by the Judge Advocate General.
- b. This authority generally does not extend to civilian employees, except as discussed below in conjunction with income tax filing assistance and civil notary services.
- c. This statutory authority does not extend to members of the Coast Guard Auxiliary whether or not acting under official orders.
- d. Civilian employees and military members may also be eligible to participate in the Coast Guard Work Life program's Employee Assistance Program (EAP) that 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 on this program are available from local EAP coordinators.

6. **PRIORITY FOR LEGAL ASSISTANCE.** When providing support to eligible personnel, the highest priority shall be given to Coast Guard military personnel who need legal assistance due to the nature of their assigned duties. Examples of such high priority needs include pre-deployment assistance to regular and reserve personnel, especially when the deployment is unanticipated, and will, power of attorney and advance medical directive preparation for personnel involved in significant travel or hazardous duty. The next highest priority shall be personnel who are least able to obtain legal services provided by the civilian bar (for example junior enlisted personnel with limited financial means and junior officers). In legal offices/staffs where a full-time legal assistance attorney is assigned, legal assistance shall be suspended only in cases of severe resource limitations. To the maximum extent possible, legal assistance services shall be provided to eligible beneficiaries of other services. Eligible members of other branches of the armed forces and their dependents shall be provided legal assistance on an equal basis with Coast Guard members and their dependents, unless Coast Guard members are in need of predeployment legal services. Command Directors of Legal Assistance may prioritize these services to ensure the readiness of Coast Guard personnel.

7. **LEGAL ASSISTANCE SERVICES PROVIDED.** Subject to the limitations below, Command Directors of Legal Assistance may offer legal assistance services involving consultation, advice and assistance to eligible clients on personal civil legal matters. When the quality of advice given would be impaired by office work load or the legal assistance attorney's lack of expertise in the relevant area of the law, the legal assistance attorney shall refer the client to another armed forces legal assistance office, lawyer referral service or civilian attorney in accordance with this Instruction. Legal assistance may be provided primarily as follows:

- a. **Wills and Estate Planning.** Basic estate planning services, including drafting of wills and basic testamentary trusts and giving SGLI advice, may be provided. More advanced estate planning, such as arranging a client's affairs to minimize taxation of his or her estate, will normally be offered only by legal assistance attorneys who possess the special competency to do so, subject to the conditions in paragraph 8 (d) below.
- b. **Military Testamentary Instruments (MTI).** 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.

(1) A military testamentary instrument shall:

- (a) 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).
 - (b) Be executed in the presence of a legal assistance attorney acting as presiding attorney.
 - (c) 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.
 - (d) Include a statement or preamble in form and content, substantially as outlined in the DL software program. The DL Software Package is explained in more depth in paragraph 17 to this Instruction.
 - (e) Include, or have attached to it, a self-proving affidavit in a form and content substantially as outlined in the DL Software Package.
 - (f) 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.
- c. **Advanced 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.

- d. **Military Advanced Medical Directives (MAMD).** 10 U.S.C. § 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.
- e. **Landlord-Tenant and Consumer Affairs.** Advice may be given in these areas, including review and preparation of lease agreements and correspondence to creditors and landlords.
- f. **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. With approval from a command director, a legal assistance attorney is authorized to serve as a special assistant to a U.S. Attorney in enforcing the provisions of the SCRA and the USERRA.
- g. **Real Property.** Assistance in this area may take the form of specific advice and review and/or preparation of documents, including leases, purchase and sale agreements and deeds for personal residences.
- h. **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 (ELAP)). Extensive advice on small claims court procedures may be given, and assistance may be provided in preparing documents and correspondence.
- i. **Taxes.** General advice and assistance may be given in the area of federal, state and local taxes. Tax forms may be made available for filing returns, and clients may be assisted in preparing appropriate forms. Command Directors of Legal Assistance are encouraged to participate in the Internal Revenue Service’s Volunteer Income Tax Assistance (VITA) and electronic filing (“E-File”) programs. Electronic tax filing services are authorized for civilian Coast Guard employees in the same manner as for eligible military members.
- j. **Nonsupport and Indebtedness.** Clients may be counseled concerning claims pending against them. Advice and assistance may be provided to persons wishing to make claims of nonsupport.
- k. **Civil Rights Matters.** Concerning complaints of discrimination in the civilian community, legal assistance attorneys may provide advice regarding applicable federal, state and local laws, and may work with the local Civil Rights Counselor/Facilitator to resolve the complaint. Advice in this area should be considered high priority. Legal assistance services may not be provided for complaints of discrimination internal to the Coast Guard.
- l. **Adoptions and Name Changes.** Advice regarding adoption and change of name may be given, together with assistance in preparing the necessary documentation.
- m. **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 since such

representation would result in a conflict. Paragraph 13(b) provides guidance on addressing conflicts. In cases where the conflict cannot be resolved locally, the legal assistance attorney should contact Commandant (G-L-6) for additional guidance.

- n. **Powers of Attorney.** Special and general powers of attorney may be prepared, notarized and delivered.
- o. **Military Power of Attorney.** Federal law provides special status of powers of attorney executed by legal assistance clients. 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. Military powers of attorney must claim this special status; to do so, the standard preamble contained in the DL Software Package shall be used.
- p. **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 special care should be taken to avoid any possibility of conflict with potential UCMJ matters. No representation will be provided for any State or Federal criminal proceeding (including any military criminal justice matter under the UCMJ and cases before a Federal Magistrate's Court).
- q. **Notaries.** Notarizations of documents may be provided in accordance with the policies outlined in paragraph 9.e. below.
- r. **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 as needed. Questions may be referred to G-L-6/PDES Counsel at Coast Guard Headquarters.
- s. **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.
 - (1) **FMCRA.** In cases involving personal injury to Coast Guard personnel the requirements of the Federal Medical Care Recovery Act (FMCRA) must be met. Commandant Instruction 6010.16 (series) directs commanding officers to ensure that "beneficiaries at their units," that is, assigned members and their dependents who have received medical care at government expense, complete and submit a form Report of Potential Third Party Liability, CG-4899 for any injury for which a third party may be liable. This form provides the Coast Guard all the information needed to begin the process of recovering the cost of medical care from the parties responsible. It is essential to a legal assistance attorney's representation of a personal injury client to ensure that the government lien established by the FMCRA is considered and liquidated in the course of the representation. Early notice to the government also ensures that the attorney will be provided all the medical records and a unified billing statement for

medical costs. Legal assistance attorneys advising members in matters in which the FMCRA may apply shall explain the FMCRA legal requirements and inform clients that they must comply with the notice requirements. Legal assistance attorneys may file form Report of Potential Third Party Liability, CG-4899 on behalf of the client. In such cases, legal assistance clients must agree to waive any attorney-client confidentiality with regard to the matter before the legal assistance attorney can file the notice for them. The Office of Claims and Litigation, Commandant (G-LCL) at Coast Guard Headquarters can provide additional information and assistance.

- t. **Victim Support Person Program.** Legal assistance attorneys may be asked to provide guidance on legal issues related to rape and sexual assault allegations pertaining to both the victim and alleged perpetrator. Legal assistance attorneys should familiarize themselves with procedures contained within Reporting and Responding to Rape and Sexual Assault Allegations, COMDTINST 1754.10 (series) and develop working relationships with local Employee Assistance Personnel Coordinators (EAPCs) and Victim Support Persons. Questions may be referred to Commandant (CG-1112) at Coast Guard Headquarters.
- u. **Other Services.** Assistance may also be provided in matters dealing with bankruptcy, naturalization and citizenship to the extent that legal assistance resources and expertise permit.

8. **LIMITATIONS ON LEGAL ASSISTANCE SERVICES.** Requests for legal assistance should be screened prior to scheduling an appointment with a legal assistance attorney. This will ensure that members seeking assistance in areas falling outside the scope of the legal assistance program are promptly referred in accordance with paragraph 13(b) and it will also avoid the inadvertent formation of inappropriate attorney-client relationships. Screening should also identify potential conflicts in representation. Legal assistance may not be provided in the following areas:

- a. **Military Administrative Matters.** The legal assistance program does not encompass representation, advice or assistance to an individual with (a) a complaint under Article 138 of the UCMJ, (b) a petition for relief to the Board for Correction of Military Records (BCMR) or Personnel Records Review Board (PRRB), (c) a rebuttal to a decision of a medical board or from the physical disability evaluation system (PDES), or (d) evaluation appeals or rebuttals, or any other similar administrative complaint. Members seeking advice on military administrative matters should be referred to the appropriate staff element or command advisor. No attorney-client relationship is established by this referral. Initial contact with a member not amounting to an attorney client relationship does not prevent an attorney from advising the command on the same or similar matter as a command and legal advisor. A legal assistance provider may not represent, advise or assist an individual with the presentation of any discrimination, other civil rights or constitutional claim or complaint against the Government. Legal assistance providers may not represent, advise or assist an individual who is a party, witness or subject of an official criminal or administrative investigation of the Coast Guard, Department of Homeland Security, Department of Transportation, Department of Defense or any agency within DHS, DOT or DOD, concerning that official investigation, unless otherwise authorized to do so.
- b. **Private Income Producing Matters.** These include but not limited to, issues pertaining to the establishment and management of small business organizations (i.e., partnerships and small,

closely-held corporations). The lease or sale of a principal residence shall not be 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, except as authorized. 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 referral assistance to retain civilian counsel.
- d. **Complex Estate Planning and Probate Matters.** Clients requiring estate planning assistance involving large or complex estates or other special considerations should be advised to seek expert civilian assistance. Although legal assistance attorneys may provide general advice to executors, administrators, trustees, and beneficiaries, they will not provide ongoing advice or representation in probate matters.
- e. **In-Court Representation.** Legal assistance providers may not provide in-court representation of members except as permitted under the ELAP discussed in paragraph 10 below.

9. ORGANIZATION AND RESPONSIBILITIES.

- a. **Coast Guard Chief of Legal Assistance.** The Chief of Legal Assistance serves under the supervision of the Chief of Legal and Defense Services and is responsible for the overall management of the Coast Guard 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; represents the Coast Guard as a member of the Joint Service Committee on Legal Assistance; and manages the Coast Guard Headquarters legal assistance office, which provides legal services to eligible clients in the Washington, DC region.
- 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: Maintenance and Logistics Commands, Districts, and Coast Guard Academy, Training Center Yorktown, Training Center Cape May, Maritime Law Enforcement Academy, and the Coast Guard Yard. The Seventeenth District Staff Judge Advocate is designated the Command Director of Legal Assistance for all of Alaska (including Integrated Support Command Kodiak). Command Directors of Legal Assistance shall:
 - (1) Coordinate and provide legal assistance to geographically proximate eligible personnel who are free to seek legal assistance from the nearest Coast Guard legal office. Full time legal assistance attorneys should also engage in circuit riding and assist/supplement legal assistance provided to their commands' outlying units.
 - (2) Determine the nature and extent of legal assistance to be made available based upon the office workload, staff resources and expertise.

- (3) Appoint personnel to provide legal assistance and supervise, direct and control the assistance rendered. Where appropriate, Command Directors of Legal Assistance may also appoint out-of-specialty Coast Guard judge advocates to provide legal assistance services to their commands.
- (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 he or she is providing services under the authority and supervision of a Command Director of Legal Assistance, and is adequately trained and oriented concerning the principal types of problems encountered as well as any peculiarities in the law of the local jurisdiction.
- (5) Ensure that only qualified individuals provide legal assistance.
- (6) Maintain appropriate liaison with local bar organizations and legal aid services.
- (7) Maintain individual client or matter records within the Law Manager software package as outlined in enclosure (1) to this document. These records shall contain information regarding the case type, sub-type, quantity, and result, of all legal assistance services provided. Consistent with other Coast Guard records management practices, legal assistance case records shall be maintained for a minimum of three (3) years, or longer if required by an attorney's state bar. Legal Assistance files are included under the system notice DHS/CG 008 for Privacy Act purposes.
- (8) Develop effective liaison with other armed forces legal assistance offices within their areas of responsibility.

c. Legal Assistance Attorneys.

- (1) **Definition.** A legal assistance attorney is any attorney authorized or directed in writing by appropriate authority 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 officers are not required to be certified under 27(b) of the UCMJ or judge advocates.
- (2) **Designation and Qualification.** Each legal assistance attorney shall 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 and Defense Services, and a Command Director of Legal Assistance may designate any qualified person to perform legal assistance duties for eligible personnel.
- (3) **Duties and Responsibilities.** In providing legal assistance, legal assistance attorneys may develop attorney-client relationships and shall 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. However, attorneys providing legal assistance do not speak for the United States nor for the Coast Guard, but rather as attorneys for their individual clients. Whenever a legal assistance attorney interacts with third parties, including other members of the Coast Guard, on behalf of his or her client, the attorney shall ensure that the

third party is advised that the legal assistance 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 shall be carefully guarded, and all correspondence, files and information received shall be considered and treated as legally privileged and administratively confidential. Administrative and clerical personnel involved in the delivery of legal assistance services shall safeguard the confidential nature of client matters. 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 shall provide a brief explanation of the reason for doing so 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 and of a consul of the United States in the performance of all notarial services to be used by any of the individuals listed in subparagraph (2) below.
 - (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 by a legal assistance attorney.
- (2) Individuals listed in subparagraph 9.d. (1) above 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 shall 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 shall provide to each Legal Assistance Notary within their area of responsibility, such seals or stamps as may be necessary in the performance of their duties. Such seals or stamps shall at a minimum recite the authority under which the Legal Assistance Notary acts, 10 U.S.C. § 1044a.

e. **Civil Notaries.** Many legal offices have staff members qualified and commissioned as notaries within their local jurisdictions. The services provided are within the limits of the commission under the rules and regulations for the jurisdiction. No fees may be charged for these services.

10. **EXPANDED LEGAL ASSISTANCE PROGRAM (ELAP).** Command Directors of Legal Assistance may authorize the provision of expanded legal services to those military personnel and their dependents that cannot reasonably afford legal fees without undue financial hardship. Subject to state bar requirements and local court rules, expanded legal services may include in-court representation before federal, state, and local courts and administrative agencies in minor civil and criminal matters (those not involving possible incarceration), except when the United States of America is an adverse party. Expanded legal services should be coordinated with local bar associations. 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 shall determine eligibility requirements for determining whether a legal assistance client may receive ELAP services, including representation in civilian courts. In developing these requirements Command Directors of Legal Assistance may utilize the guidelines of the Legal Services Corporation found in 45 C.F.R. 1611.1, *et seq.*

11. **PREVENTIVE LAW.** Informing and educating Coast Guard members and their dependents regarding their legal rights, privileges, obligations and responsibilities is an important part of the Coast Guard legal assistance program. To this end, legal assistance offices are encouraged to have an active preventive law program and to leverage the use of the Joint Legal Services website. Legal assistance attorneys serving at training centers should inform cadets and recruits in writing of their rights and benefits afforded to them under the Servicemembers Civil Relief Act (SCRA) and Uniformed Services Employment and Reemployment Rights Act (USERRA).

a. **Preventive Law Objectives.**

(1) Improve the overall readiness, efficiency and performance of personnel.

(2) Decrease the number of personal legal problems faced by Coast Guard units.

(3) Encourage persons to anticipate potential legal problems and seek professional counsel when necessary.

(4) Provide commanding officers and their staffs with a channel of communication for legal assistance matters.

b. **Preventive Law Actions.** Initiative and creativity are important parts of an effective preventive legal assistance program. Typical activities include:

- (1) Informational briefings, seminars and discussions.
- (2) Publications and newsletters.
- (3) Videotapes.
- (4) Directing the use of the Joint Services website as the sole internet reference.

c. **Circuit-Riding Program.** Command Directors of Legal Assistance will ensure, to the fullest extent practicable, that the availability of legal assistance does not rest solely on proximity to a legal office and will serve outlying units, particularly when the command employs a full time legal assistance attorney. The effective delivery of legal services to all personnel requires the regular scheduling of routine legal assistance visits and training at remote commands. Legal assistance may be combined visits with those made to provide other on-scene legal support for the command. Commanding Officers of dispersed units remote from legal assistance offices will dedicate the resources necessary to reasonably support legal assistance services.

d. **Legal Readiness.** Commanding Officers are encouraged to seek legal assistance services for their personnel. This should include adding legal assistance readiness checks to “check-in” procedures to ensure members have the proper wills, powers of attorney, etc. before an emergency arises. Command Directors of Legal Assistance will assist by providing legal readiness checklists, information and legal assistance visits. In the event that a large unit is standing up or deploying and requires more resources than can be provided locally, the on-scene legal assistance attorney will contact Legal and Defense Services with sufficient lead time to request additional support. If necessary, Legal and Defense Services may request resources from other District or MLC staffs to form a “Legal Assistance Response Team.” This Response Team will travel to the unit and provide the services necessary to place the unit in an operational status as it pertains to legal assistance. Commanding Officers will provide personnel with duty time to seek legal assistance.

12. **VOLUNTARY SERVICES.** Title 10, Section 1588 of the United States Code authorizes the acceptance of voluntary services in support of legal assistance programs. Several mechanisms exist to accept voluntary services in support of the legal assistance program. Command Directors of Legal Assistance are encouraged to consult with their servicing civilian personnel offices to determine what intern and other volunteer programs may be available for administrative and other support. In addition, the use of Coast Guard Auxiliary attorneys to support legal assistance efforts is authorized and encouraged. Qualified members of the Coast Guard Auxiliary may be designated as legal assistance attorneys and be placed under orders to provide legal assistance services to eligible beneficiaries (see 14 U.S.C. § 822).

13. **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 his or her own 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.

- a. **Electronic Advice.** The explosion in the use of electronic media of all types has created great 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.
- b. **Conflicts.** Within a legal assistance office, individual legal assistance attorneys shall 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 legal assistance office, to an independent duty judge advocate or reservist legal assistance attorney or to a DOD legal assistance office. Command Directors of Legal Assistance are encouraged to coordinate work with other armed forces legal assistance offices within their areas of responsibility to facilitate the handling of conflicted cases among each other. When no alternative legal assistance provider is reasonably available, conflicted individuals should be provided information on how to retain civilian counsel.
 - (1) **Conflict Checking.** As a matter of sound legal practice, conflict checks shall normally be performed before accepting a legal assistance client and establishing an attorney-client relationship. A non-attorney staff member normally accomplishes these during the “intake” process. The electronic Case Matter Management Timekeeping (CMMT) system, known as Law Manager, shall be used as the primary means of performing conflict checking. More information regarding Law Manager can be found in enclosure (1). It is recognized that 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 shall make a determination as to procedures to be followed and what services, if any, may be provided.
 - (2) **Sole Practitioners.** The billets at Training Centers Yorktown and Cape May and the Coast Guard Yard and the Maritime Law Enforcement Academy pose unique problems of potential conflicts of interest because, in addition to being command legal assistance attorneys, they are also the Staff Judge Advocates. These independent duty legal officers shall not provide legal assistance services to an eligible beneficiary who is under investigation of potential UCMJ violations or has current UCMJ charges pending. Any question or doubt whether there is an on-going military justice issue shall be resolved by the independent duty legal officer declining representation for legal assistance. The attorney in these situations shall assist the client by providing referrals to alternate sources of legal assistance.
- c. **Referrals.** On occasion, the legal assistance attorney may be unavailable, or a client may present a complicated case requiring specialized legal skills or which ultimately must be handled in court. In each of these instances, the client shall be referred to a legal services office, a local bar referral service or a private attorney from a list of local attorneys who have provided

competent service for reasonable fees to service members in the past. The names of no fewer than three attorneys or two attorneys and a bar or legal service office shall be given to a client desiring referral. Referrals shall not be made solely to retired or reserve Coast Guard members. 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 shall 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 the 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 are reminded to ensure their actions conform to the standards of conduct applicable to military personnel and government employees, particularly with respect to gifts from clients (see 5 C.F.R. Part 2635). For questions regarding these rules, legal assistance attorneys should consult their appropriate ethics advisors.
- f. **Prohibition Against Compensation for Legal Assistance Services.** Legal assistance is a free service for eligible recipients. No legal assistance attorney, paralegal, legal technician, administrative or clerical staff, active duty, reserve, civilian or military, may accept or receive any compensation in any form, directly or indirectly, other than official government compensation, for any legal assistance services provided. Legal assistance attorneys shall ensure compliance with CGLRPC.

14. LEGAL ASSISTANCE AWARDS AND RECOGNITION.

- a. **ABA LAMP Award.** Annually, the American Bar Association Standing Committee on Legal Assistance for Military Personnel (LAMP) recognizes individuals or commands that have accomplished exceptional achievement(s) or exceptional service to the armed forces legal assistance effort. The Judge Advocate General and/or the Coast Guard liaison to the LAMP committee make nominations for these awards. Recommendations for award nominations shall be submitted between 1 September and 30 November of each year and should encompass a twelve (12) month period ending during that period. Recommendations should be forwarded to the Coast Guard Director of Legal Assistance in the format specified annually by the LAMP Committee, which will be published upon receipt.
- b. **Judge Advocate General Recognition.** The Judge Advocate General may appropriately recognize outstanding efforts in legal assistance via the Legal Assistance Spirit of Excellence Award. This award will be given to any qualifying legal assistance office that meets the criteria set forth in the Coast Guard Chief of Legal Assistance Standard Operating Procedures (SOP) available in DocuShare.
- c. **Official Awards.** Command Directors of Legal Assistance should use the official military and civilian awards and recognition system as appropriate, to recognize attorneys and support staffs that contribute beyond the expected norm to the Coast Guard's legal assistance effort. In

addition, Coast Guard Public Service Awards should also be considered as appropriate for recognition of members of the general public.

15. **RELATIONS WITH OTHER ORGANIZATIONS.** Legal assistance attorneys are strongly encouraged to establish and maintain liaison with the legal assistance offices of other armed forces commands within their areas of responsibility. Legal assistance attorneys should establish and maintain contact with Coast Guard reservists who are attorneys, local bar associations, consumer protection associations and legal referral offices through which legal services may be available. If another service fails to provide legal assistance to Coast Guard personnel in an area lacking a local Coast Guard legal office, the Command Director of Legal Assistance should notify the Chief of Legal and Defense Services.
16. **DATA COLLECTION.** Command Directors of Legal Assistance and legal assistance attorneys will ensure timely and accurate case tracking of all legal assistance matters pursuant to enclosure (1). Digital case tracking is essential for conflict checking and effective practice management, and reports required by the Joint Services Legal Assistance Committee and the ABA Standing Committee on Legal Assistance. To provide this capability, legal assistance attorneys will use Law Manager, which is maintained by the legal program. Specific details on the use of Law Manager are laid out in Implementation of the Legal Automated Workstation Database, COMDTINST 5230.53 (series). Legal assistance practice area management information will normally be collected via Law Manager twice a year in conjunction with the development of the Judge Advocate General's annual and mid-year reports.
17. **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 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.
 - (1) **Use.** Use of DL Software Package is encouraged but not required. Each legal assistance attorney must choose, based on his or her professional judgment, the best means of preparing a legal document for a client. However, DL Software Package is the only computer-based legal document preparation software approved and maintained by the Coast Guard.
 - (2) **Changes.** Recommendations for changes to DL Software Package and identification of problems or errors should be sent to the Coast Guard Director of Legal Assistance who will pass them on as needed to the Joint Services Legal Assistance Committee or the Judge Advocate General information technology (IT) staff as appropriate.
 - (3) **Licenses.** The DL Software Package requires a license for each workstation/computer on which the application is installed. Legal offices requiring additional licenses should contact the Office of Legal Policy and Program Development IT staff.

- b. **DocuShare.** DocuShare is a commercial (Xerox), web-based document management system that allows easy storage, access and sharing of information in a secure and collaborative work environment. DocuShare also allows any user on any system to post and retrieve information in any format. Text, scanned images, video clips, Microsoft Office documents, sound files, executables, web links, bulletin boards, calendars and more can be managed over the web, without using complex software, browser plug-ins or client applications. DocuShare is the Coast Guard legal program's primary legal document archiving, storage, and retrieval system and is a key element in its Knowledge Management efforts. Within the legal assistance practice area, DocuShare affords legal assistance offices and attorneys the capability to store and share information across the entire range of legal assistance subject areas. It also can provide a secure means to collaborate among legal assistance attorneys and even share materials with clients.
- (1) **Use.** The DocuShare Legal Assistance Collection will be organized by legal assistance subjects and shall be used to store materials and information that may be useful to others in the program, be valuable for historical purposes, or otherwise is worthy of archiving. All legal assistance attorneys shall become familiar with the use of DocuShare and its features. Commandant (G-LPD) can provide training as required.
 - (2) **Contributions.** The success and utility of the DocuShare legal assistance knowledge base relies on contributions by legal assistance attorneys. Command Directors of Legal Assistance should ensure materials of value for reference, historical and collaborative purposes are added to the DocuShare legal assistance collections.
- 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 Coast Guard DocuShare system.
- 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. <https://www.jagcnet.army.mil>. 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 deliver legal assistance information directly to eligible beneficiaries and Command Directors of Legal Assistance and legal assistance officers are encouraged to contribute timely, relevant materials of interest to legal assistance clients.

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 for consideration.

18. TRAINING. Legal assistance attorneys and paralegals should endeavor to remain current on the law. In support of this, Commandant (G-LPD) and (G-L-6) shall include legal assistance training as part of the legal program formal training plan. This training represents a “minimum.” Command Directors of Legal Assistance should seek local training on topics relevant to the delivery of legal assistance services within their jurisdictions. Funding for courses contained within the legal program’s formal training plan will be provided by Commandant (G-LPD), who, in turn, receives funded training quotas from Commandant (G-WTT). Other professional development opportunities must be funded locally. A current list of legal assistance courses, which are contained in the legal program’s formal training plan, may be obtained from the JAG’s training website. Suggestions for additions to this list should be forwarded to Commandant (G-LPD).

19. FORMS AVAILABILITY. The Report of Potential Third Party Liability, CG-4899 is available in USCG Electronic Forms on the Standard Workstation or on the Internet:
<http://www.uscg.mil/ccs/cit/cim/forms1/welcome.htm> or Intranet:
<http://cgweb2.comdt.uscg.mil/cgforms/>.

J. E. CROWLEY /s/
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. Law Manager is to be used in accordance with Commandant Instruction 5230.53 (series) as modified by the below requirements.
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

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

CASE TYPE	SUB-TYPE
Consumer:	Automobile problems
Consumer:	Bankruptcy
Consumer:	Claims
Consumer:	Contract & “scam” problems
Consumer:	Contracts
Consumer:	Credit problems & Reports
Consumer:	Debt collection
Consumer:	Identity Theft
Consumer:	Insurance
Consumer:	Warranty/ Defective product problems
Estate Planning:	Advance medical directive/DPOA
Estate Planning:	Financial planning
Estate Planning:	Military Benefits
Estate Planning:	Probate
Estate Planning:	SGLI/Life Insurance
Estate Planning:	Wills
Family Law:	Adoption
Family Law:	Change of Name
Family Law:	Custody/ Visitation
Family Law:	Guardianship
Family Law:	Nonsupport
Family Law:	Paternity
Family Law:	Separation/ Divorce
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

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Program Management:	Unit visits
Program Management:	Web support
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:	VCRA
Real Property:	Other real estate
Real Property:	Purchase
Real Property:	Sale
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

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is 15 minutes (.25); G-L requirement for time collection is accuracy within 1 hour. Time spent on each case should be updated at least weekly, preferably more frequently.

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 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.

SSN: Enter the last 4 digits of the person's social security number. This will help ensure that duplicates are not being added to the database.

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 for 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.

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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. Conflict checking is accomplished using the **Entity Notebook**. 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.

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, spreadsheet, 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 (G-LPD). Requests for assistance in creating custom reports should be directed to Commandant (G-LPD) IT. The Law Manager reporting tool is somewhat limited in the types of reports it can produce. The System

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Administrator may produce more detailed reporting information from the database. Please ask if you require these services. Standard legal assistance report formats may be found in DocuShare.

7. **Feedback.** Your feedback and suggestions for improvement are desired. Furthermore, others will benefit from your Law Manager successes and use. Please share your tips, hints, queries, reports, etc. in the “Best Practices” collection in DocuShare:
<https://afls16.jag.af.mil/dscgi/ds.py/View/Collection-4450>. Problems, suggestions, etc., should be forwarded to the System Administrator in G-LPD via email.
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.